

GENERAL LICENSING COMMITTEE

TUESDAY, 11TH SEPTEMBER, 2018, 6.00 PM

THE COPPICE, CIVIC CENTRE, WEST PADDOCK, LEYLAND PR25
1DH

AGENDA

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| 1 Apologies for Absence | |
| 2 Minutes of meeting Tuesday, 24 July 2018 of General Licensing Committee | (Pages 3 - 4) |
| To confirm as a correct record for signing by the Chair. | |
| 3 Declarations of Any Interests | |
| Members are requested to indicate at this stage in the proceedings any items on the agenda in which they intend to declare an interest. Members are reminded that if the interest is a Disclosable Pecuniary Interest (as defined in the Members' Code of Conduct) they must leave the room for the whole of that item. If the interest is not a Disclosable Pecuniary Interest, but is such that a member of the public could reasonably regard it as being so significant that it is likely that it would prejudice their judgment of the public interest (as explained in the Code of Conduct) then they may make representations, but then must leave the meeting for the remainder of the item. | |
| 4 Proposed changes to vehicle age policy | (Pages 5 - 10) |
| Report of the Head of Licensing attached. | |
| 5 Consultation on Gambling Policy | (Pages 11 - 44) |
| Report of the Head of Licensing attached. | |
| 6 Consideration for Mandatory CCTV in Taxis and Private Hire Vehicles | (Pages 45 - 84) |
| Report of the Head of Licensing attached. | |
| 7 Licensing Activity Report for July and August 2018 | (Pages 85 - 92) |
| Report of the Head of Licensing attached. | |

Heather McManus

CHIEF EXECUTIVE

Electronic agendas sent to Members of the General Licensing Committee Councillors David Suthers (Chair), Jacqui Mort (Vice-Chair), Jane Bell, Harry Hancock, Jon Hesketh, Ken Jones, Barbara Nathan, Alan Ogilvie, David Watts, Paul Wharton and David Wooldridge

The minutes of this meeting will be available on the internet at www.southribble.gov.uk

Forthcoming Meetings

6.00 pm Tuesday, 20 November 2018 - Cross Room, Civic Centre, West Paddock, Leyland PR25 1DH

MINUTES OF GENERAL LICENSING COMMITTEE

MEETING DATE Tuesday, 24 July 2018

MEMBERS PRESENT: Councillors David Suthers (Chair), Jacqui Mort (Vice-Chair), Jane Bell, Harry Hancock, Jon Hesketh, Ken Jones, Barbara Nathan, Alan Ogilvie, David Watts and David Wooldridge

CABINET MEMBER: Not present.

OFFICERS: Mark Marshall (Licensing Manager), Tasneem Safdar (Senior Solicitor) and Dianne Scambler (Governance and Member Services Team Leader)

OTHER MEMBERS AND OFFICERS: Chris Ward (Licensing Officer)

PUBLIC: 0

8 Apologies for Absence

An apology was received from Councillor Paul Wharton.

9 Minutes of meeting Tuesday, 12 June 2018 of General Licensing Committee

RESOLVED (Unanimously):

That the minutes of the General Licensing Committee meeting held on 12 June 2018 be confirmed as a correct record for signing by the Chair.

10 Minutes of meeting Tuesday, 12 June 2018 of General Licensing Sub-Committee Panel

RESOLVED: (Unanimously)

That the minutes of the General Licensing Sub Committee Panel held on 12 June 2018 be confirmed as a correct record for signing by the Chair.

11 Declarations of Any Interests

There were no declarations of any interests.

12 Licensing Activity - June 2018

The Head of Licensing presented a report that provided information to Members on the Licensing Activity that had taken place in June. This activity included applications received, enforcement checks and referrals to partner agencies.

The Head of Licensing highlighted to Members attention a number of actions, in particular the new Customer Care course for taxi drivers that was now ready to be implemented.

Members asked about the progress of CCTV installation in taxi vehicles and asked for an update report to be brought to the next meeting of the Committee. Members were also updated on the progress made in relation to the current vehicle testing regime and it was explained that any garage who did not respond would not be listed on the Council's approved list of garages.

The report was noted.

Chair

Date

REPORT TO	ON
General Licensing Committee	11 September 2018



TITLE	REPORT OF
Proposed changes to vehicle age policy	Head of Licensing

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

To provide members with an update on the proposed changes to the vehicle age policy relating to hackney carriage and private hire vehicles.

2. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	x
Health and Wellbeing	
Place	

3. RECOMMENDATIONS

3.1 That the committee note the response to the consultation exercise that has been carried out

3.2 That committee determine the best way forward – in this regard committee is asked to have regard not only to the results of the consultation exercise that has been carried out with the trade but also to consider carefully the concerns that have been raised by the council's Environmental Health department

4. BACKGROUND TO THE REPORT

4.1 Under the Council's current Licensing Policy different age limits are imposed for saloon vehicles as opposed to wheelchair accessible vehicles (WAVs). A table summarising what this differentiated age policy means in practice is set out below:

	Hackney Carriage		Private Hire	
	Maximum age on first registration (years)	Maximum age on renewal (years)	Maximum age on first registration (years)	Maximum age on renewal (years)
Saloon	4	8	4	8
WAV	6	12	6	12

4.2 At meetings of the Taxi Trade Forum during 2017, the Borough's licensed trade queried whether this differentiated approach remained justifiable (given that - in the trade's view - historic factors which previously underpinned this approach were no longer applicable). As a result, the General Licensing Committee agreed to set up a working group to consider the matter in detail. This working group consisted of members of the General Licensing Committee, as well as trade and voluntary group representation. The working group met on 22 February 2018, and after due deliberation reached a consensus on this issue. In brief, the working group recommended that the current differentiated age policy as set out above should be abandoned and replaced by a standardised age policy. If adopted, this would mean that the proposed age limits for all vehicles (whether saloon or wheelchair accessible) would be 6 years on first application and up to 12 years on renewal.

4.3 The table below illustrates the proposed age policy;

	Hackney Carriage		Private Hire	
	Maximum age on first registration (years)	Maximum age on renewal (years)	Maximum age on first registration (years)	Maximum age on renewal (years)
Saloon and WAV	6	12	6	12

4.4 The working group produced a detailed report setting out its methodology and the rationale for concluding that a standardised age policy was the way forward. This report was presented to the General Licensing Committee on 10 April 2018, when it was agreed that the proposed change of approach should be subject to a period of formal consultation. (A formal period of consultation is a mandatory precursor to any such change).

5.0 CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

5.1 The consultation took place between the 1st May and the 28th May 2018. There were 9 responses, 8 of the consultees were in support of the changes and 1 was against. A full copy of the comments received are attached to the report as Appendices.

5.2 Summary of comments:

Of the 8 responses in agreement of the change to the policy, the following comments were made:

"I am Totally in Agreement, Not only would it give us a better Per vehicle Value on a levy such as Preston were you can license almost any vehicle, but it may also make the problem of owners/operators registering out of Borough in order to use older vehicles in our Borough"

"Is a welcome step towards being seen to helping drivers with affordable costs"

"I welcome the change and hopefully it will allow drivers to actually make a living"

"I think that would be an excellent idea to introduce a new age limit"

"I am in favour of the proposal. I hope my view will be taken into consideration in any future discussions".

5.3 One objection to the consultation was received with the following comments made:

"The taxi fleets of South Ribble should be something to be proud of, it is modern and perceived by customers as a positive and gives operators an advantage over competition from taxi fleets from other areas who operate a less forward thinking age limit policy."

"Most modern vehicles have more airbags (more for the passengers), Lane departure warning (an alarm sounds if the car strays out of lane without the use of an indicator), Collision avoidance breaking (the car applies the brakes before the driver if an impending collision is detected), Advances in pedestrian protection in the event of a car versus pedestrian accident."

"In summary, we are happy with the current age policy and cannot see any benefit in change, only negatives."

6. AIR POLLUTION CONCERNS

6.1 The Council's Environmental Health Department have raised comments about the proposed changes. They state:

"The existing policy in relation to the age of taxis licensed by the authority was introduced with the aim of providing the taxi fleet licensed by the Council is reliable with better safety features and is more environmentally friendly. The relaxation of this policy allows for operators to extend the life of older more polluting and potential less safe vehicles. "

"As part of the Council's commitment to improving Air Quality, currently a key priority within the Corporate plan, an action has been progressed which ultimately supported the previous decision to restrict the age of the taxi fleet within South Ribble. This action has been presented to and agreed by DEFRA as a suitable policy to help reduce the harmful impact of poor air quality on the population of South Ribble."

"Members will be aware that there are currently five declared Air Quality Management Areas within South Ribble all of which have been declared due to the likely exceedance of the Nitrogen Dioxide objective level. The principal source of which is vehicle emissions. Currently it is recognised that 4.5% of all premature deaths in South Ribble are due to poor air quality."

"The taxi fleet makes up a significant portion of the fleet with individual vehicles potential driving around the borough and through the most polluted areas throughout the day and significantly more than the average car."

"The council has a statutory duty to help improve the air quality within the borough the current policy on restricting the age of taxi's helps towards this goal. If the trade are looking for equality and parity we suggest that the age policy should be brought down to lower limit i.e. any vehicle"

coming onto the fleet must be no more than 4 years old and must not remain on as a licensed vehicle past 8 years old.”

“It is the view of the air quality steering group involving cross party membership, Public Health Lancashire and other stakeholders that instead of relaxing the age policy the council should be considering tighten the requirements and offering additional incentives to reduce the emissions from this element of the fleet. To this end the Steering group recommends that the policy is not relaxed and will be bring forward additional measures in the future to encourage the use of alternative low emission vehicles as part of the fleet.”

6.2 It is clear that Air Quality is a very important issue for this council and members clearly should have an opportunity to consider carefully the issues raised by Environmental Health. In this context members need to give serious consideration as to whether it would be better to follow the Environmental Health advice as outlined above and tighten the restrictions. If members are minded to reduce the age limit of the wheel chair accessible vehicles to 8 years (and no more than 4 years on first registration) then a new consultation exercise would need to be carried out. Clearly there would be financial implications for the trade if we do this. On the other hand the introduction and implementation of such a policy would make a positive step towards improving air quality in the borough.

7. FINANCIAL IMPLICATIONS

There are none.

8. LEGAL IMPLICATIONS

Please see the comments of the Monitoring Officer

9. COMMENTS OF THE STATUTORY FINANCE OFFICER

There are no financial implications arising as a result of the recommendations in this report.

10. COMMENTS OF THE MONITORING OFFICER

Members should carefully consider the responses received through the consultation process, in line with their duty to protect the public. Great weight should also be given to the concerns raised by Environmental Health. If members are minded to reduce the age limits for wheel chair accessible vehicles then a further consultation exercise would be required. If members are minded to stick with the original proposal for change (that were consulted on) then a report would need to be taken to full council. Whatever members decide there is always the risk of legal challenge – hence whatever conclusion they come to needs to be reasoned and evidence based.

11. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None

▶ Risk	None
▶ Equality & Diversity	None

12. BACKGROUND DOCUMENTS

None

13. APPENDICES

N/A

Report Author:	Telephone:	Date:
Mark Marshall	01772 625401	2 nd July 2018

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REPORT TO	ON
General Licensing Committee	11 September 2018



TITLE	REPORT OF
Consultation on Gambling Policy	Head of Licensing

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

To outline the proposed revisions and updates on the council's Gambling Policy and to seek approval to go out to consultation on this document.

2. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	x
Health and Wellbeing	x
Place	

3. RECOMMENDATIONS

3.1 That committee should consider and approve the updated draft Gambling Policy for the purposes of a consultation exercise to be carried out between the 13 September to the 8 November 2018.

4. BACKGROUND TO THE REPORT

4.1 The council's Statement of Licensing Policy (Gambling) sets out the manner in which the council will generally promote the Licensing Objectives when considering and making decisions on applications made under the Gambling Act (the Act). The council's current Statement of Policy is due to expire on the 31st of January 2019. Under the Act policies endure for a 3 year period.

4.2 The licensing objectives set out in the Act are: 1. preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime and 2. ensuring that gambling is conducted in a fair and open way and 3. protecting children and other vulnerable persons from being harmed or exploited by gambling

4.3 Attached to this report (Appendix 1) is an updated version of our Gambling Policy. The Policy has been prepared under Section 349 of the Act and in accordance with the Commission's Guidance for Licensing Authorities issued under Section 25 of the Act. Only relatively minor modifications are being proposed. They include some minor amendments to the Local area Profile, some updates around Data Protection which include reference to the recent change in the law, General Data Protection regulations (GDPR) and more in depth information for operators on Local Risk Assessments, a requirement that came in in April 2016.

4.4 The council is constrained by the provisions of the Act, the Guidance and any Regulations made under the Act. However, the Authority may depart from the Guidance if it has reason to do so, but must give full justification for any such departure.

4.5 Committee's approval to this draft gambling policy is now sought. An extensive consultation exercise will need to be carried out on this draft policy. This consultation exercise will take place between the 13 of September to the 8 of November.

4.6 Following the completion of the consultation exercise the draft policy will be brought back to this committee for further consideration and ultimately to full Council for final adoption.

4.7 The council is required by Section 349 of the Act to publish a new Gambling policy by the 31st of January 2019. This Statement of Policy shall be effective from the 31st January 2019, and shall remain in effect for three years; therefore this Statement will be reviewed in January 2022.

4.8 By way of information the following activities in our borough are covered by the provisions of the Act namely: Betting Shops, Adult Gaming Centres and the offer of gaming machines in Licensed Premises and Club Premises. South Ribble does not have a particularly wide offer of Gambling establishments with 12 Betting shops, most of which are national operators and 1 Adult Gaming Centre located on Hough Lane in Leyland. The gaming machine offer is much broader with virtually every Licensed Premises in the Borough taking advantage of the right to site machines in their premises

5.0 PROPOSED CONSULTATION PERIOD AND CONSULTEES

5.1 A list of the proposed consultees is found at Annex 1 on the draft Statement of Policy (SOP).

5.2 The Proposed period of consultation is 8 weeks, commencing on the 13th September and concluding on the 8th November 2018. The intention thereafter is to bring any responses back before the GLC on the 20th November 2018.

6. FINANCIAL IMPLICATIONS

There are none.

7. LEGAL IMPLICATIONS

PLEASE SEE THE COMMENTS OF THE MONITORING OFFICER

8. COMMENTS OF THE STATUTORY FINANCE OFFICER

There are no financial implications arising as a result of the recommendations in this report.

9. COMMENTS OF THE MONITORING OFFICER

9.1 Section 349 of the Act states that before each successive period of three years a council should prepare a statement of principles (policy) that they propose to apply when exercising their functions under the act and publish such a statement. Our current policy is due to expire on the 31st of January 2019. Prior to introducing any new policy it is necessary to carry out an extensive consultation exercise on the contents of the proposed new policy. Ultimately the final adoption of any policy will be a decision for full Council.

10. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	It is imperative that we have a new Gambling policy formally adopted by the 31 st of January 2019. A failure to do this would undermine our ability to carry out our functions under the Act
▶ Equality & Diversity	None

11. BACKGROUND DOCUMENTS

None

12. APPENDICES

N/A

Report Author:	Telephone:	Date:
Mark Marshall	01772 625401	17 August 2018

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South Ribble Borough Council

Draft Gambling Policy

Proposed Commencement 31st
January 2019



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1.1 Introduction

This Statement of Gambling Policy covers the administrative area of South Ribble and sets out how South Ribble Council intends to exercise its functions under the Gambling Act 2005 and the principles that it intends to apply. This policy takes effect on 31 January 2019 and will remain in force until 31 January 2021. During this period the policy will be subject to periodic review and any proposed changes will be consulted upon.

In preparing this policy, the licensing authority has consulted with the following:

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

The full list of consultees is attached at Appendix 1.

A full list of the responses received during the consultation period is available from:

The Licensing Unit
South Ribble Borough Council
Civic Centre
West Paddock
Leyland
PR25 1DH
licensing@southribble.gov.uk

Nothing in this policy statement will override the right of any person to make an application, make representations about an application or apply for a review of a licence as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

Local Area Profile

South Ribble is situated in the heart of Central Lancashire covering 44 square miles immediately to the south of the River Ribble.

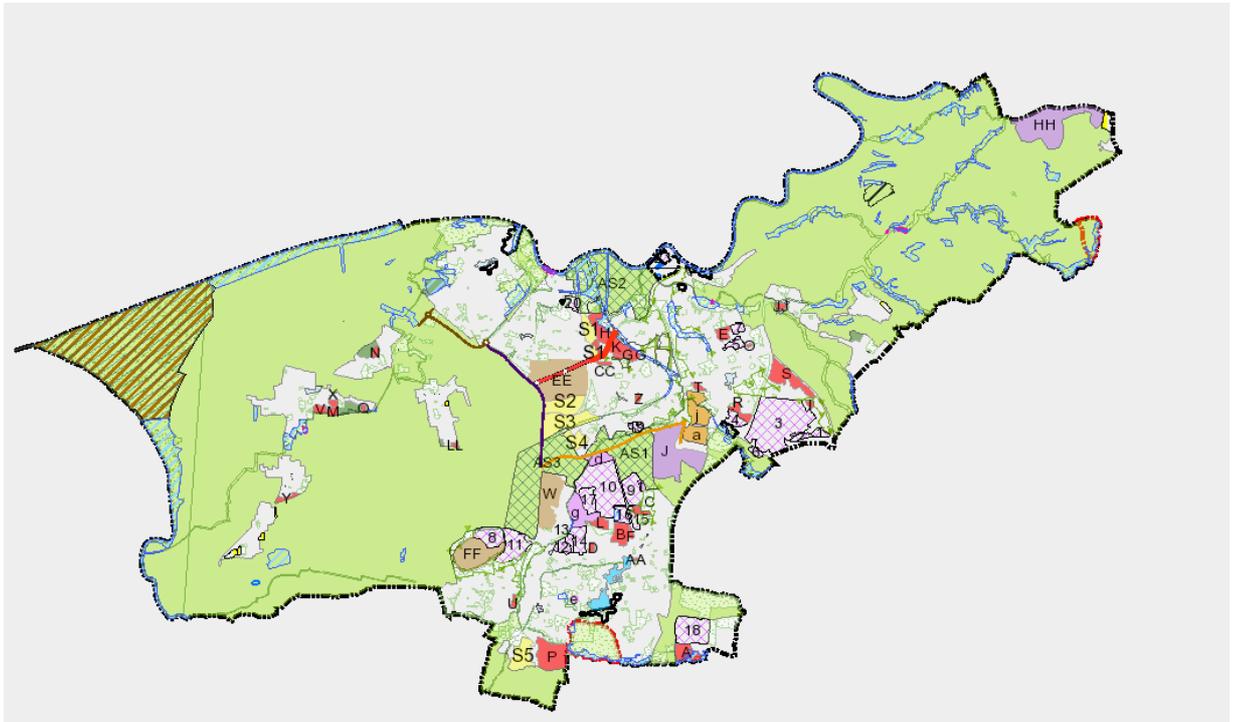
South Ribble's location and the excellent transport links to regional and national road and rail networks, together with the proximity of major airports has made it an attractive location in the region for new housing and commercial development. It has recently been successful along with partner local authorities in Central Lancashire to secure City Deal funding which is being used to improve the transport network and economic investment in the Borough.

The population in South Ribble is 103,900 which has remained relatively stable over the last decade following a period of rapid growth in the 1970s and 1980s.

The main townships in the Borough are Leyland, Penwortham, Walton-Le-Dale, Bamber Bridge and Lostock Hall, which also form the main employment and shopping areas. However,

there is a mix of urban and rural landscapes and more than 80% of the Borough is designated as greenbelt. The western parishes and the eastern areas of the Borough are largely rural.

There are a number of wards within the Borough which fall within the statistics for deprivation. Applications for premises licences falling within these wards will have to satisfy the Licensing Authority that the granting of a licence would not further contribute to existing deprivation levels or otherwise undermine the protection of children and other vulnerable persons from being harmed or exploited by gambling.



1.2 Licensing Authority Functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are taking place by issuing premises licences;
- Issue provisional statements;
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and club machine permits;
- Issue club machine permits to commercial clubs;
- Grant permits for the use of certain lower stakes gaming machines at unlicensed family entertainment centres;
- Receive notifications from alcohol licensed premises for the use of up to two gaming machines;
- Issue licensed premises gaming machine permits to premises licensed to supply alcohol for consumption on the premises where more than two machines are required;
- Register small society lotteries below the prescribed threshold;
- Issue permits for prize gaming;
- Receive temporary use notices;
- and Receive occasional use notices
- Provide information to the Gambling Commission regarding details of licences issued
- Maintain registers of the licences and permits issued under these functions

It should be noted that the licensing authority is not involved in licensing of remote gambling or the national lottery.

1.3 Responsible Authorities

Responsible authorities use their particular area of expertise to help promote the licensing objectives. They are able to make representations about applications and apply for the review of a licence. Responsible authorities will also offer advice and guidance to applicants.

A full list of the responsible authorities and contact details are found in **Appendix 3**.

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

The need for the body to be responsible for an area covering the whole of the licensing authority's area; and

The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group In accordance with the regulations, the Council designates the Local Safeguarding Children Board for this purpose.

1.4 Interested Parties

The Gambling Act defines an interested party as a person who:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- Has business interests that might be affected by the authorised activities; or
- Represents persons who satisfies the bullet points above.

In determining whether someone lives sufficiently close to particular premises so as to be affected, the Licensing Authority will take into account factors including, but not limited to:

- The size of the premises
- The nature of the premises
- The proposed activities at the premises
 - The distance from the premises of the person making the representations
 - The nature of the complaint

In determining whether a person has a business interest which would qualify them as an interested party, the Licensing Authority will consider factors including, but not limited to:

- The size of the premises;
- The catchment area of the premises; and
 - Whether the person making the representation has a business interest in the catchment area that would potentially be affected by the gambling activities under consideration.

The Licensing Authority will not apply a rigid rule to its decision making and every representation will be considered on its own merits. The Licensing Authority will always have regard to the Gambling Commission Guidance to Local Authorities and this policy when determining whether a person is an interested party.

The authority would

“Business interests” will be given its widest possible meaning and may include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested party will be required as long as the Councillor/MP represents a ward likely to be affected. Likewise Parish Councils likely to be affected will be considered to be interested parties.

Other than these persons, this authority will require written evidence that a person “represents” someone who either lives sufficiently close to the premises to be likely to be affected by the proposed activities and/or has business interests that might be affected by the proposed activities. A letter from one of these persons requesting the representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not a member of the Licensing Committee dealing with the application. If there are any doubts then please contact South Ribble’s Licensing Unit.

1.5 Exchange of Information

The Licensing Authority will, in accordance with Sections 29 and 30 of the Act exchange information with the Gambling Commission where the request does not conflict with the Authority's duties under the Data Protection Act 1988.

The Licensing Authority will, in accordance with Section 350 of the Act exchange information with other persons or bodies identified in Schedule 6 of the Act where the request does not conflict with the Authority's duties under the Data Protection Act 1988.

The Authority does not currently have any specific protocols with Schedule 6 bodies; however it will keep this position under review and establish suitable protocols where it is deemed necessary or advantageous to do so.

1.6

In this regard, the Authority will act in accordance with the provisions of the Act in its exchange of information, which includes the provision that the Data Protection Act 1998 General Data Protection Regulation will not be contravened and that the requirements of the Freedom of Information Act 2000 will be adhered to. Privacy Notices relating to any information provided to the Authority in the exercise of its duties under the Act are available at www.westlancs.gov.uk/licensing. However, it should be noted that details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a Hearing being required, will form part of a public document. Any person making a representation, or applying for review of a Premises Licence, will be informed that their details will be disclosed.

In the context of the Gambling Act, this means that South Ribble Borough Council will only retain information that relates to the processing of applications for licences, permits, permissions and representations. This information will only be retained for the period of time it is needed for processing. Thereafter in line with the relevant retention schedule's

Applications and representations are documents which are in the public domain and are therefore available on request and may be published on the website as part of the information supplied if a hearing is arranged, or on the public register.

Information will also be shared with other regulators or persons if this is prescribed by the Secretary of State.

Freedom of Information Act

The Freedom of Information Act allows anyone to request access to information. These requests are normally made in writing either by email or letter. In certain circumstances a fee may be required or we may ask for more specific information. Requests will be dealt with within 20 working days and the information will be released if possible. If it is not possible to release the information an explanation will be provided together with details of how a complaint can be made to the Information Commissioner. The information will be released in the format requested unless it is in the public interest not to do so.

1.7 Human Rights

Section 6 of the Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights (the Convention)

The Licensing Authority will ensure that it will act in accordance with the Convention when determining any application under the Gambling Act 2005. In particular the Licensing Authority will have regard to the following:

- Article 1 – every person is entitled to the peaceful enjoyment of his or her possessions. A licence is considered a possession in law and people should not be deprived of their possessions unless it is in the public interest;
- Article 6 – the right to a fair hearing
- Article 8 – the right to respect for home and family life
- Article 10 – the right to freedom of expression.

1.8 Race Equality

The Licensing Authority shall act in accordance with its duties under the Race Relations Act 1976 as amended. In particular the legal obligation placed on it to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

1.9 Disability Discrimination Act 1995

The Licensing Authority expects all applicants and licence holders to be clear of their own responsibilities under the Disability Discrimination Act 1995.

1.10 Delegation of functions

The Licensing Committee established by the Licensing Authority to deal with matters arising under the Licensing Act 2003 shall also deal with matters under the Gambling Act 2005.

To facilitate an efficient and cost effective service for all parties involved in the licensing process, it is normal practice in routine, uncontested decisions for the Licensing Authority to authorise a senior officer to deal with the matter on their behalf. Appendix 1 sets out the scheme of delegations under the Gambling Act 2005.

Decisions in respect of contested applications or licence reviews will be made by a Licensing Sub-Committee.

2 The Licensing Objectives

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

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

The Gambling Commission takes a lead role in preventing gambling from being a source of crime by vetting applicants for personal and operator licences. The Licensing Authority will however look at the location of the proposed premises in terms of this licensing objective.

Where an area is known for having high levels of crime or disorder the Licensing Authority will consider whether the premises are suitable to be located there and whether conditions such as the provision of door supervisors may be required.

There is a distinction between disorder and nuisance. Complaints about nuisance cannot be resolved through the Gambling Act 2005 however it may be possible to address problems of this nature through other types of legislation.

Factors such as whether police assistance was required and how threatening the behaviour was will be considered in determining whether the incident was disorder or nuisance.

Ensuring that gambling is conducted in a fair and open way

The Licensing Authority will not normally be concerned with ensuring that gambling is conducted in a fair and open way as this will ordinarily be addressed by the Gambling Commission through the granting of personal and operating licences.

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

This can mean preventing children from taking part in or being in close proximity to gambling.

There is no definition of the term “vulnerable person” but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment or to the use of alcohol and/or drugs.

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

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the authority’s statement of licensing policy.

3 Premises Licences

3.1 Introduction

A premises licence is required from the licensing authority where an individual or company with a valid operator's licence, issued by the Gambling Commission, wishes to offer gambling at premises located within the local authority's area.

A premises licence may only authorise one primary gambling activity. The types of gambling premises licences which will be considered by the licensing authority are:

- a. Casino
- b. Bingo
- c. Betting
- d. Adult Gaming Centre
- e. Family Entertainment Centre

The Licensing Authority's primary obligation is to permit the use of premises in so far it thinks that is

In accordance with the relevant codes of practice issued by the Gambling Commission;

In accordance with the guidance issued by the Gambling Commission;
Reasonably consistent with the licensing objectives; and

In accordance with this Statement of Licensing Policy

Premises licences are subject to the permissions/restrictions set out in the Gambling Act 2005, associated regulations and mandatory and default conditions. Licensing authorities are able to exclude default conditions and attach other conditions if it is believed that they are necessary and proportionate.

Each application will be considered on its own merits. Demand or need for premises of a particular type is not something which the licensing authority can take into account. Other factors that cannot be taken into account are moral/ethical objections, a general dislike of gambling, nuisance issues or the likelihood of planning/building regulation approval.

3.2 Local Risk Assessments

From 6th April 2016 it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) that all premises licence holders assess local risks to the licensing objectives posed by the provision of gambling facilities at their premises. Premises licence holders must also have procedures and control measures in place to mitigate these risks. When undertaking a risk assessment the operator must take into account relevant matters identified in this licensing policy.

A risk assessment must be completed when applying for a new premises licence and should be reviewed and updated:

As a minimum, all LRAs must consider:

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 - for example hospitals, residential care homes, Council housing offices, drug and/or alcohol dependency services, other gambling premises;

How vulnerable people, including people with gambling dependencies are protected;

Whether the premises is in an area subject to high levels of crime and/or disorder;

Age verification policies;

The proximity of machines to the entrance door;

Consideration of line of sight from any staff counter to gambling machines;

Details of exclusions, self-exclusions and incidences of underage gambling.

In considering the above matters, the following are examples of operational controls that LRAs may need to consider:

CCTV;

Door supervisors;

Supervision of entrances / machine areas; Physical

separation of areas;

Location of entry;

Notices / signage;

Specific opening hours;

Self-barring schemes;

Provision of information leaflets / helpline numbers for organisations such as GamCare.

Please note that this list is not mandatory, nor exhaustive.

It is important that if children are allowed to enter licensed premises that they do not participate in gambling - other than category D machines. Where other machines are available in the premises to which children are not permitted to use, LRAs are expected to ensure that:

The suitability and layout of the premises promotes restricted access to relevant areas;

All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

Only adults are admitted to this area where the machines are located; Access to the area where the machines are located is supervised;

The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder, and

At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

3.2.1 LRAS must be kept at the individual premises to which they relate and must be available for inspection by the authority

3.3 Multiple licences

“Premises” is defined in the Act as “any place” and whilst section 152 of the Act prevents more than one premises licence being in force for any place, it does not prohibit a single building being subject to more than one premises licence.

Before the licensing authority will grant multiple licences for a single building it must be satisfied that the places subject to the applications can reasonably be regarded as separate premises. In determining this the licensing authority will consider all information which is relevant which will include but is not limited to:

The postal address of the premises;

The means of access to the premises i.e. directly from the street; The occupancy and ownership rights of the applicants;

The means of assessment for business rates payable for each “premises” and who is liable for such payments;

The permanency of any structures used or proposed to be used to separate the premises;

Whether other areas within the building are being used for non-gambling activities and their proximity to the proposed premises. This is particularly persuasive when the non-licensed areas might reasonably be frequented by

children or vulnerable people;

Whether access to one licensed premises may be gained directly from another licensed premises.

3.4 Specific Types of Licence

The licensing authority will consider access provisions for individual types of licensed premises in line with the latest guidance from the Gambling Commission:

Casinos

The principal access to the premises must be from the street

No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons

No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

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

Betting Shops

Access must be from a street or from another premises with a betting premises licence

No direct access from betting shop to another premises used for the retail sale of merchandise or services.

Tracks

No customer should be able to access the premises directly from:

- A casino
- An adult gaming centre

Bingo Premises

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

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

Family Entertainment Centre

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

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

The licensing authority will consider applications for a premises licence in respect of premises if it is satisfied that that it is going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before they can be brought into use.

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

When deciding if a premises licence can be granted in respect of premises that require construction or alteration the licensing authority will apply a two stage consideration process:

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

3.5 Location

The licensing authority will not consider demand issues when determining an application however it will pay particular attention to the need to protect children and vulnerable persons from being harmed or exploited by gambling when considering the location of the proposed premises.

It will also consider whether there is evidence that the locality suffers from incidents of crime and disorder and in these circumstances the licensing authority may consider it appropriate to grant a licence subject to conditions in accordance with Section 169 of the Act.

3.6 Planning

The licensing authority will not consider whether the applicant has or is likely to obtain planning permission or building regulations approval for their proposal.

Applicants are advised that when the Council, as the local Planning Authority, considers its position under planning or building legislation it will not be prejudiced by any decision of the licensing authority to grant a premises licence, or otherwise be prevented from taking appropriate action under those areas of legislation.

3.7 Duplication with other regulatory regimes

The licensing authority will not concern itself with matters already provided for in other statutory or regulatory regimes. It will however consider any concerns that gambling conditions are not able to be met by licence holders due to planning restrictions should the situation arise.

Applicants are expected to comply with their duties under the Fire Safety Regulatory Reform Order, which requires that any premises that is subject of a licence must have a documented fire risk assessment.

3.8 The Licensing Objectives

When considering applications the licensing authority must aim to permit the use of premises for gambling in so far as it is, amongst other things, reasonably consistent with the licensing objectives.

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

If there is evidence that the premises is in a locality which suffers from problems with organized crime or general crime and disorder, the licensing authority will consider firstly whether it is appropriate to grant a licence in that location. If it is satisfied that it is, it will then consider whether in the circumstances it should attach conditions to the licence in accordance with Section 169 of the Act.

Ensuring that gambling is conducted in a fair and open way

The licensing authority expects that premises licence holders will ensure that all gambling is conducted in a fair and open way. Concerns or complaints that arise under this objective will be referred to the Gambling Commission in their role as the regulators of both operator and personal licences.

In the case of tracks, where a premises licence holder is not required to have an operator licence, the licensing authority will consider whether conditions are required on the premises licence to ensure that the environment in which betting takes place is suitable.

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

In relation to children this requirement is explicitly to protect them from being harmed or exploited by gambling. In practice that means not just preventing them from taking part in gambling, but restricting advertising so that gambling products are not aimed at children, or advertised in such a way that makes them particularly attractive to children. The licensing authority will consider whether specific measures are required with regard to this objective. Appropriate measures may include supervision of entrances or gaming machines and the segregation of areas.

Accordingly, the Authority expects operators to address safeguarding risks directly in Relevant applications, through their Local Risk Assessments. See Section 13.0.

In order that the Authority can be best placed to address local safeguarding issues, Operators will Provide to the Authority with details (where available) of:
Results of any underage testing carried at licensed premises within the Borough;

Details of where a child or young person repeatedly attempts to gamble at licensed premises within the Borough.

Operators are also encouraged to engage with Lancashire County Council Social Services Safeguarding Children's and Adult's Boards as a means to obtain guidance on identifying vulnerable groups and what can be done to reduce the risks to these groups.

3.8.1 Inspection and criminal proceedings

The Authority is required by regulation to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises and its powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

In this regard, the Authority will undertake its inspection and enforcement functions in accordance with the relevant legislation, the Guidance and the principles of better regulation in the Regulator's Code. The Authority's principles for enforcement are:

Proportionate: The Authority will only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;

Accountable: The Authority will justify its decisions, and be subject to public scrutiny;

Consistent: The Authority's rules and standards will be joined up and implemented fairly;

Transparent: The Authority should be open, and keep regulations simple and user friendly; and

Targeted: The Authority's regulation should be focused on the problem, and minimise side effects.

The main enforcement and compliance role for the Authority will be to ensure compliance with the Premises Licences and other permissions that it authorises. The Commission will be the enforcement body for Operator and Personal Licences. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Authority, but will be notified to the Commission. The Commission will also be responsible for compliance as regards unlicensed premises.

Test purchasing to ensure the protection of children and vulnerable person objective is being properly promoted, visits could include all types of premises which have either gambling notifications, permits, or licences for example AGC's FEC'S and betting shops. Before carrying out any activity, due consideration will be given to information submitted by licence holders who conduct their own test purchasing and these premises will be considered low risk.

3.9 Conditions

Any conditions attached to licences will be proportionate and will be:

Relevant to the need to make the proposed building suitable as a gambling facility;
Directly related to the premises and the type of licence applied for;

Fair and reasonable in relation to the scale and type of premises;
and Reasonable in all other respects.

Decisions on individual conditions will be made on a case by case basis. Although there are a number of measures that the licensing authority will consider imposing in appropriate cases, for example the use of supervisors and signage, the authority does expect that the applicant will offer their own suggestions as to the way in which the licensing objectives can be met effectively.

The licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of gaming machines in non-adult specific premises, the supervision of entrances, and segregation of gambling from non-gambling areas in order to pursue the licensing objectives.

Where Category C machines are on offer in premises to which children are admitted, the licensing authority will ensure:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to areas where the machines are located;
- Access to the area where the machines are located is supervised;
- The area where the machines are located is arranged so that it can be observed by the staff of the licence holder;
- At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

The following conditions may not be attached to premises licences:

- Any condition which would make it impossible to comply with an operating licence condition;
- Any condition relating to gaming machine categories, numbers or method of operation;
- Any condition which provides that membership of a club or body be required;
- and
- Any condition in relation to stakes, fees, winnings or prizes

Door Supervisors

In some cases there may be a need for door supervisors in terms of the protection of children or preventing a premises becoming a source of crime. The licensing authority however cannot impose a condition requiring door supervisors at casino or bingo premises to be licensed by the Security Industry Authority (SIA). For premises other than casinos or bingo premises, door supervisors may be required to be registered with the SIA however it will not automatically be assumed that they need to be.

Whilst there is no evidence to demonstrate that the operation of betting offices ordinarily requires the use of door supervisors to protect the public a condition requiring such supervision may be imposed where there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

3.9.1 Adult Gaming Centres

The licensing authority will specifically have regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the authority that there will be sufficient measures in place to ensure that those under the age of 18 years do not have access to the premises. Appropriate measures/licence conditions may include:

- Proof of age schemes
- CCTV
- Door supervisors
 - Supervision of entrances/machine areas
 - Location of entry
- Notices/signage
 - Staff training on how to deal with suspected truants
 - Self-exclusion schemes
- Provision of information leaflets/numbers for organisations such as Gam Care

This list is not mandatory or exhaustive and is merely indicative of example measures.

3.9.2 Licensed Family Entertainment Centres

The licensing authority will specifically have regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the authority that there will be sufficient measures in place to ensure that those under the age of 18 years do not have access to adult only gaming machine areas. Appropriate measures/licence conditions may include:

- Proof of age schemes
- CCTV
- Door supervisors
 - Supervision of entrances/machine areas
 - Location of entry
- Notices/signage
 - Staff training on how to deal with suspected truants***
 - Self-exclusion schemes***
- Provision of information leaflets/numbers for organisations such as Gam Care

This list is not mandatory or exhaustive and is merely indicative of example measures.

The licensing authority will refer to the Gambling Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the Category C machines should be delineated and will also make itself aware of any mandatory or default conditions on these premises licences where they have been published.

3.9.3 Casinos

The licensing authority has not passed a “no casino” resolution under Section 166 of the Act. Should the licensing authority decide in the future to pass such a resolution this policy will be updated.

Conditions will be attached according to the principles set out in the Gambling Commission’s guidance.

Betting machines – the authority will take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of machines by children and young persons, or by vulnerable people when considering the number, nature and circumstances of betting machines that an operator may wish to offer.

3.9.4 Bingo Premises

The licensing authority must be satisfied that bingo will be played in any bingo premises before they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies for a new premises licence.

Where a pre-existing premises is split into two or more adjacent premises, Gambling Commission guidance is that the gaming machines must remain within the licensed area covered by the premises licence.

It is important that if children are allowed into premises licensed for bingo that they do not participate in gambling, other than on Category D machines. Where Category c or above machines are available on premises to which children are admitted the licensing authority will ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to the area where the machines are located;
- Access to the area where the machines are located is supervised;

The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and

- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under the age of 18.

3.9.5 Betting Premises

Betting machines - the authority will take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of machines by children and young persons, or by vulnerable people when considering the number, nature and circumstances of betting machines that an operator may wish to offer.

3.9.6 Tracks

Tracks are sites where races or other sporting events take place.

All tracks will require a primary “general betting” premises licence that the track operator will hold. Track operators do not require an operating licence from the Gambling Commission although they may apply for one. This is because the various gambling operators offering betting at the track will each hold an operating licence.

Tracks may be subject to one or more premises licences, provided each licence relates to a specific area of the track. This may be preferable for self-contained premises providing off-course betting facilities. The licensing authority will assess each individual case on its merits before deciding if this is necessary.

Children and young persons will be permitted to enter track areas where facilities for betting are provided although they are still prohibited from entering areas where gaming and betting machines (other than Category D machines) are provided.

Appropriate measures/licence conditions may include:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances/machine areas
- Location of entry
- Notices/signage
- Staff training on how to deal with suspected truants
- Self-exclusion schemes
- Provision of information leaflets/numbers for organisations such as Gam Care

This list is not mandatory or exhaustive and is merely indicative of example measures.

3.10 Travelling Fairs

Where Category D machines and/or equal chance prize gaming without a permit are to be made available for use at a travelling fair, it will be for the licensing authority to decide whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

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

3.11 Provisional Statements

A provisional statement application is a process which allows a developer to discover whether a building which he expects to be constructed, altered, to acquire a right to occupy would be granted a premises licence. A provisional statement is not a licence but it does give some form of guarantee that a licence would be granted.

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

In contrast to a premises licence application the applicant does not have to hold (or have applied for) an operating licence and they do not have to have a right to occupy the premises in respect of which the provisional statement application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. At this stage no representations can be taken into account from responsible authorities or interested parties unless:

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

The authority may refuse a premises licence (or grant it on terms different to those attached to the provisional statement) only be reference to matters:

- Which could not have been raised by objectors at the provisional licence stage;
- or
- Which in the authority's opinion, reflect a change in the operator's circumstances; or
- Where the premises has not been constructed in accordance with the plan submitted with the application

When determining an application for a provisional statement the licensing authority will not have regard to issues relating to planning consent or building regulations, for example the likelihood that planning consent will be granted.

3.12 Enforcement and compliance

When exercising its functions under Part 15 of the Act in respect of the inspection of premises and its powers under section 346 of the Act to institute criminal proceedings in respect of offences, the Licensing Authority will act in accordance with the following principles:

Consistency - to ensure that similar issues are dealt with in the same way whilst taking into account:

- The attitude and actions of management;
- The history of previous incidents or breaches;
- The likely effectiveness of the action taken.

Fairness – to ensure a fair and even handed approach that promotes decisions which are not influenced by gender, ethnic origin, religious or political beliefs or sexual preferences or by contractual or other relationships to the Licensing Authority, its Members, or Officers.

Transparency – to ensure that any enforcement action taken by the Licensing Authority is easily understood by individuals and that clear distinctions are made between legal requirements and that which is desirable.

Targeted – to ensure that any enforcement action taken is focused primarily on those activities which give rise to the most serious risk or where the risks are considered to be inadequately controlled.

Proportionality – any actions taken will reflect that seen as necessary to achieve compliance with legislation and relate directly to the actual or potential risk to the consumer or business. Enforcement activities will be focused on those businesses or activities where:

- Intelligence indicate concerns, and/or
- Evidence is found indicating deliberate breaches of the law and/or attempts to mislead officers.

Helpfulness – enforcement officers will be courteous and identify themselves by name and if requested will provide a contact telephone number. In most circumstances officers will seek to help businesses and those adversely affected by licensable activities through education in terms of regulatory requirements and procedures.

Accountable – the Licensing Authority has responsibility to the public for its actions and will provide clear, accessible policies and an efficient complaints procedure.

The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible, however, it will work in partnership with other regulators when issues with licensed premises are identified, to deliver a multi-agency approach to audit and compliance.

The Licensing Authority will adopt a risk-based inspection programme based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
 - The principles set out in this statement of licensing policy
 - Any identified local risks.

Test purchasing will be carried out from time to time to ensure the protection of children and vulnerable person objective is being properly promoted, visits could include all types of premises which have either gambling notifications, permits, or licences for example AGC's FEC'S and betting shops. Before carrying out any activity, due consideration will be given to information submitted by licence holders who conduct their own test purchasing and these premises will be considered low risk.

3.13 Reviews

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

- In accordance with any relevant Code of Practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives, and
- In accordance with the authority's statement of principles

The licensing authority will also consider whether such a request for a review is frivolous, vexatious, or whether it is substantially the same as previous representation or requests for a review or where it will certainly not cause the authority to wish to alter, revoke or suspend the licence.

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

Once a valid application for a review has been received by the licensing authority, representations may be made by responsible authorities and interested parties during a 28 day consultation period. The licensing authority will carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review is to determine whether the licensing authority should take any action in relation to the licence. If action is deemed necessary, the options available to the licensing authority are:

- Add, remove or amend a licence condition imposed by the licensing authority;
- Exclude a default condition imposed by the Secretary of State, or
- remove/amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months;
- Revoke the premises licence

In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in Section 153 Gambling Act 2005 as well as any relevant representations.

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

4 Statement of Principles on Permits

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

The sections below detail the matters that the licensing authority will have regard to when considering applications for permits.

4.1 Unlicensed Family Entertainment Centre Gaming Machine Permit

The licensing authority will consider applications for an unlicensed family entertainment centre gaming machine permit where the applicant does not hold a premises licence but wishes to provide gaming machines. The applicant must be able to show that the premises will wholly or mainly be used for making gaming machines available for use.

When determining the suitability of an applicant for a permit the licensing authority will have regard to the licensing objectives, any relevant guidance issued by the Gambling Commission and any comments made by Lancashire Constabulary.

The licensing authority expects that an applicant will be able to demonstrate:

- That they have suitable and sufficient policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will be considered on their merits;
- That there are appropriate measures and staff training in place to deal with suspected truanting school children on the premises;
- That there are suitable measures and staff training in place on how to deal with children causing perceived problems on/around premises;
- That the applicant and all staff have an understanding of the maximum stakes and prizes that may be offered at the premises
- That the applicant has no relevant convictions.

As part of the application process, the applicant will be required to submit a scale plan of the premises.

The licensing authority may refuse to renew a permit if an authorised local authority officer has been refused access to the premises without reasonable excuse or where renewal would not be reasonably consistent with the licensing objectives.

4.2 Licensed Premises Gaming Machine Permits

4.2.1 Automatic Entitlement

There is provision in the Act for the holder of a premises licence authorizing the sale of alcohol for consumption on the premises to be entitled, on giving notification and paying the relevant fee, to provide 2 gaming machines of Categories C or D. This automatic entitlement ceases when the holder of the premises licence gives up their interest in the licence. Subsequent holders of the premises licence are required to notify the licensing authority of their intention to make gaming machines available for use and pay the prescribed fee.

The licensing authority may remove the automatic entitlement in respect of a premises where:

- The provision of such machines is not reasonably consistent with the licence objectives;
- Gaming has taken place on the premises that breaches a condition of Section 282 of the Act;
- The premises are mainly used for gaming; or
- An offence under the Act has been committed on the premises

4.2.2 Three or more machines

Where a premises wishes to have more than 2 machines an application for a licensed premises gaming machine permit is required. The licensing authority must consider such an application based on the licensing objectives, any relevant guidance issued by the Gambling Commission and “such other matters as it thinks relevant”

“Such matters” will be considered on a case by case basis but there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and the applicant will be expected to satisfy the licensing authority that there will be sufficient measure in place to ensure that under 18s year olds do not have access to the adult only gaming machines. Measures may include the Category C machines being placed in sight of the bar or in the sight of staff that will monitor the use of the machines. The applicant may also wish to consider the provision of information leaflets/helpline numbers for organisations such as Gamcare.

Where an applicant can demonstrate compliance with the Gambling Commission Code of Practice on Gaming Machines, granting of the application will be the normal course as long as the number of machines requested can be shown to be reasonable in relation to the size of the premises.

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

4.3 Prize Gaming Permit

The licensing authority is concerned that premises with the benefit of a prize gaming permit will particularly appeal to children and young persons. When considering an application the licensing authority will give significant weight to child protection issues and will need to be satisfied that the granting of a permit will not place children and young persons at risk as a consequence.

The applicant should set out the types of gaming that they intend to offer and they should also be able to demonstrate:

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

In determining an application for a Prize Gaming Permit the licensing authority will have regard to any relevant Gambling Commission guidance and may have regard to the licensing objectives.

4.4 Club Gaming and Club Machine Permit

Members Clubs and Miner's Welfare Institutes (but not Commercial Clubs) may apply for a club gaming permit or a club gaming machine permit.

A club gaming permit enables the premises to provide no more than 3 gaming machines from Category B3A (only one machine may be of this category), B4, C or D, equal chance gaming and games of chance as set out in the Regulations.

A Club machine permit will enable the premise to provide up to 3 gaming machines from Categories B3A, B4, C or D.

Before granting either a club gaming or club gaming machine permit, the licensing authority must be satisfied that the club meets the requirements of the Act. A members club must have at least 25 members and must be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations (this is the case for bridge and whist clubs)

The licensing authority will only refuse an application where:

- The applicant does not fulfil the requirements for a members' club, commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- The applicant's premises are used wholly or mainly by children and/or young people;
- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Gambling Commission or the Police.

A "fast-track" procedure is available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under this procedure there is no opportunity for the Gambling Commission or the Police to object to the application and the only grounds on which an application may be refused are:

- That the club is established primarily for gaming, other than gaming prescribed by regulation under section 266 of the Act;
- That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

4.5 Temporary Use Notices

Temporary use notices allow the use of premises for gambling where there is no premises licence, but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.

The licensing authority will only grant a temporary use notice to a person or company holding a relevant operating licence.

The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 set out what form of gambling can be authorised by a temporary use notice. In summary they may only be used to authorise:

- Gambling that is authorised by the applicant's operating licence

- Gambling for a maximum of 21 days in any 12 month period for any/all of the named set of premises

- Facilities for equal chance gaming where the gaming in each tournament is intended to produce a single overall winner.

A temporary use notice may not be used to authorise the provision of gaming machines.

In considering whether a place falls within the definition of "a set of premises" the licensing authority will consider amongst other things, the ownership, occupation and control of the premises.

The licensing authority may 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.

4.6 Occasional Use Notices

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

APPENDIX 1

List of Consultees

- Lancashire Constabulary –

- Lancashire Fire and Rescue Services –

- Community Safety Partnership –

- South Ribble Borough Council Public Health and Housing –

- South Ribble Borough Council Highways –

- South Ribble Borough Council Planning –

- All South Ribble Area Committees-

- All Town Councils/Parish Councils in the South Ribble area –

- Citizen’s Panel Focus Group –

- Local Safeguarding Children Board –

- HM Customs and Excise-

- Chorley and South Ribble Business Club –

- Federation of Licensed Victuallers Associations –

- North and West Lancashire Chamber of Commerce –

- All betting shops and amusement centres in the borough –

- Gambling Commission –

- Other bodies requesting consultation –

In addition:

This policy can be found on the website at www.southribble.gov.uk/licensing . In addition the policy will also be placed on deposit in the Civic Centre, Leyland and at public libraries throughout the borough.

APPENDIX 2 – Scheme of Delegations

Application	Full Council	Licensing Panel	Officer
Three year licensing policy	X		
No casino resolution	X		
Application for a premises licence		Where representations have been received and not withdrawn	Where no representations have been received/representations withdrawn
Application for variation of licence		Where representations have been received and not withdrawn	Where no representations have been received/representations withdrawn
Application for transfer of licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for provisional statement		Where representations have been received and not withdrawn	Where no representations have been received/representations withdrawn
Review of premises licence		X	
Application for club gaming/club machine permit		Where objections have been received and not withdrawn	Where no objections have been received/objections withdrawn
Cancellation of club gaming/club machine permit		X	
Application for other permits			X
Cancellation of licensed premises gaming machine permit			X
Consideration of a temporary use notice (TUN)			X
Decision to give a counter notice to a TUN		X	

APPENDIX 3 – List of Responsible Authorities

For the purposes of this Act, the following are Responsible Authorities in relation to premises:

Lancashire Constabulary
Licensing Unit: C Division
County Police Office, St Thomas's Road
Chorley Lancashire PR7 1DR
Telephone: 01257 246215

Fax: 01257 246217
Email: centrallicensing@lancashire.pnn.police.uk

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Telephone: 0121 230 6666
Email: info@gamblingcommission.gov.uk

Lancashire County Council
Lancashire Safeguarding Children's Board
County Hall
Preston
Lancashire
PR1 8RJ

Telephone: 01772 536954
Email: children.cypsafeguarding@lancashire.gov.uk

Licensing
Civic Centre
West Paddock
Leyland
PR25 1DH

Telephone: 01772 421491
Email: licensing@southribble.gov.uk

Environmental Protection & Community Safety
Civic Centre
West Paddock
Leyland
PR25 1DH

Telephone: 01772 421491
Email: envhealth@southribble.gov.uk

REPORT TO	ON
General Licensing Committee	12 September 2018



TITLE	REPORT OF
Consideration for Mandatory CCTV in taxis and private hire vehicles	Head of Licensing

Is this report confidential?	No
------------------------------	----

1. PURPOSE OF THE REPORT

To advise Members of the process for introducing CCTV in taxis and private hire vehicles as a Mandatory Condition of licence

2 CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	x
Health and Wellbeing	x
Place	

Projects relating to People in the Corporate Plan:

People	
--------	--

3. RECOMMENDATIONS

Members are requested to:

3.1 note the content of the report; and

3.2 determine whether to proceed to consultation on the proposal to introduce CCTV in all taxis and private hire vehicles or

3.3 Allow the status quo to remain which permits CCTV to be installed in a taxi or private hire vehicle at the driver's discretion subject to the system being approved by SRBC.

4. BACKGROUND TO THE REPORT

4.1 South Ribble Borough Council's Taxi and private hire policy states:

CCTV

"The Council recommends the use of CCTV systems in vehicles for the safety of both the driver and passenger.

CCTV or any other image recording device may be used within a Hackney Carriage subject to the Council being given prior notification of the installation.

CCTV systems must comply with the current data protection requirements as directed by the Information Commissioner.

Where CCTV is installed in a vehicle, there must be a minimum of 2 signs which are clearly visible to passengers, advising them of the presence of CCTV.

CCTV systems must be capable of storing image/audio files in a manner which prevents them being downloaded or viewed by the driver or any other person travelling in the vehicle.

The storage device must be encrypted and image/audio files may only be downloaded by an authorised officer of the Council or a Police Constable.

The CCTV system supplier shall furnish the Council with de-encryption software at no cost to the Council, along with a lifetime licence for the use of such software as may be required."

4.2 The issue of mandatory CCTV has been on the agenda for some time.

4.3 On the 20th February 2018 the Interim Licensing Manager presented a report that informed the Committee of the Council's current permissive approach towards the use of CCTV in licensed vehicles. The report also provided an update on the benefits and legal implications to the Council of adopting a mandatory approach to this issue.

4.4 Whilst the benefits of CCTV for safeguarding were known and Commissioner Ney in her review had been a strong advocate for the introduction of a mandatory approach nevertheless Committee noted it was a very resource intensive, technical and legally complex issue. At that time only nine licensing authorities had introduced such a policy.

4.5 The Committee was supportive in principle of the introduction of mandatory policy for the protection of both the public and the trade. However, it was mindful of the highlighted significant implications particularly if the Council pursued this alone. It was felt a Pan-Lancashire approach would not only benefit the Council but also the trade.

4.6 Committee accordingly resolved that "further development of the mandatory use of CCTV in vehicles licensed by this Council be supported and that this be progressed on a Pan-Lancashire basis."

4.7 A letter was accordingly then sent to all authorities in Lancashire on the 17th May 2018 seeking their views on "joining forces" on this issue. 5 responses were received attached as Appendices A-E, with only Lancaster showing an interest in combining forces. Rossendale Council responded with the offer of advice after successfully implementing a CCTV requirement which came into effect in January 2018.

4.8 A personal visit to Rossendale has been conducted which proved very useful to understand some of the pitfalls and challenges they faced. They can be broken down into the following criteria:

1. Proportionality and the need for an evidence base.
2. Cost of implementation.
3. Legal Compliance, Specification and ICO recommendations.

4. Incentives and trade buy in.

5. PROPORIONALITY AND EVIDENCE BASE

5.1 One of the arguments raised in Rossendale was based on the Regulator's Code and the general lack of evidence.

A useful statement issued by Rossendale was that in its consultation document which stated ;

Mandatory use of CCTV –Consideration to be given to the imposition of a condition making CCTV compulsory in vehicles. Such a condition would be applied in line with both the Information Commissioner's guidance and Data Protection Act 1998. Many councils are taking affirmative action to this end which provides invaluable evidence in investigations. It may act as a deterrent and would be used to protect the driver from attacks and making off without payment. Current policy does not prevent the use of CCTV and is at the discretion of the driver. The Government has recently indicated that it might introduce new measures that will ensure all councils make CCTV compulsory in taxis to protect children. The Government move follows a pilot scheme in a Rotherham, where from July 6 all taxi drivers have to have CCTV cameras and an audio recording device.

5.2 The Regulators Code arguments seemed to include:

“Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities², for example, by considering how they can best:

understand and minimise negative economic impacts of their regulatory activities;

minimising the costs of compliance for those they regulate;

improve confidence in compliance for those they regulate, by providing greater certainty; and

encourage and promote compliance.

Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.”

5.3 A full copy of the Regulators code is found at Appendix F

5.4 The trade opposition was headed off in Rossendale by producing evidence that the Council had undertaken extensive consultation and workshops, social media posts, letters sent to all Licence holders and neighbouring Authorities and trade bodies.

5.5 The argument regarding the evidence base was rebutted simply by referring to the number of complaints that Rossendale were receiving which was between 30 to 40 per month.

5.6 Taking the main reason for implementing such a condition officers have examined the crime data for the last 12 months in the South Ribble area looking at specific areas of crime categories including assaults, damage, and theft/fraud where taxis have been involved. The details are as follows:

- 10 making off without payment
- 2 criminal damage
- 1 sexual assault
- 1 stolen property (mobile phone)
- 1 public order (drunk, abusive customer)

The data searched covered the period of 1st August 2017-1st August 2018.

5.7 The crime category that stands out is the sexual assault. We asked for further information regarding this and discovered it was an alleged sexual assault on a female passenger, the offender being a hackney carriage driver from Preston, no plate number or vehicles details were noted by the complainant so the offence goes undetected. To reiterate, this matter had no connection to any South Ribble taxi driver.

5.8 We asked for further details around the making off without payment and again discovered that 6 of these incidents related to Preston taxis who had been dropping off in South Ribble and only 2 were relating South Ribble taxi drivers. The police on our behalf have searched crime categories across the South Ribble area, this is known as the incident location but it is perfectly feasible that South Ribble drivers could find themselves in neighbouring authorities and become a victim of crime but a request for this information was not made as it would have been an excessive drain on police time to research all areas of Lancashire.

5.9 South Ribble currently have 287 drivers so the crime statistics above demonstrate that 1.7% of these drivers have been a victim of crime (reported to the police)

5.10 The complaints or investigations received by SRBC are particularly low , certainly in the last 3 months there have been 3 complaints received by customers, this does not include low level compliance issues reported by others drivers such as plates being damaged or not visible on other vehicles. Out of the 3 complaints received where there is a witness or complainant 1 case will potentially be considered for prosecution but company records and witness statements have provided prima facia evidence that an offence has been committed, whilst CCTV would have been an additional bonus in this case it will be not be a detriment to the investigation that we do not have it.

5.11 The deterrent effect of CCTV is unquantifiable in its benefit but turning back to the Regulator's Code it makes reference to alternative solutions which could bring about the same aim – for example a tinted window policy was introduced in the last 12 months as a protective measure. This policy requirement in itself is expensive and burdensome for the Industry with an average cost of £1000 to change from factory fitted tinted windows to clear glass. Incidences of proprietors purchasing new vehicles and having to replace the rear passenger glass and rear screen are quite common, at least 3 or 4 per month that we get to know about. A recent article in an Industry periodical highlights the cost and benefits of such a policy and highlights 2 Local Authorities where they have reconsidered the position on tinted windows. Cardiff appear to moving to an “either or” scenario where a driver putting a

new vehicle can choose to install clear glass at reported costs of up to £2000 or install CCTV at much more modest price.

A copy of this article is attached as Appendix G.

6. COSTS OF IMPLEMENTATION

6.1 The cost of implementation will be mainly Officer time, turning to the Rossendale experience they estimate approximately £30,000 but that included a Licensing Consultant and the task was significantly greater in terms of vehicle numbers and drivers which ran into the 1000's. In addition to Officer time they incurred close to £10,000 in legal costs due to the fact they were defending a Judicial review against the policy, the parties agreed late in the day and the matter did not need to proceed further in the High Court but nevertheless significant legal costs were incurred by both sides.

6.2 The CCTV units that have been approved in Rossendale are relatively modest in price with an average price of £500 per unit which includes professional installation by an approved supplier.

7. LEGAL COMPLIANCE, SPECIFICATION AND ICO RECOMMENDATIONS

7.1 A case against Southampton City Council was taken by the Information Commissioner's Officer (reported in February 2013) following concerns they raised about the permanent audio recording that was in place in all vehicles that were fitted with the CCTV, this was a mandatory requirement.

7.2 An enforcement notice was issued to the Council for them to cease the activity of permanent voice recording, the Council appealed the notice and the specific issues in the appeal were:

- 1. Whether the words recorded under the Council policy included "sensitive personal data"*
- 2. Whether the Council's policy infringed Article 8 of the ECHR (European Court of Human Rights)*
- 3. Whether the Commissioner was right to exercise his discretion to issue an enforcement notice.*

7.3 The Tribunal found in favour of the ICO and a summary of the case is found at Appendix H.

7.4 It must be reiterated that the ICO did not have an issue with CCTV being installed in vehicles whether this be mandatory or voluntary - the issue was the specification and the permanent audio recording. One of the latter paragraphs of the summary is of particular interest and states;

The tribunal wished to record that it was impressed by the police evidence in this case. It also appreciated the nature of the problem and the special vulnerability of some taxi passengers. "it may be that ...there is scope for a more targeted scheme involving audio-recording based on times of day, types of customers (for example children or vulnerable adults carried under contract between a taxi firm and the council), the use of panic buttons

or a combination thereof, which strikes a better balance between the competing considerations and does not contravene the Data Protection and Human Rights Act”.

7.5 The specification of the CCTV units approved by Rossendale meets the requirements of the ICO in that it has a simple but effective panic switch that is available for the driver and the passenger (1 switch in the front and 1 in the back) that engages the audio recording meaning.

7.6 The data on the CCTV hard drive is encrypted and the hard drive is locked away in a box (usually installed in the boot), the Council and the installer are the only key holder and the data is only retrievable by the Council or installer, therefore the Council is the Data Controller.

8. INCENTIVES AND TRADE BUY IN

8.1 It is clear from the research that if the trade are incentivised either during the consultation or after it can be a great influence on the positivity of the consultation responses, incentives may include partial grants or match funding, or relaxation of existing policies the mischief of which may be better served by CCTV.

8.2 The current Licensing Budget at SRBC is modest and early calculations indicate that we may be falling short on covering the existing costs of the Licensing Service so any grant funding may need to be identified from alternative sources or revive Licensing Fees which largely undermines the incentive element. Revision of existing Policies or an “either or approach” may be something to explore but may be met with vociferous objection from those owners/drivers who have recently been put to significant cost to replace tinted windows with clear glass.

9. CONCLUSION

9.1 The initial brief by the GLC was to explore the feasibility of a Pan Lancashire agreement to progress CCTV as a mandatory condition.

9.2 It would seem that the case for CCTV should be one that stands scrutiny on its own merits so it would seem that each Authority area will have different reasons and grounds for implementing CCTV. As such the importance of a Pan Lancashire agreement seems less important.

9.3 After consulting with all Authorities in Lancashire it seems only Lancaster has an appetite to join forces so securing any such agreement seems unlikely at this stage.

9.4 The specification of the CCTV unit is easily achievable and approved installers will be available in the immediate area.

9.5 There is little by way of a business case that CCTV as a mandatory requirement is necessary, the crime statistics on drivers are very low (1.7%) and the number of complaints are also very low in number.

9.6 The suggested argument for CCTV perhaps needs to focus on the deterrent effect and would possibly only be achievable with Industry buy-in which would hopefully reduce the amount of opposition should a decision be made to consult on the matter.

10. LEGAL IMPLICATIONS

PLEASE SEE MONITORING OFFICER COMMENTS

11. COMMENTS OF THE STATUTORY FINANCE OFFICER

The cost of the CCTV units would be borne by the licensed drivers and therefore the cost implications for the Council, as set out in section 6 above, would be staffing costs which are already budgeted. There is currently no provision in the Licensing revenue budget for any external consultancy or legal costs. Licencing fees and charges are calculated on a cost recovery basis and reviewed on an annual basis.

12. COMMENTS OF THE MONITORING OFFICER

As ever if we are proposing to make an important policy change and impose an additional burden on our licensed drivers then we must carry out an extensive consultation exercise first. We must be convinced that such changes are strictly necessary. We must act reasonably throughout.

13. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	Please refer to the legal risks identified above. None
▶ Equality & Diversity	

14. APPENDICES

Appendix A- E mail responses from neighbouring authorities

Appendix F- Regulators Code
Appendix G- Private Hire Monthly Article
Appendix H-Summary of the Southampton Judgment

Report Author:	Telephone:	Date:
Mark Marshall	01772 625401	30 th July 2018

**Marshall, Mark**

From: Mike Thorpe <M.Thorpe@preston.gov.uk> on behalf of Licensing Mailbox <Licensing@preston.gov.uk>
Sent: 29 May 2018 11:54
To: Ward, Christopher
Subject: RE: FAO Licensing Manager

Hi Chris

This issue is reviewed during our policy review process. Mark has stated he has looked at policies but have still cut and paste the relevant extract from our policy below. I have nothing really to add because it is not an issue that has received much attention in Preston.

I can inform you that 23 of our 187 hackneys and 44 of our 589 private hires have CCTV systems installed.

2.8 Driver Safety

- 2.8.1 The trades provide a valuable service, particularly late at night when other forms of public transport are not available. Security for drivers and passengers is of paramount importance. Licensed drivers deal with strangers, often in isolated places and carry cash and may be at risk of violence and other offences such as non-payment of fares, verbal and racist abuse.
- 2.8.2 There are a number of ways to reduce the risks such as pre-payment of fares, driver screens, CCTV surveillance systems and radio link schemes.
- 2.8.3 It is not proposed that measures such as CCTV should be required, as part of the licensing regime, as it is considered that they are best left to the judgement of the owners and drivers themselves. The hackney carriage and private hire trades are, however, encouraged to consider the installation of CCTV systems in their vehicles on a voluntary basis.
- 2.8.4 CCTV security systems for the purpose of assisting driver safety are permitted in vehicles. If such devices are fitted, adequate signage shall be displayed in the passenger compartment advising passengers that they are being monitored / recorded. Any such equipment shall be fitted overtly and in such a way as not to present any danger or hazard to any passenger. It will be the driver / proprietors' responsibility to comply with all aspects of the law regarding such surveillance equipment.
- 2.8.5 In any licensed vehicle where a CCTV security system is fitted, the proprietor shall ensure that the system is properly maintained and serviced to ensure clear images are recorded. It is recommended that a minimum of two warning signs should be displayed prominently inside vehicles so as to be easily seen by passengers.
- 2.8.6 The Government has produced two short guidance documents entitled "Staying Safe" which describe measures that drivers can take to prevent violence as well as offering practical advice on what can be done in the event of a threat or violent incident. These documents can be obtained from www.dft.gov.uk/pgr/crime/taxiphv.

Regards

Mike

Appendices A - E

Mike Thorpe
Licensing Manager
+441772906114
Preston City Council

From: Ward, Christopher [mailto:CWard@southribble.gov.uk]
Sent: Tuesday, May 22, 2018 2:40 PM
To: Licensing Mailbox <Licensing@preston.gov.uk>; 'customerservices@lancaster.gov.uk' <customerservices@lancaster.gov.uk>; 'jane.horsfield@ribblevalley.gov.uk' <jane.horsfield@ribblevalley.gov.uk>; 'Carl Gore' <carl.gore@chorley.gov.uk>; 'info@blackburn.gov.uk' <info@blackburn.gov.uk>; 'licensing@burnley.gov.uk' <licensing@burnley.gov.uk>
Cc: 'licensing@fylde.gov.uk' <licensing@fylde.gov.uk>; 'ryan.ratcliffe@blackpool.gov.uk' <ryan.ratcliffe@blackpool.gov.uk>; 'licensing@rossendalebc.gov.uk' <licensing@rossendalebc.gov.uk>; 'customer.services@westlancs.gov.uk' <customer.services@westlancs.gov.uk>; Marshall Mark <mmarshall@southribble.gov.uk>
Subject: FAO Licensing Manager

Good afternoon,

Please see attached letter FAO Licensing Manager seeking your views on the general theme of CCTV as a mandatory requirement in licensed vehicles.

Kind regards

Chris Ward

Licensing Officer

South Ribble Borough Council

☎: 01772 (62) 5330

📍: Civic Centre, West Paddock, Leyland, PR25 1DH

🌐: southribble.gov.uk ✉: cward@southribble.gov.uk



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Marshall, Mark

From: Curtis, Jennifer <jcurtis@lancaster.gov.uk>
Sent: 29 May 2018 10:14
To: Ward, Christopher
Subject: RE: FAO Licensing Manager

Morning Chris,

Lancaster City Council currently do not have a mandatory CCTV policy, we leave it largely to the discretion of the owner/driver, although CCTV in licensed vehicles is something an officer is researching at the moment with a view to sounding out options through our taxi working group before proposals being put to members early next year.

Lancaster would support a Lancashire-wide policy in relation to mandatory CCTV in licensed vehicles.

Thanks,

Jen

Jennifer Curtis
Principal Licensing Officer
Lancaster City Council
Health and Housing
01524 582732
jcurtis@lancaster.gov.uk

From: Ward, Christopher [mailto:CWard@southribble.gov.uk]
Sent: 22 May 2018 14:40
Subject: FAO Licensing Manager

Good afternoon,

Please see attached letter FAO Licensing Manager seeking your views on the general theme of CCTV as a mandatory requirement in licensed vehicles.

Kind regards

Chris Ward
Licensing Officer
South Ribble Borough Council
☎: 01772 (62) 5330
📍: Civic Centre, West Paddock, Leyland, PR25 1DH
🌐: southribble.gov.uk ✉: cward@southribble.gov.uk



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C

Marshall, Mark

From: Marshall, Mark
Sent: 23 May 2018 09:32
To: Ward, Christopher
Subject: FW: CCTV

From: Phil Morton [mailto:PhilMorton@rossendalebc.gov.uk]
Sent: 22 May 2018 16:22
To: Marshall Mark <mmarshall@southribble.gov.uk>
Subject: CCTV

Hi Mark,

Rossendale has adopted a mandatory requirement for all licensed vehicles to be installed with CCTV.

This was agreed by our Licensing Committee in November 2016 and, following a Judicial Review brought by our hackney association (which was later withdrawn before court) was implemented in January 2018.

We followed guidelines issued by both the ICO and the Surveillance Camera Commissioner, and liaised with other local authorities in compiling our system specification.

If you require specific details etc. I would be happy to share these with you.

regards

Phil Morton
Public Protection Manager
Rossendale BC
01706252442
philmorton@rossendalebc.gov.uk

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Website Address: www.rossendale.gov.uk

Twitter: @RossendaleBC

Facebook: Rossendale Borough Council

Telephone 01706 217777

Marshall, Mark

From: Jane Horsfield <Jane.Horsfield@ribblevalley.gov.uk>
Sent: 22 May 2018 15:07
To: Ward, Christopher
Subject: RE: FAO Licensing Manager

Hi Chris

At present we have no views on this matter and are not planning on taking anything to our Committee at present.

Kind regards

Jane Horsfield
Electoral and Licensing Officer
Ribble Valley Borough Council
Jane.Horsfield@ribblevalley.gov.uk
01200 414411

From: Ward, Christopher [mailto:CWard@southribble.gov.uk]
Sent: 22 May 2018 14:40
To: 'licensing@preston.gov.uk'; 'customerservices@lancaster.gov.uk'; Jane Horsfield; 'Carl Gore'; 'info@blackburn.gov.uk'; 'licensing@burnley.gov.uk'
Cc: 'licensing@fylde.gov.uk'; 'ryan.ratcliffe@blackpool.gov.uk'; 'licensing@rossendalebc.gov.uk'; 'customer.services@westlancs.gov.uk'; Marshall Mark
Subject: FAO Licensing Manager

Good afternoon,

Please see attached letter FAO Licensing Manager seeking your views on the general theme of CCTV as a mandatory requirement in licensed vehicles.

Kind regards

Chris Ward
Licensing Officer
South Ribble Borough Council
☎: 01772 (62) 5330
📍: Civic Centre, West Paddock, Leyland, PR25 1DH
📧: southribble.gov.uk 📧: cward@southribble.gov.uk



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Marshall, Mark

From: Andy Hough <andy.hough@fylde.gov.uk>
Sent: 22 May 2018 15:02
To: Ward, Christopher
Subject: RE: FAO Licensing Manager

Hi Chris

I would advise you that whilst we do allow CCTV in licensed vehicles at this moment it is not compulsory.

My own feelings are that if we were to look to make it compulsory we would need to have a consultation period for the trade, other appropriate bodies and the public to give their views prior to referring the findings to our Public Protection Committee.

Knowing the taxi trade they would probably expect ourselves to make a financial contribution towards the cost. We currently have 270 licensed vehicles so potentially there could be a large cost to ourselves.

Our policy states the following regarding CCTV

"CCTV

Vehicles may be fitted with an appropriate CCTV system. If a system is installed it should be operational at all times the vehicle is in use.

The CCTV system must:

- Be of a make, type and design approved by the Council;
- Will not be changed in any way from its original design, be free of damage and maintained in working condition;
- The vehicle must carry appropriate signs, approved by the Council, informing the public that camera surveillance is active in the vehicle;
- The recording system and memory card (or other image recording system) must be securely stored within the vehicle and away from public access; Installation and maintenance must be in accordance with the manufacturer's specifications and recommendations;
- Images contained in the recording device may only be downloaded by an authorised officer of the Council or Police Officer unless the vehicle licence holder or licensed driver is registered with the Information Commissioner as a Data Controller
- ensure that any CCTV cameras installed in the vehicle have received prior written approval of the Council and are operated in accordance with this Policy
- display a Council approved sign, in a position clearly visible to passengers, warning customers that camera surveillance equipment may be in operation."

Andy

Andy Hough
Technical Enforcement Officer - Licensing Team
Fylde Borough Council

DDI: 01253 658606

Main: 01253 658658

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Appendices A - E

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From: Ward, Christopher [mailto:CWard@southribble.gov.uk]

Sent: 22 May 2018 14:40

To: 'licensing@preston.gov.uk' <licensing@preston.gov.uk>; 'customerservices@lancaster.gov.uk' <customerservices@lancaster.gov.uk>; 'jane.horsfield@ribblevalley.gov.uk' <jane.horsfield@ribblevalley.gov.uk>; 'Carl Gore' <carl.gore@chorley.gov.uk>; 'info@blackburn.gov.uk' <info@blackburn.gov.uk>; 'licensing@burnley.gov.uk' <licensing@burnley.gov.uk>

Cc: Licencing <licensing@fylde.gov.uk>; 'ryan.ratcliffe@blackpool.gov.uk' <ryan.ratcliffe@blackpool.gov.uk>; 'licensing@rossendalebc.gov.uk' <licensing@rossendalebc.gov.uk>; 'customer.services@westlancs.gov.uk' <customer.services@westlancs.gov.uk>; Marshall Mark <mmarshall@southribble.gov.uk>

Subject: FAO Licensing Manager

Good afternoon,

Please see attached letter FAO Licensing Manager seeking your views on the general theme of CCTV as a mandatory requirement in licensed vehicles.

Kind regards

Chris Ward

Licensing Officer

South Ribble Borough Council

☎: 01772 (62) 5330

📍: Civic Centre, West Paddock, Leyland, PR25 1DH

📧: southribble.gov.uk 📧: cward@southribble.gov.uk



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Department
for Business
Innovation & Skills

Better
Regulation
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Regulators' Code

April 2014

Foreword



In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline such as the Focus on Enforcement review of appeals, the proposed Growth Duty for non-economic regulators and the Accountability for Regulator Impact measure.

This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate. The Regulators' Code provides a flexible, principles based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities.

Our expectation is that by clarifying the provisions contained in the previous Regulators' Compliance Code, in a shorter and accessible format, regulators and those they regulate will have a clear understanding of the services that can be expected and will feel able to challenge if these are not being fulfilled.

Regulators within scope of the Regulators' Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

I believe the Regulators' Code will support a positive shift in how regulation is delivered by setting clear expectations and promising open dialogue. Ultimately this will give businesses greater confidence to invest and grow.

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive style with a horizontal line underneath the name.

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

Regulators' Code

This Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities¹ and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities², for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.

1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.

1.4 Regulators should ensure that their officers understand the statutory principles of good regulation³ and of this Code, and how the regulator delivers its activities in accordance with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

¹ The term 'regulatory activities' refers to the whole range of regulatory options and interventions available to regulators.

² The terms 'business or businesses' is used throughout this document to refer to businesses and other regulated entities.

³ The statutory principles of good regulation can be viewed in Part 2 (21) on page 12: http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf.

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Regulators' Code

- 2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

- 2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.
- 2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- 2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- 2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate⁴.

3. Regulators should base their regulatory activities on risk

- 3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- 3.3 Regulators designing a risk assessment framework⁵, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.
- 3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- 3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

⁴ The Government will discuss with national regulators a common approach to surveys to support benchmarking of their performance.

⁵ The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to individual businesses or other regulated entities.

Appendix F

Regulators' Code

4. Regulators should share information about compliance and risk

- 4.1 Regulators should collectively follow the principle of "collect once, use many times" when requesting information from those they regulate.
- 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.

5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

- 5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 5.2 Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
- 5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
- 5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.
- 5.5 In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.
- 5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

6. Regulators should ensure that their approach to their regulatory activities is transparent

- 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
- 6.2 Regulators' published service standards should include clear information on:
 - a) how they communicate with those they regulate and how they can be contacted;
 - b) their approach to providing information, guidance and advice;
 - c) their approach to checks on compliance⁶, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;

⁶ Including inspections, audit, monitoring and sampling visits, and test purchases.

Appendix F

Regulators' Code

- d) their enforcement policy, explaining how they respond to non-compliance;
 - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and
 - f) how to comment or complain about the service provided and routes to appeal.
- 6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point⁷ on the regulator's website that is clearly signposted, and it should be kept up to date.
- 6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

⁷ This requirement may be satisfied by providing a single web page that includes links to information published elsewhere.

Appendix F

Regulators' Code

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the Code or are not followed.

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TAXIS ALLOWED TINTED GLASS

Taxi drivers in Cardiff have been told they may have tinted glass on the vehicles - if CCTV is installed. According to Wales-Online, Cardiff council public protection committee heard taxi drivers in the city are having to pay up to £2,000 to replace tinted glass on new vehicles to comply with council rules. The committee was asked to remove a council condition for all Cardiff's private hire and hackney carriage vehicles - which stated that windscreens must allow at least 75 per

cent of light to pass through, with all other windows allowing 70 per cent. Councillors have voted to allow tinted glass in new vehicles if it has been installed by the manufacturers. The move would mean taxi drivers would no longer have to pay to replace tinted glass on new vehicles. But taxi drivers must install CCTV in their vehicles if they want to keep glass which is darker than allowed currently. Councillors passed the new measure put forward by commit-

tee member Cllr Adrian Robson, despite some concerns about safety. *Mmmm... How is it that so many local authority conditions of licence override Construction and Use regulations? It has been in the C&U regs since 1986 that windows behind the door pillars do not have to adhere to the 70 per cent light restriction. Never mind - the compromise of mandatory CCTV will amount to a quarter of the cost of replacing standard spec windows, and provide driver safety as well. - Ed.*

ALLERDALE:

DRIVERS SET TO FACE KNOWLEDGE TESTS

Taxi drivers are set to face a Knowledge-style test to ensure customers are given the best service. The Times and Star reports that Allerdale Council's licensing committee voted to bring in the test to improve the service provided to passengers and reassure them about safety and security when using taxis. The electronic test will form part of the application process for new taxi licence holders. Existing drivers will be required to pass it within 12 months of its introduction. It will cover topics including general knowledge about the area, relevant

legislation on areas such as safeguarding and disabilities, and the Highway Code. It will also cover basic numeracy, general licence conditions and taxi legislation. The unanimous vote followed a consultation with licensed drivers, vehicle proprietors and private hire operators, which took place from May 16 to June 4. Eighty-three responses to the consultation disagreed with the introduction of the test. Fourteen agreed. People in favour said it would help ensure a more professional service, and ensure drivers

had a good knowledge of the area. But people against said the test could add further to the cost of a licence and said existing drivers should be exempt. The test will be introduced once a company has been appointed to run it. *Mmmm... So what was the purpose of a consultation if the licensing committee took absolutely no notice of the overwhelming majority who voted against the test? Sardar v Watford upheld that if consultation is to take place, amongst other things it must take into consideration the responses... don't think that happened here. - Ed.*

RULES ON TINTED GLASS MAY CHANGE

Sheffield City Council is to reconsider its policy on tinted windows in taxis and PHVs. The council's current taxi licensing policy is the same as Cardiff, opposite. Self-applied tints are also banned under council regulations. But according to the Star, a report to the licensing committee states that with

newer cars, rear windows are typically darker allowing only 65 per cent light density. The report asks the council to consider the impact of this shift and explore options including forcing drivers to replace windows at their own expense, or installing CCTV in vehicles as an alternative. In making any deci-

sion, councillors must take into account protecting the public, safeguarding children and the vulnerable, and preventing crime, disorder and public nuisance, the report states. It will be considered at a meeting of Sheffield City Council's licensing committee on Thursday, July 26 at Sheffield Town Hall.

LIVERPOOL:

LAWS TO INCLUDE UPFRONT CHARGING BAN

Liverpool's black cab drivers could be set to come under a new set of rules that would include a ban on charging customers up front - an issue that has been repeatedly raised in the city.

The council's licensing committee were to consider creating a number of new byelaws for black cabs at their next meeting. The Liverpool Echo reports that drivers would be stopped from demanding any kind of upfront payment from passengers travelling in Liverpool or that end within four miles of the council border.

The planned move from the council comes after a campaign by the Echo which highlighted how a number of black cab drivers are continuing to demand large fares

from customers ahead of journeys - rather than using the taximeter. It appears the council have listened to these concerns. Along with the clamp-down on charging up front, the council is planning to bring in a number of other new byelaws. Passengers could get increased rights when it comes to paying, with all drivers who have a card machine being required to use it and supply a receipt if asked.

The use of e-cigarettes by drivers will also be banned under one of the new rules. And wheelchair users would be the beneficiary of a rule requiring all drivers to be fully aware of how to use the wheelchair ramp in their cars, as well as other features.

Once debated at a meeting on July 10

the rules would go to the full council to be voted on.

It comes as Liverpool City Council continues a crack-down on black cab and PHV drivers who flout rules, with prosecutions of individual drivers continuing. The council wants to go a step further and introduce a range of specific new byelaws to tackle the issues affecting the trade.

Mmmm... Anything debated and then voted on by the full council would have to be either policy or conditions of licensing. Byelaws (which only apply to the conduct of hackney carriage drivers, not private hire) must be ratified by the Secretary of State; this can be a lengthy process, and does not usually cover the likes of a ban on e-cigarettes. - Ed.

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VEHICLES SHOWN FOR ILLUSTRATIVE PURPOSES

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Southampton City Council has lost its landmark appeal against an enforcement notice issued by the Information Commissioner over its policy of requiring continuous audio-recording in all licensed taxis.

The council's licensing committee had adopted a policy in 2009 requiring all taxis and private hire vehicles to install CCTV equipment. This followed a number of serious violent and sexual offences taking place in or around taxis and was a bid to protect vulnerable users of taxis. A voluntary scheme had previously failed.

The ICO served the notice on Southampton in July 2012, ordering it to stop the mandatory recording. It was the authority's requirement for continuous audio-recording to which the watchdog objected, not the requirement for continuous video-recording. The council appealed.

The First-Tier Tribunal (Information Rights) heard the appeal – the first ever surveillance case under the Data Protection Act – on 30 and 31 January this year.

In its ruling, the FTT said it was clear that the Commissioner had power under s. 40(1) to issue an enforcement notice against the council if he was satisfied that the audio-recording involved the contravention of a data protection principle. The primary issue was whether he was right in his conclusion that this was so.

In deciding whether to exercise the power to issue an enforcement notice, the Commissioner was also obliged to consider under s. 40(2) whether 'the contravention has caused or is likely to cause any person damage or distress'.

Although accepting that a finding to this effect was not a pre-condition to issuing an enforcement notice, Southampton argued before the tribunal that the IC approached s. 40(2) in a fundamentally flawed way. The council also argued that even if he was right to conclude that the council was contravening the first data protection principle, he ought not, as a matter of discretion, to have issued an enforcement notice.

The parties agreed that the essential question on contravention was whether Article 8 of the European Convention on Human Rights (the right to privacy) was infringed by Southampton's policy, and whether the policy was justified as a proportionate means of achieving a legitimate aim.

In summary, the specific issues in the appeal were:

1. Whether the words recorded under the council's policy included "sensitive personal data";
2. Whether the council's policy infringed Article 8 of the ECHR;
3. Whether the Commissioner was right to exercise his discretion to issue an enforcement notice.

Ruling unanimously in the Information Commissioner's favour, the tribunal concluded in particular that the council's policy "in so far as it requires continuous blanket audio-recording of everything said in taxis, is disproportionate when the extent of the interference with the right of privacy is weighed against the marginal benefits to the legitimate social aims of increasing public safety and reducing crime in relation to taxis which are likely to result from it".

The tribunal added: "It follows from that conclusion that the policy is not justified under Art 8(2) and accordingly that it contravenes the first data protection principle."

However, it also said it was impressed by the police evidence in the case. The tribunal appreciated the nature of the problem and the special vulnerability of some taxi passengers.

"It may be that...there is scope for a more targeted scheme involving audio-recording based on times of day, types of customer (for example, children or vulnerable adults carried under contract between a taxi firm and the council), the use of panic buttons or a combination thereof, which strikes a better balance between the competing considerations and does not contravene the Data Protection and Human Rights Acts," the tribunal said.

Welcoming the ruling, a spokesman for the ICO said it understood that councils must take measures to keep the public safe and that the use of CCTV in taxis could play an important role in keeping passengers and drivers secure.

"However the continuous recording of people's conversations 24 hours a day, including when the taxi is not in use, clearly goes too far and is disproportionate to the problem it is trying to address," he said.

"We are glad that the tribunal dismissed the appeal made against our original enforcement action by Southampton City Council and hope that any other councils considering the mandatory introduction of similar schemes take note of this legal judgment."

The spokesman added that the ICO was happy to support and advise councils who were "trying to get the balance right between keeping the public safe and respecting their rights to privacy" and urged them to read its *CCTV Code of Practice*.

Cllr Jacqui Rayment, Deputy Leader and Community Safety lead for Southampton, said: "The decision is disappointing in that the Information Rights Tribunal has found that continuous audio recording as part of taxi camera systems is inappropriate. This is a decision rooted in the complex provisions of information law; it is the first case of its type in the UK and is of national significance in the fight by local authorities and the police to help prevent crime and disorder."

She pointed out that the tribunal was clear that there was no objection to taxi cameras recording video, and had accepted that cameras did help in deterring crime and assist in the investigation of offences.

Cllr Rayment said: "The tribunal and the Information Commission accept that an unspecified triggered or 'panic button' system for audio recordings would be acceptable, although it has not been made clear how this would work in practical terms."

She added: "The tribunal's judgment is lengthy and complex; the council will consider it carefully and seek advice before deciding what changes to its policies are required and what the effect of those changes will be on taxis

Appendix H

and private hire vehicles, and their passengers, in the city. In the meantime the policy requiring cameras to be fitted on new vehicles will be suspended until the matter is reconsidered by the licensing committee".

It emerged during the hearing that since the licensing condition was introduced, the police had asked the council for access to audio-visual recordings made in taxis on 193 occasions, of which a chief superintendent had been able to review 164 where it had been possible to get access to a relevant recording.

Of these the vast majority involved criminal allegations against drivers or passengers, including racially aggravated and sexual assaults. The largest group involved allegations of making off without payment. A substantial number of requests did, however, involve serious criminal offences, but did not directly involve taxis - the police simply seeking evidence that might assist their enquiries.

In relation to the three key issues, the tribunal's findings included:

Sensitive personal data

- It was "quite satisfied that the inhabitants of (and visitors to) Southampton will from time to time discuss their own and others' sex lives, health, politics, religious beliefs and so on in taxis (notwithstanding the presence of the taxi driver) and, if necessary, we take judicial notice of that fact".
- There must be numerous conversations in taxis of a sensitive nature which do not necessarily come within the strict definition of 'sensitive personal data'.
- A suggestion by Southampton's QC that it was open to taxi users, having been informed by the label in the taxi that conversations were being recorded, not to discuss sensitive matters they did not want to be recorded was unrealistic. "We not see any reason why anyone should be forced to modify their normal behaviour in such a way, by being forced to treat what is now (at least) a semi-private space as a public one, not least the taxi-driver driving his taxi to a holiday destination with his family".
- It noted a point by the IC's barrister that if the council's policy resulted in people 'self-censoring' their conversations, that would prima facie involve a contravention of Article 10 of the ECHR (guaranteeing freedom of speech).

Infringement of Article 8

- The Commissioner accepted that the policy served a legitimate aim and that there was a pressing social need for some surveillance in taxis. The real issue was whether Southampton's policy of continuous audio-recording was 'proportionate'.
- The question whether the policy was "proportionate" was ultimately one of judgment for the tribunal, balancing the benefits to the legitimate social aims it was likely to achieve against the extent of the interference with the right of privacy likely to be caused.
- In striking this balance it was "important to note two things: (a) the "legitimate aim" of the policy is that of deterring and detecting taxi-related crime and other misconduct; the fact... that the police have been able to obtain useful evidence about crimes not directly related to taxis cannot therefore come into the balance as a benefit; (b) the relevant benefits and disbenefits are only those marginal ones that come from audio-recording; no-one is complaining about the existence of CCTV in taxis as such or about video-recording."
- As the council pointed out "forcefully", there were special features of taxis which made those who use them particularly vulnerable to crime. These include the fact that: passengers and drivers were generally strangers to one another; passengers might be children, have disabilities or be intoxicated; or the driver faced the risk of passengers making off without payment.
- The tribunal accepted that the existence of CCTV in taxis tends to deter crime and assists in its investigation when it does occur. It also accepted that it assists the council in relation to its function of licensing only suitable taxi drivers.
- The extent of any deterrence, and in particular the extent of any additional deterrence arising from audio-recording was unlikely to be susceptible to proof. An attempt by the council's licensing manager in his written statement to enlist statistical evidence was unsuccessful. However, the tribunal did accept there must be some form of additional deterrent effect from having continuous audio-recording in taxis.
- In some cases the existence of audio-recording in addition to video-recording had made a real difference. "The clearest were a few cases where drivers had alleged that passengers were guilty of racially aggravated assaults or racial abuse where, obviously, the existence of audio-recording was crucial." There were also allegations of sexual assault where the video recording did not show what was going on out of view of the camera but an audio-recording would help.
- The benefit comes from the ability not only to prove true allegations but also to disprove false allegations. It was also "right to recognise that while few of the examples raised involved really serious crime, it may be that one day there is a rape or a murder associated with a taxi which would have been successfully prosecuted if there was audio-recording but not if there was only video-recording".
- The Commissioner had proposed a 'panic button' system allowing the driver or passenger to activate audio-recording. However, the Commissioner had not fully met the council's criticisms of such a system. The tribunal accepted that a panic button system would not be as effective as continuous audio-recording, would require vulnerable or incapacitated passengers to make use of it and would miss the initial and perhaps most important part of an incident. However, such a system would have some ("albeit limited") additional benefits.
- In terms of interference with privacy rights, "every single conversation, however private and however sensitive the subject matter, taking place during every single taxi ride in Southampton (of which there may well be a million a year) will be recorded and accessible to a public authority".

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- The tribunal accepted as highly relevant considerations aspects of the policy that Southampton's QC argued meant there was only a slight interference with privacy rights: the data was only retained for a short time (14 to 30 days) unless it was accessed for good reason; access to the data was confined to a few individuals; and access was strictly controlled. The evidence was that the data had only been accessed on about 200 occasions in three years. It was not in any sense continuously monitored.
- However, the tribunal said these points were weakened by a number of factors: for example, Southampton's policy, in so far as it relates to audio-recording, was not very fully consulted on or well thought through. "Rather it appears to have been driven by technological developments". The retention period was simply a function of the capability of the systems.
- There was also evidence of so-called 'function creep'. "The use of the system by the police to gather evidence about crimes not directly related to taxis, however beneficial in itself, was not (or should not have been) part of any policy devised by the council arising from its taxi licensing function."
- It had to be accepted that however robust the systems in place and however well-intentioned and conscientious the licensing manager was – "and he made a generally good impression on us" – there must always be a danger that a taxi driver or a council official or someone else will access and make improper use of the data.
- The tribunal wondered whether full consideration had been given to the interests of data subjects other than the requester who submitted a data access request. It noted that once in the hands of the requester, "notwithstanding the council's standard letter warning him that to publish will involve a breach of the council's copyright, there is little that anyone can do in practice to control the use of such data (and these days they can be instantly broadcast to the whole world through sites like YouTube)".
- Exercises by both the council and the IC to demonstrate public support for their respective positions were not sufficiently focused on audio-recording to have an influence on the tribunal's decision. No weight could be attached to complaints from taxi drivers (as cited by the Commissioner) without knowing more about their motivation.
- Some weight was given to the views expressed by the Commissioner in his 2008 *Code of Practice on CCTV* in which he said there were only limited circumstances in which audio recording might be justified, subject to sufficient safeguards that might include where recording is triggered due to a specific threat, "e.g. a panic button in a taxi cab".
- Having regard to these considerations, the council's policy in so far as it required continuous blanket audio-recording of everything said in taxis, was disproportionate when the extent of the interference with the right of privacy was weighed against the marginal benefits to the legitimate social aims of increasing public safety and reducing crime in relation to taxis which were likely to result from it. It followed from that conclusion that the policy was not justified under Art 8(2) and accordingly that it contravened the first data protection principle.
- The tribunal wished to record that it was impressed by the police evidence in this case. It also appreciated the nature of the problem and the special vulnerability of some taxi passengers. "It may be that...there is scope for a more targeted scheme involving audio-recording based on times of day, types of customer (for example, children or vulnerable adults carried under contract between a taxi firm and the council), the use of panic buttons or a combination thereof, which strikes a better balance between the competing considerations and does not contravene the Data Protection and Human Rights Acts."
The exercise of the discretion by the Commissioner
- The tribunal was inclined to agree with the council's QC that the Commissioner did not apply a sufficiently stringent test of likelihood of damage or distress.
- However, it did not think that it needed to consider that matter further "for the simple reason that, having concluded that the council were acting in breach of the Data Protection Act and having regard to the high level of public importance of the case, we think it must have been right in this case to decide to issue an enforcement notice, regardless of the likelihood of any actual damage or distress resulting from the policy".
Anya Proops of 11KBW represented the Information Commissioner. Timothy Pitt-Payne QC, also of 11KBW, was counsel for Southampton.
Philip Hoult

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REPORT TO	ON
General Licensing Committee	11 September 2018



TITLE	REPORT OF
Licensing Activity Report for July and August 2018	Head of Licensing

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

This report provides information to members on Licensing Activity, including applications received, enforcement checks and referrals to partner agencies

2. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	x
Health and Wellbeing	
Place	

Projects relating to People in the Corporate Plan:

People	
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3. RECOMMENDATIONS

- 3.1 That Members note the progress made by the Licensing Service for the month of July and August 2018

4. BACKGROUND TO THE REPORT

- 4.1 Monthly updates on service delivery have been a regular item on the General Licensing Committee Agenda and include in table format the activity carried out by the Licensing Service

4.3 Areas of particular note for this period are a hearing against Naaz Indian Restaurant, conditions added to the licence applying for hire complaint and investigation where a formal caution was accepted by the driver and evening visits with Immigration and Lancashire Fire and Rescue Services which will lead to 2 Licensing Reviews and separate action from the Home Office and LFRS.

5. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

N/A

6. FINANCIAL IMPLICATIONS

6.1 There are no direct financial implications arising from this report.

7. LEGAL IMPLICATIONS

7.1 There are no direct legal implications arising from this report.

8. COMMENTS OF THE STATUTORY FINANCE OFFICER

9. COMMENTS OF THE MONITORING OFFICER

There are no legal implications identified.

10. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	We must continue to improve further the quality of the service. We must do everything possible to protect the general public. A failure to continue to achieve high standards in our Licensing service could result in reputational damage.
▶ Equality & Diversity	None

11. APPENDICES

Appendix A - Performance figures for the months of July and August 2018.

Report Author:	Telephone:	Date:
Mark Marshall	01772 625401	31 st August 2018

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Appendix A

Licensing Forward Plan 2018/2019 September update

No	Action	Responsibility	Target Date	Progress	In Progress/ Completed
Decision Making					
D1	Forward Plan to be a standing agenda item for each Licensing Committee, to include: <ul style="list-style-type: none"> • Member training • Taxi Forums • New/Revised/Reviewed Policies • Quarterly performance reports 	Mark Marshall	Monthly	Taxi Forum conducted 14 th June 2018. Matters arising GPS metres taxi training course No Policy Revision intended at this stage Quarterly Performance attached	On Going (Amber)
D2	Implement a policy for the testing of modified vehicles	Mark Marshall	August 2018	Met with Howard Seed on the 15 th August 2018, Licesning have agreed to collate all the vehicles that require this test by February 2019. Information gathering commenced on the 1st August 2018 by modifying the road worthiness certificates to include a box for the garage to tick indicating if the vehicle has been modified since first registration. Lal Pac report has been written which will generate the demand for the additional test to the respective vehicles.	In Progress (Green)
D3	Annual review of the Hackney Carriage and Private Hire Vehicle Licensing Policy and associated appendices	Mark Marshall	March 2019		Not started (Red)

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D4	To revisit and update the current vehicle testing regime which currently gives operators a choice of 10 commercial garages. The information passed to the Authority from these garages does not reflect an accurate picture of the standard of vehicles with no detail on defects detected the amount of re tests undertaken to achieve a pass and we believes there is a significant difference between garages in consistency.	Mark Marshall Justin Abbotts	September 2018	New certificates now being received which include; Items/defects which may have led to failure of the test. An indication as whether the vehicle has been adapted for wheel chair use since first registration.	On Going (Amber)
S1	Re-establish a working relationship with ; Police Lancashire Fire and Rescue Home Office Immigration	Mark Marshall	March 2019	Evening Operation conducted on the 24 th August 2018 with Immigration and Fire Safety. 1 illegal worker detected where a civil penalty was issued 1 premises issued with a prohibition notice by LFRS. 1 premises identified as committing Housing and Fire safety Offences.	On Going (Amber)
S2	Hold Taxi Forums on a quarterly basis with members invited to attend	Mark Marshall	Quarterly	Meeting took place on the 14 th June 2018, next meeting scheduled for September 2018.	On Going (Amber)
S3	Re engage with the local pub watch scheme and aim to increase membership and attendance	Mark Marshall	March 2019		Red
Building Confidence					
B1	Formally record details of pro-active enforcement action for reporting to the Licensing Committee	Mark Marshall	Monthly	Details recorded on LALPAC database and manual records	Normal Business (Green)
B2	Develop a Licensing Tracking sheet to be sent to all Responsible Authorities and Elected Members weekly	Chris Ward	August 2018	In place, being circulated weekly to all elected member's	Complete (Green)

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B3	An annual report will be provided to the Licensing Committee detailing the performance and activity of the licensing function over the previous 12 months	Mark Marshall	March 2019		On Going (Amber)
B4	Council to receive reports from the Chair of the GLC on the Licensing Service and Committee activity (other than quasi-judicial matters)	Licensing Chair	March 2019		On Going(Amber)
B5	Implement an operator accreditation scheme	Justin Abbotts	December 2018	The adoption and implementation of the scheme is to be undertaken by the new Head of Licensing when that officer is in post. Spoken with Directors of Avacab and Village cars very receptive to the proposals.	Soft Consultation underway and draft scheme being drafted. (Amber)
B8	Member training plan, including safeguarding training and job shadowing, to be agreed	Licensing Manager	March 2019	Ben Williams (barrister) confirmed to attend on the 8 th November 2018.	On Going(Amber)
Service delivery and transformation					
T1	Review Licensing Process Procedures in order to streamline the systems focussing on risk rather than routine the overall aim is to avoid duplication and provide a better use of officer time	Chris ward	September 2018	Electronic files for drivers and premises now in place.	Complete (Green)
T2	Training and development programme to be created for Licensing Officers	Mark Marshall	March 2019	Ongoing updates for Officers through IOL meetings and on the job training relating to PACE interviews and file preparation	On going (Amber)
T3	Obtain BII (British Institute of Innkeepers) Status and begin to deliver Personal Licence Course with a view to increasing income generation	Mark Marshall	August 2018	Received Accreditation on the 28 th June 2018, Course schedule to be drawn up for the next 12 months commencing in September 2018.	Complete (Green)
T4	To implement a taxi driver customer care course in line with paragraph 5.7 of the taxi and private hire policy. This will provide more flexible access to the pre	Mark Marshall	August 2018	Course design underway, due to meet with a NVQ assessor who will deliver the practical element of the course on the 13 th July 2018	On going (Amber)

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	requisite qualification at a reduced cost to the BTEC and again increase revenue for the department.				
T5	Register to the Dot Gov web site so that electronic applications for LA 2003 matters can be accepted.	Justin Abbotts	October 2018	IT development underway Public Access now available	On going(Amber)
T6	Assessment of fees and charges to be effective from July 2018	Licensing Manager	March 2019	Delayed due to the re-structure and shared services agenda	In Progress(Amber)
T7	Review of the Gambling Policy	Mark Marshall	Jan 2019	Draft Policy completed before GLC in September for agreement to go to consultation	In Progress(Amber)