

Crawley Borough Council

Licensing Committee

Agenda for the **Licensing Committee** which will be held in **Committee Rooms A & B - Town Hall**, on **7 November 2022** at **7.00 pm**

Nightline Telephone No. 07881 500 227

A handwritten signature in black ink, appearing to read "S. Irvine", is centered on the page.

Chief Executive

Membership:
Councillors

I T Irvine (Chair), Z Ali (Vice-Chair), M L Ayling, J Bounds,
B J Burgess, J Hart, K L Jaggard, M G Jones, K Khan, K McCarthy,
M Morris, C J Mullins, A Nawaz, B Noyce and D M Peck

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Published 28 October 2022



Switchboard: 01293 438000
Main fax: 01293 511803
Minicom: 01293 405202 DX:
57139 Crawley 1
www.crawley.gov.uk

Town Hall
The Boulevard
Crawley
West Sussex
RH10 1UZ

The order of business may change at the Chair's discretion

Part A Business (Open to the Public)

	Pages
1. Apologies for Absence	
2. Disclosures of Interest	
In accordance with the Council's Code of Conduct, councillors are reminded that it is a requirement to declare interests where appropriate.	
3. Minutes	5 - 14
To approve as a correct record the minutes of the Licensing Committee held on 17 August 2022.	
4. Public Question Time	
To answer any questions asked by the public which relate to an item on this agenda and which are in line with the Council's Constitution.	
Public Question Time will be concluded by the Chair when all questions have been answered or on the expiry of a period of 15 minutes, whichever is the earlier.	
5. Update Report - Extension of 11-Year Age Limit of Licensed Vehicles due to Covid-19 Pandemic	15 - 28
To consider report HCS/051 of the Head of Community Services.	
6. Post-Consultation Review of the Statement of Licensing Policy Gambling Act 2005 (2023-2025) Consultation	29 - 94
To consider report HCS/052 of the Head of Community Services.	
7. Revision of Licence Conditions - Driver and Vehicle	95 - 100
To consider report HCS/053 of the Head of Community Services.	

8. Supplemental Agenda

Any urgent item(s) complying with Section 100(B) of the Local Government Act 1972.

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Crawley Borough Council

Minutes of Licensing Committee

Wednesday, 17 August 2022 at 7.00 pm

Councillors Present:

I T Irvine (Chair)

Z Ali (Vice-Chair)

M L Ayling, J Bounds, B J Burgess, J Hart, K L Jaggard, M G Jones, P K Lamb, K McCarthy,
C J Mullins, A Nawaz and B Noyce

Officers Present:

Dan Carberry	Public Protection and Enforcement Manager
Siraj Choudhury	Head of Governance, People & Performance
Ian Duke	Deputy Chief Executive
Heather Girling	Democratic Services Officer
Matt Lewin	Public Law Barrister (appointed as Legal Clerk for the Council)
Mez Matthews	Democratic Services Officer
Kareen Plympton	Team Leader Principal - Health, Safety and Licensing Services
Kate Wilson	Head of Community Services

Apologies for Absence:

Councillor D M Peck

Absent:

Councillor M Morris

1. Disclosures of Interest

The Legal Clerk advised that they had been made aware that some Councillors had been involved in matters relating to the dispute relating to the private hire operator at the concession at Gatwick Airport and some private hire drivers working at Gatwick. In light of this, the Legal Clerk advised the Committee to consider whether it had any disclosable Interests in the item of business before it. In addition, the Legal Clerk reminded the Committee that it was of fundamental importance that the Committee remained open to listening to all the submissions put forward at the meeting and remained open to changing its mind in light of those submissions. Should any

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Committee Member believe they had pre-determined their position (i.e. that their mind was made up as to how they would vote prior to the meeting), they should declare as such and withdraw from the meeting.

At this point in the meeting a Committee Member raised a Point of Order, and questioned whether the Legal Clerk, who was not a Council employee but had been appointed to represent the Council for the meeting, was authorised to attend the meeting in the capacity of 'Legal Clerk'. The Committee was advised that the Legal Clerk had been properly appointed to represent the Committee and the Chair ruled that Mr Lewin be authorised to continue to represent the Council in that capacity for the meeting.

Following a query relating to pre-determination and whether the requirements and enforcement in relation to it were still in place following the Localism Act 2011, the Legal Clerk acknowledged that the rules regarding pre-determination had changed. The Legal Clerk however advised that the change did not remove the principle of pre-determination altogether and it was important that Councillors consider any matter before them with an open mind. The Legal Clerk reminded the Committee that it was a matter for each individual Committee Member to consider whether they might have pre-determined.

Councillor Jones stated they were not aware of any Committee Member, including himself, who had pre-determined their position in relation to the matter on the agenda.

Councillors Ali, Irvine, Jones, Lamb and Nawaz confirmed that they had received some form of lobbying in respect of Agenda Item 4 (Variation to the Crawley Borough Council Private Hire and Hackney Carriage Licensing Policy). In response to a concern raised by a member of the Committee, the Democratic Services Officer assured the Committee that lobbying was not classed as an Interest and would be minuted as lobbying. During the debate of the agenda item Councillor Jones informed the Committee that, he had entered into some external correspondence, those discussions had not referenced teal plates nor the matter under discussion at this meeting.

The following disclosures of interests were made:

Councillor	Item and Minute	Type and Nature of Disclosure
Councillor Irvine	Variation to the Crawley Borough Council Private Hire and Hackney Carriage Licensing Policy (Minute 3)	Personal Interest – member of the Unite the Union.
Councillor Lamb	Variation to the Crawley Borough Council Private Hire and Hackney Carriage Licensing Policy (Minute 3)	Personal Interest – member of the Unite the Union.

2. Minutes

The minutes of the meeting of the Licensing Committee held on 20 June 2022 were approved as a correct record and signed by the Chair.

3. **Variation to the Crawley Borough Council Private Hire and Hackney Carriage Licensing Policy**

The Committee considered report [HCS/043](#) of the Head of Community Services which advised that the Chair of the Licensing Committee had called the extraordinary meeting and requested that the Committee consider a variation or temporary suspension to section 2.11.6 of the [Crawley Borough Council Private Hire and Hackney Carriage Licensing Policy 2022-2026](#) ('the Policy'), which related to the colour of vehicle licence plates that must be displayed by licensed private hire vehicles when undertaking work exclusively from Gatwick Airport. The Team Leader Principal for the Health, Safety and Licensing Team presented the report in full to the Committee.

Although constitutionally there were no public speaking rights at the Licensing Committee, the Chair had used their discretion to grant permission to several relevant parties who had requested to address the Committee on the matter before it.

Mr Nick Venes (a licensed driver and Unite the Union representative) addressed the Committee and made the following points:

- Demand at Gatwick had been high recently due to cancelled flights, staffing issues and train strikes, but that demand had now reduced and was expected to remain at the current level.
- Drivers were happy with how the Council regulated licences and were proud to be so highly regulated as it reflected their professionalism.
- 90% of the drivers who serve Gatwick Airport lived and worked within the Borough.
- The teal plates set those private hire vehicles which serve Gatwick apart from those which serve the remainder of the town. That differentiation meant they could be easily identifiable.
- Gatwick was a different entity from other private hires and hackney carriages as the number of passengers from Gatwick fluctuated across the seasons.
- Suspending the teal plates would help going forward, and as such, it was requested that the Committee take that into consideration when making its decision.

Mr Ahjaz Ali (a licensed driver and Unite the Union representative) addressed the Committee and made the following points:

- They had been in dispute with the operator at Gatwick Airport and were of the view that recruiting additional drivers whilst in dispute was unfair.
- An unusually high number of teal plates had been issued recently in a short space of time which undermined the trade. The reasons for that were questioned and it was suggested that the issuing process had been sped up.
- The likelihood of drivers making a living wage and recouping the investment of their vehicle was at risk if they had to share the work with a lot of other drivers, especially as the level of trade at Gatwick during the winter months was minimal.
- The majority of the drivers at Gatwick lived locally. Those drivers supported the local economy and local residents.
- Raised concern as to how the new drivers had been introduced into Gatwick.
- Requested that an immediate suspension be put in place and a cap on the number of plates issued be applied.
- Proposed that temporary plates (to cover the summer period) could be introduced which could then revert back to yellow plates following peak season.

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Mr Mohammed Azzaoui (a licensed driver and Unite the Union representative) addressed the Committee and made the following points:

- There was a significant level of stress for the drivers at Gatwick recently, particularly as a result of the private hire operator at Gatwick.
- The private hire drivers were attempting to find a solution to the dispute with the operator at Gatwick.
- Drivers had experienced difficult financial times recently under the current operator at Gatwick.
- Teal plate drivers had contacted Councillors and officers to try to seek help to support their colleagues.
- It appeared that Gatwick's private hire operator had oversold itself when it secured the contract at Gatwick with the drivers paying the consequence for that.
- Questioned why a large number of teal plates had been issued in recent weeks.

The Democratic Services Officer then read out a statement on behalf of Emma Rees, the Head of Real Estate and Surface Access for Gatwick Airport, which provided the following points:

- Disappointment that there had been no consultation or contact with Gatwick Airport Limited on the matter.
- Gatwick Airport had recently been contacted by a number of Councillors regarding the current dispute between the operator and the drivers at Gatwick.
- The teal plates had been introduced in 2013 to ensure the safety of the airport and passengers following consultation with Gatwick Airport and Sussex Police. That position had not changed.
- Asserted that a change to the Policy, either temporary or permanent, should not be considered.
- The report appeared to be premature as the introduction on 'dual plates' was due to be considered by the Committee at an upcoming meeting.
- In order to meet passenger demand and delivery of the Service Level Agreement it was necessary to recruit additional drivers. The number of passengers using Gatwick Airport had increased and was set to continue rising.
- Suspending the issue of teal plates would result in the recruitment of drivers with yellow plates which would jeopardise the security at Gatwick as the vehicles would not be easily identifiable.
- Requested that the status quo remain and that proper engagement with the Airport and Sussex Police be undertaken prior to any decision being taken.

Peter Bailey, Head of Operations and Commercial at Gatwick Cars, addressed the Committee and stated the following points:

- The original contract had bid on the basis that the drivers at Gatwick wanted to be 'workers' and paperwork had been issued on that basis. The drivers had now informed the operator that they wanted to remain as self-employed, the operator did not have an issue with this. The operator had been dealing with Unite the Union and was due to go to mediation to resolve the matter.
- Recruitment policies for private hire drivers were usually based on passenger numbers and Service Level Agreements and not the views of the drivers themselves.
- Several Councillors had contacted the management at Gatwick Cars to make representations on behalf of the drivers and suggested that the comments made by those Councillors could demonstrate a perception of bias against the operator and called into question those Councillors' ability to make a fair-minded decision.

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- Mr Bailey suggested that the Council/Councillors were interfering in matters relating to the dispute between the operator at Gatwick and the drivers and putting pressure on the company to influence its business decisions.
- The need for additional teal plates could be made on economic grounds. The company wanted to increase local employment opportunities, support the local economy and create new jobs.
- The extraordinary meeting had been called by the Chair of the Licensing Committee to consider a variation to the Policy following receipt of communications by the Council with regard to the dispute. Those communications had not been shared with all parties and it was requested that that information be disclosed to the operator.

Ian Miller, Non-Executive Director at Gatwick Cars, addressed the Committee and made the following submission:

- Questioned the need for calling the extraordinary Committee meeting as it related to the current dispute between the operator at Gatwick Airport and its drivers.
- Limiting the number of teal plates would constrain the operator's ability to fulfil the needs of passengers at the Airport and limited the opportunity for local drivers to obtain a teal plate and work at Gatwick.
- Should there be a surplus of drivers during the winter period those drivers could swap their teal plate for a yellow plate as that was a quick and efficient process.
- Teal plates had been introduced in 2013 following consultation with the Council, Gatwick Airport and Sussex Police to improve safety and security at the Airport.
- Suspending or abolishing teal plates would undermine the sound reasons and rationale for introducing the teal plates. It was a contractual obligation of the operator to use teal plates.
- There had recently been a huge increase in passenger numbers at Gatwick and it was believed that would rise. It was necessary to recruit new drivers at the Airport as a matter of urgency in order to fulfil the conditions of the Service Level Agreement with Gatwick and reduce passenger waiting times. Those service levels had not been met in recent weeks due to a shortage of drivers.
- Self-employed drivers working for the operator had been informed of the need to recruit and had requested they be inputted in the process. That request had been politely declined as it was a matter for Gatwick Cars Management team.
- Questioned the timing of the Extraordinary Committee meeting given the recent lobbying by certain Councillors in an attempt to resolve the dispute between the self-employed drivers and Gatwick Cars Management team.

Prior to the Committee discussing the matter, the Legal Clerk reminded the Committee that it had resolved to adopt the Private Hire and Hackney Carriage Licensing Policy at its meeting on [1 March 2022](#) (minute 4 of that meeting refers) following full public consultation and that the revised Policy had come into effect in April 2022. The Legal Clerk then reiterated that the Committee's primary concern, as set out in the Policy, was public safety. The Committee was therefore advised to consider the information before it and remain mindful that any change to Policy would need to be justified by public safety reasons.

In response to questions raised by the Committee the Team Leader Principal for the Health, Safety and Licensing Team:

- Advised that the employment status of the private hire drivers (i.e a 'worker' or 'self-employed') was an employment law matter and was not a consideration for the Committee.

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- Clarified that the Unmet Demand Survey only applied to Hackney Carriages and it was unlawful to restrict the number of private hire licences in that way. The Council, as Licensing Authority, was required to issue a private hire licence unless a private hire driver was deemed not to be 'fit and proper' or a private hire vehicle did not meet the required specification.
- Informed the Committee that the Council had powers to suspend or revoke a licence in certain situations and that any such action was carefully documented and considered against the 'fit and proper' guidance to protect the public. The Licensing Team regularly considered such cases and, in addition to suspension and revocation, issued penalty points to drivers when appropriate.
- Advised that a Magistrate's Court decision meant that private hire vehicles serving an airport did not require door livery but had teal rear licence plates and "top boxes" to aid identification.
- Informed the Committee that the issuing of teal plates was an administrative function and was not related to the 'fit and proper' test. Should the Committee be minded to suspend the issuing of teal plates, when a driver applied for a teal plate the Council would legally be required to issue yellow plates in order to allow drivers to continue operating. It could not cease to issue licences. Thereby the Council would operate a 3-tier system: white/blue plates for hackney carriages, yellow plates with full livery for non-airport private hire vehicles, and yellow plates with no livery for airport private hire vehicles. Concern was expressed that the lack of livery for yellow-plated private hire vehicles serving the airport would make enforcing the trade more of a challenge for the Council and Sussex Police and that the teal plates had been instated upon the request from Gatwick Airport Limited (GAL), Sussex Police and the Council as Licensing Authority for regulatory purposes, to aid identification and promote public safety.
- Reassured the Committee that the speed at which teal plates were issued had not been expedited recently. When all the relevant information was submitted with an application, a plate was usually issued within 1-2 days. The Licensing Team aimed to issue plates as soon as practicable given it affected those individuals' livelihoods. That timeframe had remained unchanged.
- Informed the Committee that 27 applications to convert a yellow plate to a teal plate had been made since 1 July 2022. Of those, 15 had been issued and 12 had been named but were awaiting further information before they would be allocated.
- Explained it was difficult to provide a comparison between the number of plates issued recently to that of previous years as the industry had been affected by the Covid-19 pandemic, a consequence of which was that a number of drivers had sought alternative employment. The Committee was informed that the Council currently licensed approximately 890 licences, prior to Covid that figure had been approximately 1200.
- Advised that Gatwick Cars was licensed to operate 101+ private hire drivers, it currently operated 276 drivers and had operated more drivers pre-pandemic. Gatwick Cars had advised it was seeking to recruit more drivers to meet demand.
- Reiterated that changing a plate was an administrative function. Transferring from a yellow to teal plate was not uncommon and most drivers applying for a teal plate were not applying for a new licence but replacing a yellow plate with a teal one instead. It was common for private hire drivers who had been working from Gatwick Cars' sister company EVO with a yellow plate to move to work directly for Gatwick Cars with a teal plate. That was a business decision taken by Gatwick Cars.

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- Reiterated that the primary and over-riding consideration of the licensing regime must be public safety, and identifying features, such as the colour of rear plates and other signage was key to fulfil that requirement.

The following motion was then proposed by Councillor Lamb and seconded by Councillor Ayling:

- “1) That the Private Hire and Hackney Carriage Licensing Policy be modified to enable the council to suspend the issuing of any category of licence.
- 2) That the power to take decisions around the suspension of issuing licences be delegated to a Licensing Sub-Committee.
- 3) That any such meeting of the Licensing Sub-Committee shall reflect the political make-up of the Council.
- 4) That the power to call the Sub-Committee be delegated to the Chair of the Licensing Committee.
- 5) That any Constitutional changes stemming from this decision be brought forward at the earliest opportunity.”

In submitting this motion Councillor Lamb reminded the Committee that its primary function was to ensure public safety and advocated that, due to a ‘gap’ in the Policy, Licensing Officers currently lacked the power to suspend the issuing of new licences. Councillor Lamb stressed that there had been cases when the lack of power to suspend licences had affected a Council’s ability to act quickly to address an urgent public safety concern. The motion intended to rectify the fact that the current situation could potentially lead to a future safeguarding issue. Issuing licences was a non-Executive function, and as such the function could be undertaken by the Committee itself or Full Council, rather than being delegated to officers. Councillor Lamb asserted that suspending the issue of plates would not breach legislation, and best practice did not specify that the responsibility had to be taken at officer level. Councillor Lamb reminded the Committee that the Council’s Cascade System allowed controversial applications to be taken further up the cascade rather than by officers. Councillor Lamb concluded that his proposed motion balanced the democratic process with the Council’s moral obligations as well as futureproofing the Policy.

The Committee then discussed the proposed motion. Several Committee Members supported the proposed motion and were of the opinion that different levels of decision making would be advantageous.

Several Committee members were concerned that the Committee appeared to be involving itself with the business of the private hire operator and Gatwick and were conscious that the Council should not be seen to attempt to limit the number of private hire licences as it was not legal to do so. In addition, several Committee members were concerned that, should the Committee suspend the issuing of teal plates, any licence issued for Gatwick would be a yellow plate but would not need to be liveried, potentially making enforcement more difficult and that public safety should be the key concern. Dissatisfaction was also expressed that an Extraordinary Committee meeting had been called and some were of the view that the item under consideration, which related to decision making routes and delegations, should have been tabled for a future scheduled meeting when there had been time to prepare a full report which included more detailed analysis of the advantages/disadvantages of suspending plates. A question was also raised as to why some Committee members were seeking to revise the Policy which had been approved unanimously by the

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Committee in March 2022. Unease was expressed by some Committee members that unnamed Councillors had been involved in discussions regarding the private hire drivers' dispute with Gatwick Cars and that, should those Councillors be members of the Committee, that situation could have left doubt as to those Councillors' ability to keep an open mind when considering the matter.

In response to a request from the Committee, the Legal Clerk provided legal advice and reminded the Committee that it would be unlawful for the Council to cease issuing plates, the Council could only refuse to issue a plate if a driver was deemed not to be 'fit and proper' or if the vehicle did not meet the required specification. The Legal Clerk also advised that the Constitution did not currently permit a Sub-Committee to take decisions around the suspension of issuing licences and, as the Constitution currently stood, any such decision would need to be taken by the Licensing Committee itself.

The Committee noted that a report would be submitted to the next Governance Committee to consider the consequential changes to the Constitution necessary to accommodate the resolution, if passed, with that Committee making a recommendation to the Full Council in relation to any proposed Constitutional changes. Concern was expressed that any changes to the Policy could take effect immediately with limited opportunity to scrutinise the consequences of the Policy change.

Following a vote on the proposed motion, the motion was declared to be carried.

RESOLVED:

1. That the Private Hire and Hackney Carriage Licensing Policy be modified to enable the Council to suspend the issuing of any category of licence.
2. That the power to take decisions around the suspension of issuing licences be delegated to a Licensing Sub-Committee.
3. That any such meeting of the Licensing Sub-Committee shall reflect the political make-up of the council.
4. That the power to call the Sub-Committee be delegated to the Chair of the Licensing Committee.
5. That any Constitutional changes stemming from this decision be brought forward (for consideration by the Governance Committee with a recommendation to the Full Council) at the earliest opportunity.

Clarification Note by Head of Governance, People & Performance:

Based on the resolution (above) and then the subsequent communications, the following clarification is provided for information:

- *The purpose was to change the Licensing Policy (and consequentially the Constitution) to allow a Licensing Sub-Committee to suspend the issuing of any category of licence. That would solely apply to Hackney Carriage (driver and vehicle) licences and Private Hire (driver/vehicle/operator) licences.*
- *Day-to-day business (i.e. the issuing, renewal and suspension of individual licences) will continue as normal save for any suspension decisions which might be made by the Licensing Sub-Committee.*

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Closure of Meeting

With the business of the Licensing Committee concluded, the Chair declared the meeting closed at 8.42 pm

I T Irvine (Chair)

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Crawley Borough Council

Report to Licensing Committee

7 November 2022

Update Report - Extension of 11-Year Age Limit of Licensed Vehicles due to Covid-19 Pandemic

Report of the Head of Community Services - HCS/051

1. Purpose

- 1.1 The purpose of the report is to provide the Licensing Committee with an update following the decision made at its meeting on 1st March 2022 to further extend the term that a Crawley Borough Council licensed vehicle can remain in the licensed trade beyond the Council's standard 11-year age term due to the Covid-19 pandemic.
- 1.2 At the meeting, the Committee agreed to extend the life term of such vehicles for a further 12 months until 28th March 2023, subject to this being further reviewed by the Committee in the interim period, and in any event before the end of March 2023 to allow those impacted to be informed.

2. Recommendations

- 2.1 That the Committee:
 - a) Notes the report, including the number of vehicles impacted by this decision up to 28th March 2023, and the ongoing concerns regarding the suitability, standard and safety of such vehicles falling within the extension period, as well as generally.
 - b) Agrees to revert back to the 11-year age limit for all licensed vehicles (after 28th March 2023).

3. Reasons for the Recommendations

- 3.1 The Licensing Committee requested that the matter be further reviewed before the 28th March 2023, hence the matter being returned to Committee for an interim update in advance of this end date. (NB The matter was scheduled to be considered by Members at the September Committee but this was cancelled due to the period of national mourning.)

4. Background

- 4.1 Since approximately 2015, the Council as Licensing Authority has instated an age limit of 11 years for all licensed vehicles. If a vehicle is licensed up to 4 years of age, a Certificate of Compliance is required at the time of being first issued with a license and then every 12 months until the vehicle reaches 4 years of age. After 4 years of age, a Certificate of (Mechanical) Compliance is required every 6 months until the vehicle comes out of the trade.

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- 4.2 The Council's [Hackney Carriage and Private Hire Licensing Policy 2022](#) details this age limit policy in more detail and also sets out some "by exception" circumstances which are considered on their own merit on a case by case basis.
- 4.3 In the case of licensed vehicles, a Certificate of (Mechanical) Compliance can be in place of an MOT and is similar. A number of Council-approved garages are authorised to carry out the Certificate of Compliance testing on behalf of the Council.
- 4.4 in addition to mechanical fitness and other checks to ensure compliance with the Council's vehicle standards and licence conditions and/or byelaws. In much the same way as an MOT Certificate, the Certificate of Compliance includes whether or not a vehicle has failed the test and/or if there are any advisories of note which require action by the licensed driver/proprietor.
- 4.5 Due to the Covid-19 pandemic, a number of drivers opted to SORN their vehicles and cease to use them as licensed vehicles for extended periods of time and/or remove them from being licensed so that they could be used for another private purpose.
- 4.6 In recent months as trade has increased, the Taxi Licensing Service has seen an increase in demand for services and a number of drivers with these same vehicles returning to the licensed trade, seeking to become re-licensed. This is progressed where the vehicles are able to meet the Council's required vehicle safety standards and licensing requirements.
- 4.7 Committee Members will be aware that on 9th February 2022, following requests from the Hackney Carriage Association, due to the financial challenges faced by its trade members due to the impact of the Covid-19 pandemic, the Head of Community Services (in conjunction with the Portfolio Holder and former Licensing Chair and Vice Chair) took an [urgent decision](#) to extend the 11-year age limit of licensed vehicles falling into that upper age category for one year, with the extension running from 1st February 2021 to 31st January 2022, subject to a series of terms and conditions being in place. This matter was presented to the Licensing Committee on 1st March 2021 and noted.
- 4.8 On 1st March 2022, the Licensing Committee met to consider feedback arising following a consultation exercise to update and amend the Council's Private Hire and Hackney Carriage Licensing Policy. Feedback included a request that the Committee further extend the 11-year age limit for another 12 months due to the ongoing impact of the Covid-19 pandemic. The Committee was reminded of the urgent decision taken by the Head of Community Services on 9th February 2021.
- 4.9 The Committee was informed by Officers of public safety concerns regarding a further extension of the 11-year age limit, but a [decision](#) was made to further extend the age limit until 28th March 2023.
- 4.10 In making this decision the Committee requested that the matter be returned to it in advance of 28th March 2023 to be appraised of any concerns pertaining to vehicle suitability and safety. The primary purpose and overriding principle of the licensing regime is public safety, and, given the ongoing concerns previously expressed by officers regarding the apparent lowering of standards in the trade across the vehicle fleet in terms of vehicle maintenance/safety and non-compliance with licence conditions, evidence has been gathered to highlight the increasing number of vehicles coming to notice by the Council's authorised garages and the Council's Taxi Licensing Service as part of the regulatory and compliance process.

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5. Current Situation

- 5.1 There are currently 684 private hire and hackney carriage vehicles licensed by the Council. In reaching its decision to further extend the 11-year age limit, the Committee asked that the matter be kept under review and information be collated by the Taxi Licensing Team regarding vehicle standards, advisories identified as part of the Certificate of Compliance process, and issues identified by officers when carrying out their compliance and regulatory functions.

Current upper ages of vehicles benefitting from the 2 year extension

NB These figures are updated since this report was first prepared for the September Licensing Committee.

- 5.2 Vehicles now within the 10 year old age brackets Vehicles now within the 11 years old age bracket - 24
Vehicles now within the 12 year age bracket - 15
Vehicles now 13 years old 0

Advisory Actions

- 5.3 For the period 1st April 2022 – 23rd August 2022 there were 263 instances where advisories were noted, with some being legacy matters noted on previous Certificates of Compliance but not acted on by drivers/proprietors.
- 5.4 For ease of reference, explanatory notes and a table has been prepared to identify the nature of advisories being identified by the garages as part of the Certificate of Compliance process on a month-by-month basis. This is included at **Appendix A**
- 5.5 Between 24th August and 19th October 2022, the Taxi Licensing Service recorded 115 advisories being registered, 15 of which apply to vehicles over 11 years old.
- 5.6 As raised previously, officers are noting a far higher rate of advisory actions and works being required so that a vehicle can pass its Certificate of Compliance than before the Covid-19 Pandemic.

Livery, Identification of Vehicles, Licence Condition Breaches

- 5.7 At the recent Hackney Carriage and Meter Testing process in July 2022, of 63 drivers that attended, 20 were suspended and/or required to have elements of signage replaced due to this being in poor condition and/or failing to meet the required standard or compliance with licence conditions. A further 12 drivers were suspended for failing to have an in-date fire extinguisher or first aid kit, with the oldest noted as 1997. The Taxi Licensing Team are also taking this up with the Council's Nominated Garages which should be checking this at the time of Certificate of Compliance and vehicles failed where these matters are not in place or current. The Service also now requires drivers/proprietors to write their vehicle registration on the first aid kit and the fire extinguisher to stop the practice amongst some drivers of swapping items so that a Certificate of Compliance is passed.
- 5.8 This gap in compliance supports the previous observations by officers that some drivers are waiting longer to carry out vehicle maintenance and replacement of service and other items that could impact driver and passenger safety (e.g. replacement of brakes, worn tyres, structural matters, poor body work condition, frayed seat belts, cracked windscreens).

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- 5.9 The Taxi Licensing Service continues to issue Penalty Points and suspend or refuse to renew vehicles where they do not meet the required standards for safety, vehicle condition and public safety reasons, alongside failure to comply with the licensing regime.
- 5.10 The Council's Nominated Garages are under an obligation to report such matters to the Taxi Licensing Service and regulatory action has been taken including suspension of vehicles, penalty points and warning where a vehicle has failed the Certificate of (Mechanical) Compliance and/or the vehicle has presented in such a poor condition to the garage which causes concern from a safety perspective.
- 5.11 It has been noted that advisories are not being actioned in some cases from one Certificate of (Mechanical) Compliance to the next which is concerning given that these vehicles are used as a "tool of the trade" and operated by professional drivers for hire and reward. This is identified in **Appendix A**.
- 5.12 In future, the Taxi Licensing Service will be seeking approval from the Committee that advisories are carried out within a specified timescale after the Certificate of Compliance is issued to address these concerns and maintain standards.

Changing of Vehicles Irrespective of 12 Month Extension

- 5.13 Many licensed drivers have made a decision that as the vehicle advances toward the previous 11-year age limit, the ongoing costs associated with maintenance, high mileage and condition of the vehicle at that time outweighs the cost of a newer, more efficient model of vehicle. Of key importance to drivers is that the vehicle is reliable and this diminishes as the vehicle ages, as it is intensively used to cover significant mileage and its condition/roadworthiness deteriorates. Below is a summary of reasons given by drivers wishing to change vehicle irrespective of the current extension:
- Moving to a more economical vehicle – cost of fuel and older vehicle inefficiencies with newer and hybrid vehicles being cheaper to run and which perform better.
 - Cost of emissions surcharges in certain areas including London impact the income of drivers and this cost is passed to customers.
 - Older vehicles not reliable enough and break down more frequently which is a challenge on journeys where passengers are on board and poses a safety risk.
 - The cost of repair and maintenance outweighs investing in a "new" vehicle.
 - Some operators, mainly at Gatwick Airport and in relation to specific contracts, require a much newer vehicle be licensed as part of their company requirements.
 - Emissions and green targets are important.
- 5.14 In relation to this final point, the Taxi Licensing Service will be presenting further reports to the Committee on a reduction in engine size for vehicles, alongside cleaner, greener targets in terms of emissions, and types of vehicle to be licensed in the future. The Council has already identified a climate crisis and has indicated that the taxi trade plays a key role in this. When replacing vehicles, drivers are recommended to consider more environmentally friendly vehicles as a means to allow that vehicle to remain the trade for its life term.
- 5.15 For vehicles attaining the 11 year plus age range in April 2022, 64 drivers/proprietors had already taken the decision to replace the vehicle for the reasons above. As of the end of August 2022 a further 53 vehicles were replaced despite the 12 month extension.
- 5.16 For the period 1st April 2022 – 23rd August 2022, the Service processed 23 applications to transfer an existing licence from one vehicle (due to condition, age,

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damage) to a new vehicle and 41 applications for new vehicles to enter the trade. As the taxi trade picks up in terms of demand, the Service has seen a resurgence in drivers/proprietors seeking to purchase new vehicles to meet customer demand and vehicle safety as well as greater efficiencies afforded to the driver/proprietor associated with newer vehicles.

- 5.17 However, there remains a concerning trend of older vehicles and those vehicles which have had significant usage not being maintained correctly or maintenance stretched to the last possible opportunity which reduces the standard of Crawley Borough Council licensed vehicles, and ultimately public safety. The primary purpose and overriding consideration of the licensing regime is public safety.

6. Other Considerations

- 6.1 The Licensing Committee agreed to amend and update the Hackney Carriage and Private Hire Licensing Policy. This took effect on 1st April 2022 and reflects the current position in relation to the extension of the 11-year age limit in respect of licensed vehicles. The Policy includes matters relating to the need for licensed drivers to be fit and proper to hold a licence and that vehicles must meet minimum standards to be licensed. The safety of drivers, passengers and vehicles is the overriding principle
- 6.2 Furthermore, as part of the Policy review, due regard was had for the Department for Transport's [Statutory Taxi and Private Hire Vehicle Standards](#). These Standards focus on safeguarding, alongside a range of driver/proprietor, operator and vehicle licence standards and safety measures. The Standards state that:

“Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle.”

- 6.3 As previously stated, the Licensing Committee implemented the 11-year age limit on licensed vehicles in approximately 2015. Prior to this there was no limit. Before the temporary extension to the life of a licensed vehicle, as a courtesy, the Taxi Licensing Service has generally reminded trade members at least 12 months ahead of the maximum age limit the need to make provision to change their vehicle.
- 6.4 The Licensing Committee has already indicated that the relaxation of the 11-year age limit for licensed vehicles will be for an additional 12 months (subject to review). Currently, there are vehicles in the fleet which are 11, 12 and 13 years of age. It is worth noting that the Taxi Licensing Service are seeing mileage rates exceeding 300,000 – 400,000 miles in these age ranges.
- 6.5 By bringing this update to the Committee in advance of March 2023, any matters arising can be appropriately communicated to the Trade in good time ahead of any change.

7 Staffing, Equalities, Financial, and Legal Implications

- 7.1 There are no extra staffing or financial implications for the Council arising from this report as other than the increased level of regulatory and compliance checks needed to cater for an ageing fleet of vehicles which by their nature will have additional issues and a greater need for maintenance and monitoring.

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- 7.2 There are no financial or staffing consequences that will arise from the changes to the Service is self financing and the fees are used to offset costs. There are no extra staffing or financial implications for the Council arising from this report as other than the increased level of regulatory and compliance checks needed to cater for an ageing fleet of vehicles which by their nature will have additional issues and a greater need for maintenance and monitoring.
- 7.3 Councillors must ensure that they exercise their decision making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 7.4 The Council is required to consider the impact any decision may have on crime and disorder in the area (Crime & Disorder Act 1998) which states as follows;
- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;
- (a) Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment, and
- (b) The misuse of drugs, alcohol and other substances in its area, and
- (c) Re-offending in its area.
- 7.5 Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the 'public sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- (b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- The characteristics protected by the Equality Act are:
- age
 - disability
 - gender reassignment marriage/civil partnership pregnancy/maternity race
 - religion/belief
 - gender and sexual orientation

Report author and contact officer:

Kareen Plympton, Team Leader for Health, Safety and Licensing
Kareen.plympton@crawley.gov.uk

NUMBER AND TYPES OF ADVISORIES

The below table is a record of all advisories identified as part of the Certificate of Compliance/MOT process over the period 1st April 2022 – 23rd August 2022. In total, there were 263 instances of advisories being noted across the whole licensed fleet. The MOT/COC expiry date listed in the table is when this expires, **not** when the issue was identified.

This data has not been captured in this way before, but shows the number and type of advisories noted by the Council's nominated garages. Depending on the age of the vehicle, a Certificate of Compliance can be required every 12 or 6 months. Advisories may be a carry-over from a previous year which have not been actioned by the driver/proprietor.

Key HCV = Hackney Carriage Vehicle PHV = Private Hire Vehicle

SEPTEMBER 2022 EXPIRY 5 ISSUES

MOT/COC EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
15-Sep-22	BODYWORK	DENTS	HCV
17-Sep-22	FIRE EXTINGUISHER	EXPIRED	HCV
29-Sep-22	NUMBER PLATE	WEAR	PHV
29-Sep-22	NUMBER PLATE	WEAR	PHV
30-Sep-22	BODYWORK	DAMAGE	PHV

OCTOBER 2022 EXPIRY 26 ISSUES

COC/MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
01-Oct-22	TYRES	WEAR	PHV
01-Oct-22	TYRES	WEAR	PHV
04-Oct-22	NUMBER PLATE	WEAR	PHV
04-Oct-22	NUMBER PLATE	DAMAGE	HCV
04-Oct-22	OIL	LEAK	HCV
04-Oct-22	OIL	LEAK	PHV
04-Oct-22	OIL	DAMAGE	PHV
04-Oct-22	SHOCK ABSORBER	LEAK	PHV
07-Oct-22	BOLTS	MISSIN	PHV
07-Oct-22	BOLTS	OTHER	PHV
07-Oct-22	BRAKES	WEAR	HCV
07-Oct-22	BRAKES	WEAR	PHV
10-Oct-22	BRAKES	WEAR	PHV
12-Oct-22	BUSHES	WEAR	PHV
12-Oct-22	BUSHES	WEAR	PHV
12-Oct-22	BUSHES	WEAR	PHV
12-Oct-22	BUSHES	WEAR	PHV
12-Oct-22	SUSPENSION	WEAR	PHV
12-Oct-22	TYRES	WEAR	PHV
18-Oct-22	BRAKES	WEAR	PHV
18-Oct-22	BRAKES	WEAR	PHV
20-Oct-22	TYRES	NAIL	HCV
20-Oct-22	TYRES	WEAR	HCV

21-Oct-22	BUSHES	WEAR	PHV
26-Oct-22	SUSPENSION	LOOSE	PHV
29-Oct-22	BRAKES	WEAR	PHV

NOVEMBER EXPIRY 32 ISSUES

COC/MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
02-Nov-22	SHOCK ABSORBER	WEAR	PHV
03-Nov-22	TYRES	LOOSE	PHV
03-Nov-22	TYRES	WEAR	PHV
04-Nov-22	WINDSCREEN	DAMAGE	PHV
04-Nov-22	WINDSCREEN	DAMAGE	HCV
05-Nov-22	WINDSCREEN	DAMAGE	PHV
06-Nov-22	BALD TYRE(S)	WEAR	PHV
07-Nov-22	SUSPENSION	WEAR	PHV
08-Nov-22	WINDSCREEN	DAMAGE	PHV
15-Nov-22	TYRES	WEAR	PHV
15-Nov-22	TYRES	WEAR	PHV
15-Nov-22	TYRES	WEAR	HCV
17-Nov-22	BALD TYRE(S)	WEARIN	PHV
18-Nov-22	TYRES	WEAR	PHV
19-Nov-22	BUSHES	WEAR	HCV
24-Nov-22	BODYWORK	DAMAGE	PHV
24-Nov-22	BODYWORK	DENTS	PHV
24-Nov-22	TYRES	WEAR	PHV
26-Nov-22	BRAKES	WEAR	HCV
26-Nov-22	TYRES	WEAR	PHV
26-Nov-22	TYRES	WEAR	PHV
26-Nov-22	TYRES	NAIL	PHV
26-Nov-22	TYRES	WEAR	PHV
26-Nov-22	TYRES	DAMAGE	PHV
26-Nov-22	TYRES	WEAR	PHV
26-Nov-22	TYRES	WEAR	PHV
26-Nov-22	TYRES	WEAR	PHV
26-Nov-22	TYRES	WEAR	PHV
26-Nov-22	TYRES	WEAR	PHV
28-Nov-22	REFLECTORS	DAMAGE	PHV
30-Nov-22	BUSHES	WEAR	HCV
30-Nov-22	BUSHES	WEAR	HCV

DECEMBER 2022 EXPIRY 13 ISSUES

COC/MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
04-Dec-22	REFLECTORS	DAMAGE	PHV
04-Dec-22	REFLECTORS	DAMAGE	PHV
05-Dec-22	WINDSCREEN	DAMAGE	PHV

08-Dec-22	BALD TYRE(S)	WEAR	PHV
08-Dec-22	BALD TYRE(S)	WEAR	PHV
08-Dec-22	SUSPENSION	WEAR	PHV
14-Dec-22	WINDSCREEN	DAMAGE	PHV
14-Dec-22	WINDSCREEN	TINTED	PHV
19-Dec-22	BRAKES	WEAR	PHV
19-Dec-22	BRAKES	WEAR	PHV
19-Dec-22	TYRES	OTHER	PHV
21-Dec-22	TYRES	WEAR	HCV
31-Dec-22	SUSPENSION	WEAR	PHV

JANUARY 2023

97 ISSUES

COC/MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
03-Jan-23	NUMBER PLATE	WEAR	PHV
05-Jan-23	ANTI ROLL BAR	LOOSE	PHV
07-Jan-23	LIGHT	NOTWOR	PHV
07-Jan-23	LIGHT	DAMAGE	PHV
09-Jan-23	MIRROR	DAMAGE	PHV
09-Jan-23	MIRROR	DAMAGE	PHV
09-Jan-23	NUMBER PLATE	WEAR	PHV
09-Jan-23	NUMBER PLATE	WEAR	HCV
09-Jan-23	NUMBER PLATE	DAMAGE	PHV
11-Jan-23	ANTI ROLL BAR	OTHER	HCV
11-Jan-23	ANTI ROLL BAR	WEAR	PHV
11-Jan-23	ANTI ROLL BAR	WEAR	PHV
12-Jan-23	FIRE EXTINGUISHER	EXPIRE	PHV
12-Jan-23	FIRST AID KIT	OTHER	HCV
12-Jan-23	FIRST AID KIT	MISSIN	PHV
12-Jan-23	FIRST AID KIT	EXPIRE	PHV
12-Jan-23	INTERP	MISSIN	PHV
12-Jan-23	LIGHT	OTHER	HCV
12-Jan-23	LIGHT	NOTWOR	HCV
13-Jan-23	BRAKES	WEAR	HCV
13-Jan-23	BRAKES	WEAR	HCV
13-Jan-23	BRAKES	WEAR	HCV
13-Jan-23	BUSHES	WEAR	PHV
13-Jan-23	BUSHES	WEAR	HCV
13-Jan-23	TYRES	WEAR	HCV
14-Jan-23	BRAKES	WEAR	PHV
16-Jan-23	BUSHES	WEAR	PHV
16-Jan-23	LIGHT	DAMAGE	PHV
16-Jan-23	SUSPENSION	WEAR	HCV
17-Jan-23	TYRES	WEAR	PHV
17-Jan-23	TYRES	WEAR	PHV
18-Jan-23	DISCS	WEAR	PHV
18-Jan-23	DOORSIGN	DAMAGE	PHV

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18-Jan-23	ENGINE	WARNIN	PHV
18-Jan-23	WINDSCREEN	CHIP	PHV
18-Jan-23	WINDSCREEN	DAMAGE	PHV
18-Jan-23	WINDSCREEN	DAMAGE	PHV
19-Jan-23	BALD TYRE(S)	WEAR	PHV
19-Jan-23	BALD TYRE(S)	WEAR	PHV
19-Jan-23	BALD TYRE(S)	WEAR	PHV
19-Jan-23	BALD TYRE(S)	WEAR	PHV
19-Jan-23	BRAKES	WEAR	HCV
19-Jan-23	BRAKES	WEAR	HCV
20-Jan-23	BELTS	WEAR	PHV
20-Jan-23	BELTS	WEAR	PHV
20-Jan-23	BELTS	WEAR	PHV
20-Jan-23	BRAKES	WEAR	PHV
20-Jan-23	SUSPENSION	BROKEN	HCV
20-Jan-23	SUSPENSION	BROKEN	HCV
21-Jan-23	LIGHT	NOTWOR	HCV
21-Jan-23	SUSPENSION	WEAR	PHV
22-Jan-23	BRAKES	WEAR	HCV
22-Jan-23	BRAKES	WEAR	HCV
22-Jan-23	LIGHT	NOTWOR	PHV
22-Jan-23	LIGHT	WEAR	PHV
22-Jan-23	LIGHT	NOTWOR	PHV
22-Jan-23	LIGHT	NOTWOR	PHV
22-Jan-23	LIGHT	NOTWOR	HCV
23-Jan-23	TYRES	WEAR	PHV
23-Jan-23	TYRES	WEAR	PHV
23-Jan-23	TYRES	DAMAGE	PHV
24-Jan-23	ANTI ROLL BAR	DAMAGE	PHV
24-Jan-23	ANTI ROLL BAR	WEAR	PHV
25-Jan-23	ANTI ROLL BAR	DAMAGE	PHV
25-Jan-23	BRAKES	WEAR	PHV
25-Jan-23	BRAKES	WEAR	PHV
25-Jan-23	BRAKES	WEAR	PHV
25-Jan-23	BRAKES	WEAR	PHV
25-Jan-23	BRAKES	DAMAGE	PHV
25-Jan-23	OIL	WEAR	HCV
25-Jan-23	OIL	LEAK	HCV
25-Jan-23	OIL	LEAK	HCV
25-Jan-23	PLATE	WEAR	PHV
25-Jan-23	PLATE	DAMAGE	PHV
25-Jan-23	PLATE	NOTSEC	PHV
25-Jan-23	TYRES	WEAR	HCV
25-Jan-23	WINDSCREEN	CHIP	PHV
25-Jan-23	WINDSCREEN	DAMAGE	PHV
26-Jan-23	REFLECTORS	DAMAGE	PHV
26-Jan-23	REFLECTORS	DAMAGE	PHV

26-Jan-23	REFLECTORS	DAMAGE	HCV
26-Jan-23	REFLECTORS	DAMAGE	PHV
26-Jan-23	SEATS	DAMAGE	PHV
26-Jan-23	SHOCK ABSORBER	LEAK	PHV
26-Jan-23	SUSPENSION	WEAR	PHV
26-Jan-23	SUSPENSION	WEAR	PHV
26-Jan-23	SUSPENSION	WEAR	PHV
26-Jan-23	TYRES	WEAR	PHV
26-Jan-23	TYRES	WEAR	PHV
28-Jan-23	ANTI ROLL BAR	LOOSE	PHV
28-Jan-23	NUMBER PLATE	WEAR	PHV
28-Jan-23	NUMBER PLATE	WEAR	PHV
28-Jan-23	SUSPENSION	CORRO	PHV
29-Jan-23	SUSPENSION	WEAR	PHV
30-Jan-23	BRAKES	WEAR	HCV
31-Jan-23	BRAKES	WEAR	HCV
31-Jan-23	BRAKES	WEAR	HCV
31-Jan-23	BRAKES	WEAR	PHV

FEBRUARY 2023

55 ISSUES

MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
01-Feb-23	BRAKES	DAMAGE	PHV
01-Feb-23	SUSPENSION	WEAR	HCV
02-Feb-23	TYRES	WEAR	HCV
03-Feb-23	BUSHES	WEAR	PHV
03-Feb-23	FIRE EXTINGUISHER	EXPIRE	PHV
04-Feb-23	BRAKES	WEAR	PHV
04-Feb-23	BRAKES	WEAR	PHV
04-Feb-23	BRAKES	WEAR	PHV
04-Feb-23	BRAKES	WEAR	PHV
07-Feb-23	ANTI ROLL BAR	WEAR	PHV
08-Feb-23	BRAKES	WEAR	PHV
09-Feb-23	BRAKES	DAMAGE	PHV
09-Feb-23	COOLANT	LEAK	PHV
09-Feb-23	ACCIDENT DAMAGE	DENTS	PHV
09-Feb-23	DIRTY		PHV
10-Feb-23	FIRE EXTINGUISHER	EXPIRE	PHV
11-Feb-23	BALD TYRE(S)	WEAR	PHV
11-Feb-23	SUSPENSION	WEAR	PHV
11-Feb-23	SUSPENSION	WEAR	PHV
12-Feb-23	PLATE	WEAR	PHV
12-Feb-23	PLATE	WEAR	PHV
12-Feb-23	PLATE	WEAR	PHV
12-Feb-23	PLATE	WEAR	PHV
12-Feb-23	PLATE	BROKEN	PHV
12-Feb-23	PLATE	WEAR	PHV

12-Feb-23	PLATE	WEAR	PHV
12-Feb-23	PLATE	WEAR	HCV
12-Feb-23	PLATE	WEAR	HCV
12-Feb-23	PLATE	WEAR	PHV
12-Feb-23	TYRES	WEAR	HCV
14-Feb-23	BRAKES	DAMAGE	PHV
14-Feb-23	BRAKES	WEAR	PHV
15-Feb-23	BRAKES	WEAR	HCV
15-Feb-23	BRAKES	WEAR	PHV
16-Feb-23	ANTI ROLL BAR	LOOSE	PHV
16-Feb-23	BALD TYRE(S)	WEAR	PHV
16-Feb-23	LIGHT	DAMAGE	HCV
17-Feb-23	UNDERCARRIAGE	NOTSEC	PHV
17-Feb-23	WINDSCREEN	CRACKE	HCV
19-Feb-23	EXHAUST	LEAK	PHV
19-Feb-23	EXHAUST	LEAK	PHV
19-Feb-23	EXHAUST	DAMAGE	HCV
20-Feb-23	BRAKES	DAMAGE	PHV
21-Feb-23	BUSHES	WEAR	PHV
22-Feb-23	LIGHT	NOTWOR	PHV
27-Feb-23	NUMBER PLATE	WEAR	PHV
27-Feb-23	NUMBER PLATE	DAMAGE	PHV
27-Feb-23	NUMBER PLATE	WEAR	PHV
27-Feb-23	NUMBER PLATE	OTHER	PHV
28-Feb-23	ANTI ROLL BAR	DAMAGE	PHV
28-Feb-23	ANTI ROLL BAR	WEAR	HCV
28-Feb-23	BRAKES	WEAR	PHV
28-Feb-23	BRAKES	WEAR	PHV
28-Feb-23	BRAKES	WEAR	PHV
28-Feb-23	BRAKES	WEAR	PHV

MARCH 2023

12 ISSUES

COC/ MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
01-Mar-23	BELTS	DENTS	PHV
01-Mar-23	BODYWORK	DAMAGE	PHV
01-Mar-23	BODYWORK	OTHER	PHV
01-Mar-23	BODYWORK	DAMAGE	PHV
01-Mar-23	BODYWORK	DAMAGE	PHV
02-Mar-23	SUSPENSION	CORRO	PHV
03-Mar-23	BRAKES	WEAR	PHV
04-Mar-23	BRAKES	WEAR	PHV
04-Mar-23	BRAKES	WEAR	PHV
04-Mar-23	BRAKES	WEARIN	PHV
25-Mar-23	SUSPENSION	WEAR	HCV
29-Mar-23	TYREPUMP	MISSIN	PHV

MAY 2023

4 ISSUES

COC/MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
10-May-23	TYRES	WEAR	HCV
23-May-23	TYRES	WEAR	HCV
26-May-23	SUSPENSION	WEAR	PHV
26-May-23	SUSPENSION	WEAR	PHV

JUNE 2023

1 ISSUE

MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
07-Jun-23	BRAKES	WEAR	PHV

JULY 2023

9 ISSUES

MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
18-Jul-23	BALD TYRE(S)	WEAR	PHV
18-Jul-23	BALD TYRE(S)	WEAR	HCV
18-Jul-23	BALD TYRE(S)	WEAR	HCV
18-Jul-23	BELTS	DAMAGE	HCV
18-Jul-23	BELTS	DAMAGE	HCV
18-Jul-23	BELTS	CORRO	PHV
27-Jul-23	SUSPENSION	CORRO	PHV
27-Jul-23	SUSPENSION	WEAR	HCV
29-Jul-23	SUSPENSION	WEAR	HCV

AUGUST 2023

8 ISSUES

MOT EXPIRY DATE	PROBLEM AREA	CONDITION	PHV/HCV
12-Aug-23	SHOCK ABSORBER	LEAK	PHV
12-Aug-23	SHOCK ABSORBER	LEAK	PHV
12-Aug-23	STEERING	WEAR	HCV
12-Aug-23	SUSPENSION	WEAR	PHV
14-Aug-23	SUBFRAME	DAMAGE	PHV
14-Aug-23	SUSPENSION	CORRO	PHV
14-Aug-23	SUSPENSION	WEAR	PHV
18-Aug-23	SUSPENSION	WEAR	HCV

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Agenda Item 6

Crawley Borough Council

Report to Licensing Committee

7 November 2022

Post Consultation Review of Statement of Licensing Policy Gambling Act 2005 (2023 – 2025) Consultation

Report of the Head of Community Services - HCS/052

1. Purpose

- 1.1 To inform the Licensing Committee of the representations received following an 8 week public consultation period between Monday 22nd August 2022 – Monday 21st October 2022 on the proposed revised Statement of Licensing Policy – Gambling Act 2005 (2023-2025).
- 1.2 To consider, and either accept or reject, the amendments to the proposed revised Statement of Licensing Policy – Gambling Act 2005 (2023 – 2025) without inclusions from consultation feedback, since the feedback related to matters under the jurisdiction of a separate body, the Gambling Commission
- 1.3 To ask the Licensing Committee to recommend that the proposed revised Statement of Licensing Policy – Gambling Act 2005 (2023-2025) (as set out in **Appendix A**) to Full Council for approval and adoption
- 1.4 The Statement of Licensing Policy Gambling Act 2005 (2023 – 2025) is a Policy Framework Document, and as such the report on the outcomes of the consultation and on the Policy as updated, are being considered by the Licensing Committee, The Overview and Scrutiny Commission will also review the draft Policy, before its submission to the Cabinet and then subsequently Full Council for approval and adoption in December 2022.
- 1.5 Following the statutory consultation process and subsequent Full Council approval, the Council must then publish its revised Statement of Gambling Policy and advertise the publication by way of Public Notice, in accordance with legal requirements. The revised Gambling Policy will come into effect on the date specified in a public notice which must be at least 4 weeks from the date of publication of the revised Statement and public notice..

2. Recommendations

- 2.1 The Licensing Committee is recommended to:
 - a) Consider the representation received following the consultation (as set out in Section 7 of report HCS/052).
 - b) Provide a collective response to the revised Statement of Licensing Policy - Gambling Act 2005 (2023 – 2025) consultation to be included in the final report that will be considered by the Overview and Scrutiny Commission and the Cabinet prior to the submission of the proposed Policy to the Full Council.

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3. Reasons for the Recommendations

- 3.1 It is a statutory requirement under the Gambling Act 2005 for a Licensing Authority to prepare a Statement of its Licensing Policy (Gambling Act 2005) every three years.
- 3.2 The Council is the Licensing Authority for the borough of Crawley. It is therefore necessary to agree and develop the proposed strategy to discharge the Council's role in its capacity of Licensing Authority for the 3 year period 2023 – 2025.
- 3.3 To ensure the Council's policy is revised for the coming 3 years as required by Section 349 of the Gambling Act 2005 and that this is done in accordance with procedures, legislative requirements and is compliant with statutory guidance regarding consultation.

4. Background

- 4.1 Section 349 of the Gambling Act 2005 (the 'Act') requires a licensing authority to prepare and publish a statement of the principles that it proposes to apply in exercising its licensing functions under the Act every 3 years.
- 4.2 This is commonly referred to as a 'Statement of Licensing Policy' (the 'Policy'). A number of specific matters must be considered and determined within the Policy in order that the provision of betting, gaming and lotteries within the district is provided in a manner that promotes the three statutory gambling licensing objectives, these are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 4.4 The Council is responsible for the issuing of licences for premises that are covered by the Act. Licences for operators and game types together with controls concerning gambling machines are dealt with directly by the Gambling Commission. The Council must have regard to statutory guidance and its own Statement of Gambling Policy regarding the Act when issuing any licence for a premises.
- 4.5 There is comprehensive statutory guidance published by the Gambling Commission which has been used in the preparation of this report and proposed Policy. The statutory guidance includes guidance in respect of preparing, revising, and publishing a Statement of Gambling Policy and local authorities must have regard to the statutory guidance.

5. Information & Analysis Supporting Recommendation

- 5.1 Before publishing its Policy for any three-year period the Council must consult the persons listed in Section 349(3) of the Act, namely;
 - The Chief Officer of Police
 - One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the borough.
 - One or more persons who appear to the Council to represent persons who are likely to be affected by the exercise of the Council's functions under the Act.
- 5.2 The statutory guidance states that the list of persons to be consulted is deliberately wide so as to allow licensing authorities to undertake a comprehensive consultation

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exercise with anyone who may be affected by or otherwise have an interest in the Gambling Policy.

- 5.3 The public consultation period lasted for a period of 8 weeks between Monday 22nd August 2022 – Monday 17th October 2022. This included posting a copy of the document on the Council's website together with issuing notification was also sent to all Councillors, West Sussex County Council, Chief Officer Police, listed Responsible Authority's, local schools and representatives of the licensed premises. Members of the Licensing Committee were also directly consulted.
- 5.4 A full list of those consulted has been fully documented, along with any responses received as part of the consultation process and included at Section 7 of this report
- 5.5 When preparing the revised Policy, officers have carefully considered the contents of the current Policy specifically against the 5th edition of the statutory guidance issued by the Gambling Commission in September 2015 with parts 17, 18 and 19 updated September 2016. The proposed Policy continues to be consistent with the statutory guidance.
- 5.6 The overarching legislative framework of the Act remains largely unaltered, and there are no legislative changes which necessitate amendments in this regard to the current Policy for matters under the Act.
- 5.7 The Council is required to formally designate a body responsible for advising it about the protection of children from harm. It is proposed within the revised Policy to continue to designate the West Sussex Local Safeguarding Children Board for this purpose and this is reflected in the proposed Policy. This is the body responsible for advising the Council on such matters in relation to other regulatory regimes and is considered best placed to advise accordingly.
- 5.8 The Council has never passed a 'no casino' resolution under Section 166(1) of the Act. This leaves the option open for the Council to bid for a casino and permit applications if the opportunity were to arise. It continues to be the case that no approach has ever been made to the Council by operators wishing to open a casino within the Crawley borough.
- 5.9 However, this is believed to be largely based on the fact that those who hold a Casino Operating Licence granted by the Gambling Commission are aware that nationally, following a rigorous process, only certain licensing authorities are permitted to grant casino premises licences.
- 5.10 Historically this Council chose not to enter the bidding process and therefore could not grant a casino premises licence. The Policy remains open that should the position change nationally, this Licensing Authority would consider an application for a casino licence. The proposal within the revised Policy is to maintain the current stance.
- 5.11 As part of the 8 week consultation process, details of the revised Policy, together with an invitation to submit comments, was published on the Council's website.
- 5.12 Following the statutory consultation process, all consultation responses will be carefully considered and where relevant, incorporated into the proposed Policy, with the matter being placed before the Licensing Committee, Overview and Scrutiny Commission, Cabinet and Full Council as detailed above.x
- 5.13 The Council must then publish its revised Policy and advertise the publication by way of public notice, in accordance with legal requirements.

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- 5.14 Once adopted by the Council, the Policy ordinarily has effect for a period of three years and is kept under review during this period so as to ensure that it remains suitable and adequately addresses any current or emerging issues.
- 5.15 The current Policy has had effect for the preceding three years, following approval by Cabinet on 27th November 2019 and Full Council on 16th December 2019. It has not been the subject of any legal challenge or complaint during that time.
- 5.16 The current Policy is due to expire at the end of January 2023 and it is therefore necessary to undertake a review.
- 5.17 Revisions to the Gambling Act were expected in the autumn of 2020, however, delays largely caused by the disruption associated with COVID-19 have meant that this did not occur.
- 5.18 This does not mean most of the laws around gambling will change overnight, rather it will set out a landscape for future regulation. For example, in the 2005 Act created the UK Gambling Commission but the body did not become active until 2007 as it took two years to for the commission to assume full powers from the [Gaming Board for Great Britain](#)

6. Summary of Revisions

- 6.1 It should be noted that there have been no legislative, regulatory or guidance changes since the last Policy.
- 6.2 The Policy has been revised and updated where possible to make it easy to understand and to improve accessibility. Furthermore, it now reflects the “standard format” expected by the Gambling Commission in connection with the Act. The previous Policy prepared by the former Head of Environmental Health deviated from this somewhat. Each section is now numbered, with subheadings and paragraphs making it easier to locate and refer to information.
- 6.3 The draft Policy provides:
- Revised details of the local area and consideration of local strategies and policies in the consultation and decision-making process
 - New paragraphs on “problem gambling”
 - Additional information regarding Responsible Authorities, Interested Parties and the designation of the West Sussex Safeguarding Board to advise the Council on safeguarding issues
 - Additional information on the exchange of information and sharing of details with regulatory partners, including via the Primary Authority Scheme
 - Additional information on enforcement and compliance
 - Additional information on the Council as Licensing Authority, decision-making process and delegation of functions
 - Additional information on premises to be licenced and operated in the borough, inclusive of a section to reiterate that the Council has not made a resolution to prohibit casinos
 - Additional information on the Licensing Objectives and steps to promote such, including local risk assessments, staff training and conditions
 - Additional information on the review process
 - Additional information on permits, temporary permissions and gambling in licensed premises
 - Revised appendices to reflect local changes and the inclusion of additional information relating to categories of machines, fees (currently under review) and a revised glossary of terms to maximise accessibility and understanding.

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7 Consultation Feedback

- 7.1 The Council has only received feedback from one member of the Licensing Committee, which is below along with responses from the Team Leader for Health, Safety and Licensing (in bold) as the majority of matters raised are overseen and controlled by the Gambling Commission as opposed to the Council as Licensing Authority. Therefore, these will be raised separately with the Gambling Commission and other bodies as relevant.

I have the following comments

- 1) *Whilst I appreciate online gambling is not part of the councils remit – I feel that online gambling is likely to feature highly in the overall situation*
 - a. *Do we have facilities for online problem gambling to be reported* **This is reportable to the Gambling Commission**
 - b. *Do the ISPs have facilities to block gambling sites from a household / mobile device* **This would be via the Gambling Commission**
 - c. *Is there any guidance we can offer people, could we approach the broadband providers with guidance* **This would be via the Gambling Commission**
- 2) *Do we have links to other agencies on the CBC website* **We are currently updating our website to include links to GamCare and other support agencies. There is a Responsible Authorities, a list of other organisations and email addresses to be incorporated.**
 - a. *Are we as joined up as we could be* **I believe we are. We work in partnership with statutory partners but particularly Sussex Police, Public Health and the Gambling Commission as well as Pubwatch.**
 - b. *Do we collect information when gambling is the root cause of other behaviour – such as financial issues, shoplifting, theft, muggings ... domestic violence (which ones are drug fuelled, gambling ... other)* **Crime statistics are available and called upon but the root cause/causal link is hard to prove and ASB/Crime has not been directly linked to gambling per se.**
 - c. *Do we ask for reports from newsagents and bars – when they see problem behaviour* **Yes – via Pubwatch and Shopwatch**
- 3) *How do we warn younger people about the dangers of gambling – before it becomes a problem* **I believe that this should form part of PHSE education in schools but it is not currently. Gambling premises are not allowed to include marketing that might appeal to under 18s, and must have information available to over 18s using the premises about problem gambling, the ability to self-exclude and sources of support and help for problem gamblers**
 - a. *School visits* - **See above that I am of the view that it should form part of PHSE education but I don't believe it does**
 - b. *Online adverts on social media* – **Agreed**
 - c. *Noticeboard information* - **Agreed**
 - d. *Confidential advice* - **See above**
 - e. *What the position on random loot boxes in gaming (should we ask the government to pressure the gaming industry for their removal)* **I am not sure what you mean by this?**

If you see social media and TV adverts, there is always a message regarding responsible gambling and over 18s. This is a legal requirement where they are UK registered.

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4) *What about warnings for what could be perceived as low level gambling*

- a. *National Lottery / Euro Millions **Managed by the Gambling Commission***
- b. *Grand National **Managed by the Gambling Commission***
- c. *Work / organisation gambling used for fund raising.*
- d. *Scratch cards **Managed by the Gambling Commission***

Hopefully, this email may prompt some changes and improvement to what looks like is going to be a good policy.”

- 7.2.1 Members should also note that, following agreement with the Portfolio Holder on 26th September 2022, the fees associated with the gambling activities have been raised to the statutory maximum. These fees were set centrally by Government at the commencement of the 2005 Act and have not been revised since this date.

- 7.3 Following the statutory consultation process and should Full Council approve and adopt the Policy the Council must publish its revised Statement Gambling Policy and advertise the publication by way of public notice, in accordance with legal requirements. The revised Statement Gambling Policy will come into effect on the date specified in the public notice which must be at least 4 weeks from the date of publication of the revised Statement and Public Notice.

8.0 Staffing, Equalities, Financial, and Legal Implications

- 8.1 The Council would be at risk of potential legal challenge regarding any matters pertaining to the Act should its Statement of Licensing Policy – Gambling Act be out of date.
- 8.2 There are no financial or staffing consequences that will arise from the changes to the Policy as the maximum fees that can be charged are set by statute. The Service is self financing and the fees are used to offset costs.
- 8.3 The Statement of Licensing Policy is specified within the Council’s Policy Framework therefore Full Council is required to consider and formally adopt the revised Policy.
- 8.4 Councillors must ensure that they exercise their decision making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 8.5 The Council is required to consider the impact any decision may have on crime and disorder in the area (Crime & Disorder Act 1998) which states as follows;
- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;
 - (a) Crime and disorder in its area(including anti-social and other behaviour adversely affecting the local environment, and
 - (b) The misuse of drugs, alcohol and other substances in its area, and
 - (c) Re-offending in its area.
- 8.6 Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the ‘public sector equality duty’. In summary, this means that the

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Council must, in the exercise of its functions, have due regard to the need to-

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- (b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

- age
- disability
- gender reassignment marriage/civil partnership pregnancy/maternity race
- religion/belief
- gender and sexual orientation

Background Papers

Gambling Commission Guidance to Licensing Authorities 5th Edition (September 2015) with updated Parts 17, 18 and 19 (September 2016).
Gambling Act 2005

Current Gambling Act Policy

[Consultation statement of licensing policy 2020 2022.pdf \(crawley.gov.uk\)](#)

Report author and contact officer:

Kareen Plympton, Team Leader for Health, Safety and Licensing
Kareen.plympton@crawley.gov.uk

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Consultation DRAFT Policy

Statement of Licensing Policy (Gambling)

The Gambling Act 2005

For the period 2023-2025



STATEMENT OF POLICY 2023-2025

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This Statement of Policy was approved by Crawley Borough Council on the ****.

Please note that all references within this Statement to 'Guidance', refers to the Gambling Commission's Guidance to Licensing Authorities, published 1st April 2021 and last updated 13th May 2021. This was the current version of the Guidance at the time when this Statement was prepared and published.

PART A

1. THE LICENSING OBJECTIVES - SUMMARY

1.1 In exercising most of their functions under the Gambling Act 2005 (the 'Act'), Licensing Authorities (the '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
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.2 This Licensing Authority (the 'Authority') is aware that, as required by Section 153 of the Act, in making decisions about Premises Licences, Temporary Use Notices and some Permits that it should aim to permit the use of premises for gambling in so far as it thinks it:

- In accordance with any relevant Code of Practice issued by the Gambling Commission (the 'Commission') under Section 24 of the Act.
- In accordance with any relevant Guidance issued by the Commission under Section 25 of the Act.
- Reasonably consistent with the licensing objectives; and
- In accordance with the Statement published by the Authority under Section 349 of the Act i.e., this Statement of Policy (the 'Statement').

2. INTRODUCTION

2.1 Crawley Borough Council as Licensing Authority (LA) for the Borough of Crawley in accordance with Section 349 of the Act is required to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act. The form of the Statement is set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2007. The Gambling Commission's Guidance to licensing authorities contains further information on the form of the Council's Policy document.

2.2 The Council's Policy Statement must be reviewed and be published at least every three years. Any proposed amendments must be consulted upon as considered necessary.

2.3 The Council is responsible for granting premises licenses, notices, permits, registrations, and notifications within the Borough in respect of:

- casino premises
- bingo premises

- betting premises, including tracks and adult gaming centres
- family entertainment centres (licensed and unlicensed)
- club gaming permits.
- club machine permits.
- alcohol licensed premises gaming machine permits / notices
- prize gaming permits.
- occasional use notices.
- temporary use notices; and
- registrations of small society lotteries

2.4 The Council is aware that when exercising its functions in relation to premises licensing, it should aim to permit the use of premises for gambling, in so far as it thinks it is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission (the “codes of practice”)
- In accordance with any relevant Regulations and Guidance
- Reasonably consistent with the Licensing Objectives and
- In accordance with this Policy Statement.

2.5 “Gambling” is defined in the Act as either gaming, betting, or taking part in a lottery:

- Gaming means a game of chance for a prize
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event: the likelihood of something occurring or not occurring or whether something is true or not.
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated wholly or partly on chance.

2.6 The Gambling Commission is responsible for issuing personal licences to individuals and operators. This aspect falls outside of the remit of the council as the Licensing Authority and as such, does not form a significant part of this Statement of Gambling Policy.

2.7 Crawley Borough Council is situated in the County of West Sussex, which contains seven District councils and one County council in total. The Council area has a population of approximately 118,500 (2021 census) making it the second largest in the County in terms of population. In terms of area, it is the second smallest, covering 17.36 square miles, and comprises of 14 neighbourhoods. A map of the Crawley Borough is contained at Appendix A.

2.8 In order to fully appreciate the need to ensure proper and effective operation and regulation of gambling activities, it is crucial to fully understand the definition of ‘harmful gambling’. Harmful gambling is defined as any type of repetitive gambling that disrupts or damages personal, family, or recreational pursuits. It is not just the gamblers themselves who experience these harms; individuals, families and communities are all affected.

- 2.9 Research published by Citizens Advice suggests that, for every problem gambler, there are on average between six to ten additional people who are also directly affected. Harmful gambling can cause a wide variety of health and social issues, such as alcohol and drug misuse, financial difficulties, mental health issues, loss of employment, domestic abuse, and family breakdown. This Licensing Authority therefore expects those responsible for or involved in providing gambling activities to be suitably trained in respect of safer gambling. This includes matters such as suicide prevention, problem gambling awareness and signposting to appropriate support services.
- 2.10 Authorities are required under the Act to publish a 'Statement of Principles' which they propose to apply when exercising their functions. This Statement must be published at least every three years, although can be reviewed and revised at any time following consultation with those bodies and persons set out in Section 349(3) of the Act.
- 2.11 This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for:
- premises licenses (Casinos, Bingo Premises, Betting Premises)
 - temporary use notices;
 - occasional use notices;
 - permits as required under the Act; and
 - registrations as required under the Act.
- 2.12 Crawley Borough Council consulted widely upon this Statement before it was finalised and published, and includes:
- Crawley Community Safety Partnership
 - Public Health Body
 - Persons and businesses likely to be affected by authorised gambling within the Borough
- 2.13 Section 349 of the Act requires that the following parties are specifically consulted:
- The Chief Officer of Police;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
 - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.
- 2.14 The consultation took place between 12 noon Monday 21st August 2022 - 12 noon on Monday, October 17th 2022. A list of those persons who were consulted is provided at **Appendix D**.

2.15 The full list of comments made and the consideration by the Authority of those comments is available by request to the Team Leader, Health Safety and Licensing licensing@ Crawley.gov.uk

2.16 The Statement was approved at a meeting of Full Council on ***** and was published via our website on *****. The Statement has effect from XXXXXXxXX.

2.17 It should be noted that this Statement will not Nothing in this 'Statement of Policy' will:

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

2.18 The Council will look to grant applications without conditions unless it is considered conditions are needed to meet the requirements of the Licensing Objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the 'risks' involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

2.19 All applicants for premises licences will be required to set out how they will promote the Licensing Objectives, and what measures they intend to employ to ensure compliance with these Objectives.

2.20 When determining an application to grant, vary a premises licence or whether to review a premises licence, regard will be given to matters including the proximity of the premises to schools, vulnerable adult centres, or hostels, or to residential areas with a high concentration of families with children.

2.21 Regard will also be given and consideration upon the size and scope of the gambling premises concerned. Each case will be determined on its merits.

2.22 Therefore, if an applicant can effectively demonstrate how they might overcome Licensing Objective concerns, this will be taken into account.

2.23 Licensing is about the control and regulation of licensed premises, where Temporary Use Notices or Occasional Use Notices are in place and are operated within the terms of the Act. Conditions may be attached to licences as considered appropriate.

2.24 When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed

premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may, by regulation, provide for specific conditions to be attached to a Premises Licence as either “mandatory” or “default” conditions. In determining an application, the Licensing Authority may not have regard to the expected demand for the facilities which it is proposed to provide.

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

- planning controls;
- ongoing measures to create a safe and clean environment in these areas in partnership
- with local businesses, transport operators and other council departments;
- regular liaison with the police on law enforcement issues regarding disorder and anti-social behaviour;
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence.

2.26 Those making representations will be required to relate their objection to one or more of the Licensing Objectives before the Licensing Authority will be able to consider it. Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premises under consideration, puts themselves forward as representing the interests of residents in the vicinity, the Licensing Authority will normally ask them to provide written evidence that they are acting as representatives of others.

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

3. DECLARATION

3.1 In producing the final Statement, this Council declares that it has had regard to the Gambling Act 2005, the Licensing Objectives, Regulations, and the Guidance issued to Licensing Authorities by the Commission, and any responses from those consulted on the draft Statement.

4. LOCAL RISK ASSESSMENTS

4.1 The Gambling Commission’s Licence Conditions and Codes of Practice requires those who hold an Operating Licence granted by the Gambling Commission to assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures, and control measures to mitigate those risks.

- 4.2 Whilst there is no statutory requirement to share local risk assessments with responsible authorities or interested parties, this Authority is aware that ordinary code provision 10.1.2 issued by the Commission to all operators to whom they have granted an Operator's Licence states that:

'1 Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.'

- 4.3 In addition to the above, this Council expects that a copy of the current risk assessment will always be kept and made available upon request at each premises. This approach saves considerable time and expense for all parties as well as increases the confidence of responsible authorities as to the operator's awareness of their obligations.

5. LOCAL AREA PROFILE & POLICIES

- 5.1 A Council may find it useful to complete their own assessment of the local environment as a means of 'mapping out' the key characteristics of the local area. Such an assessment is referred to as a 'Local Area Profile'. There is however no statutory requirement on a Council to undertake such an assessment.

- 5.2 This Council has previously carefully considered whether it is necessary to undertake an assessment of the Crawley Borough. At the current time, the Council is not proposing to undertake an assessment for the following reasons:

- Since the Act came into effect, only a very small number of complaints/concerns regarding gambling matters have ever been received by the Authority. None of the subsequent investigations have necessitated the Authority to instigate formal action;
- No issues or concerns have ever been brought to the attention of this Authority by organisations (e.g., Citizens Advice) who represent children or other individuals who may be harmed or exploited by gambling; and
- Due to market forces, the number of premises benefitting from Premises Licences has remained fairly consistent without concerns being raised that a particular area becoming saturated by licensed premises. However, in respect of the Town Centre, this is being carefully monitored.

- 5.3 Naturally the matter of completing a Local Area Profile will be kept under review and a suitable assessment will be undertaken if it is determined as necessary. If the Authority undertakes an assessment, it will:

- Take into account a wide range of factors, data and information held by both the authority itself and other partners; and
- Proactively engage with responsible authorities as well as other organisations in the area that can give 'input' to map local risks in their

area. This would include public health, mental health, housing, education, community welfare groups and safety partnerships along with organisations such as Gamcare or equivalent local organisations.

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

- The Council's Corporate Strategy and Plan;
- Community Safety Strategy and Plan;
- The Sustainable Community Strategy;
- General Enforcement Policy within Public Protection and Community Services;
- Business Improvement Districts (BID);
- Licensing Policy Statement (Licensing Act 2003.)

6. RESPONSIBLE AUTHORITIES

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

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

6.2 Crawley Borough Council, as the Licensing Authority, designates the Children's Safeguarding Unit as the competent authority to provide advice on the protection of children from harm.

6.3 The Children's Safeguarding Unit (formerly the Child Protection Agency) is the West Sussex County Council Social Services' child protection unit and operates throughout the county of West Sussex, covering the Borough of Crawley and has the specialist knowledge and expertise to fulfil this role. The Council formally designates the West Sussex Safeguarding Children Partnership as the body competent to advise it about the protection of children from harm.

6.4 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at [INSERT LINK](#) and are also shown at **Appendix C**.

7. INTERESTED PARTIES

7.1 Interested Parties can make representations about licence applications or apply for a review of an existing licence. These parties are defined in Section 158 of the Act as follows:

“For the purposes of this Part a person is an Interested Party in relation to a Premises Licence or in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority which issues the Licence or to which the application is made, the person -

(a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities,

(b) Has business interests that might be affected by the authorised activities, or

(c) Represents persons who satisfy paragraph (a) or (b).”

- 7.2 The Council is required by Regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an Interested Party. The principles are that each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Guidance at Paragraphs 8.12 to 8.17 inclusive. It will also consider Paragraph 6.21 of the Guidance that *“have business interests”* should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 7.3 For the purposes of Section 158(c) of the Act, “interested parties” includes persons who are democratically elected such as Councillors and MPs, as representing individuals who meet the criteria defined in Section 158(a) or Section 158(b) of the Act. Other representatives include bodies such as trade associations, along with residents’ and tenants’ associations. A school head or governor might also act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to a proposed premises.
- 7.4 Where an individual claims to represent a body or an individual, written confirmation of this will be required to demonstrate who and what is being represented, This Council will generally require written evidence that a person/body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities.
- 7.5 The Council will normally only consider representations where they relate to the Act and Licensing Objectives, the Codes of Practice, or the Statement of Principles. Any representations which are considered to be inadmissible, irrelevant, frivolous, or vexatious will not influence the council’s determination of matters.
- 7.6 Anyone making a representation should note that their details will be made available to the applicant. This is to allow for negotiation and in the interests of fairness. In the event of a hearing, representations and associated details will be included as part of a public document.

8. EXCHANGE OF INFORMATION

- 8.1 Authorities are required to include in their Statements the principles to be applied by the Authority in exercising the functions under Sections 29 and 30 of the Act with respect to the exchange of information between it and the Commission, and the functions under Section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 8.2 In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the council will conform to the requirements of the Gambling Act, data protection and freedom of information legislation in accordance with the Council's existing policies.
- 8.3 Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representation or applying for a review of a premises licence should be aware these details will be disclosed.
- 8.4 The Council will act in accordance with the provisions of the Act in its exchange of information which includes the General Data Protection Regulations (GDPR) and the Data Protection Act 2018. The Licensing Authority will have regard to any relevant Codes of Conduct, Guidance and Regulations issued by the Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 8.5 Administered by the Office for Product Safety and Standards, the 'Primary Authority' scheme provides for a statutory partnership to be formed between a business and a single authority, e.g., a local authority. That single authority, the Primary Authority, can provide a national inspection strategy within which other local regulators can operate, to improve the effectiveness of visits by local regulators and enable better sharing of information between them. The Primary Authority scheme therefore aims to ensure that local regulation is consistent at a national level.
- 8.6 Since October 2013, the Primary Authority scheme was extended to include age-restricted sales of gambling, although does not apply to any other aspect of the Act. This means local authorities in England and Wales must follow any age restricted sales of gambling national inspection plans and strategies that are published on the Primary Authority register when considering proactive age restricted sales (gambling) activity including testing. Primary Authority plans do not prohibit authorities undertaking reactive test purchasing.
- 8.7 This Authority recognises the value and importance of the Primary Authority

scheme and as is required, will engage with Primary Authorities where and when necessary.

9. ENFORCEMENT

- 9.1 Councils are required by regulations under the Act to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified. Regard will also be had in relation to any Guidance issued under the Act.
- 9.2 The Council is a signatory to the Regulators' Code and will follow the principles set out in it as follows:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open and keep regulations simple and user friendly.
- 9.3 The Regulators' Code proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence such as failing to maintain certain records may be dealt with purely by way of a written warning. More serious offences or repeated offences that have been committed over a period of time may result in referral to a licensing sub- committee, the issue of a Formal Caution or a referral for prosecution.
- 9.4 Premises may be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed by the premises i.e., those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk
- 9.5 When determining risk, consideration will be given to:
1. the nature of the gambling activities carried out on the premises;
 2. the location of the premises in relation to schools etc;
 3. the procedures put in place by the management to meet the Licensing Objectives.
- 9.6 Additional random monitoring visits may be made, at the discretion of the Councils Licensing Team, where it is considered necessary to meet the needs of the Licensing Objectives or following receipt of complaint. The Borough will also be monitored for unlicensed premises.

- 9.7 The Council will seek to work actively with the Gambling Commission and Police in enforcing the Act and associated legislation. It encourages the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998.
- 9.8 When considering enforcement action, the Council will consider each case on its own facts and merits and in accordance with its enforcement policy.
- 9.9 As the Guidance requires, this Council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 9.10 This Council has adopted and implemented a risk-based inspection programme, based on;
- The Licensing Objectives;
 - Relevant Codes of Practice;
 - Guidance issued by the Commission, in particular at Part 36; and
 - The principles set out in this Policy Statement.
- 9.11 The main enforcement and compliance role for this Authority in terms of the Act is to ensure compliance with the requirements of the Premises Licences and other permissions which it authorises. The Commission is the enforcement body for the Operating and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Authority but should be notified to the Commission.
- 9.12 This Authority also keeps itself informed of developments as regards the work of the Office for Product Safety and Standards in its consideration of the regulatory functions of Local Authorities.

10. THE COUNCIL AS LICENSING AUTHORITY FUNCTIONS & DECISION MAKING

- 10.1 The Council will be involved in a wide range of licensing decisions and functions. Councils are required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
 - Issue Provisional Statements;
 - Regulate Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
 - Issue Club Machine Permits to Commercial Clubs;
 - Grant permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres;
 - Receive notifications from any person(s) or entity that holds an appropriate Premises Licence granted under the Licensing Act 2003, in order that a maximum of two gaming machines may be made available.

The Premises Licence must include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that alcohol is served only with food;

- Issue Licensed Premises Gaming Machine Permits to any person(s) or entity that holds an appropriate Premises Licence granted under the Licensing Act 2003 in order that three or more gaming machines may be made available. Again, the Premises Licence must include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that alcohol is served only with food;
- Register Non-Commercial Societies in order that they can operate Small Society Lotteries within prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Commission regarding details of Licences issued (see Section above on 'Information Exchange'); and
- Maintain registers of the Permits and Licences that are issued under these functions.
- Enforce legislation in relation to its functions.

10.3 It should be noted that Councils are not involved in licensing remote gambling at all, as this is regulated by the Commission via Operating Licences

10.4 An application for a premises licence under the Act can only be made by a person who either holds an operating licence which authorises the activity in respect of which a premises licence is sought OR has made an application for an operating licence which has not been determined.

10.5 Applications for the grant, transfer or variation of a premises licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule.

10.6 Appreciating the need to provide a speedy, efficient, and cost-effective service to all parties involved in the licensing process, the Licensing Committee (Gambling Act Matters) has delegated certain decisions and functions to both Sub Committees of trained Councillors and has also delegated certain matters to Officers.

10.7 Many of the decisions and functions will be purely administrative in nature and the grant of non- contentious applications, including for example, those licences and permits where no representations have been made, have been delegated to Council Officers. The Council's Licensing Team will deal with all other licence applications where either no representations have been received, or where representations have been received and it is agreed by the

parties that a hearing is not necessary. The Table shown at Appendix B sets out the agreed delegation of decisions and functions to Licensing Committee, sub-committees, and Officers.

- 10.8 Decisions as to whether representations are irrelevant, frivolous, or vexatious will be made by the Council's Team Leader for Health, Safety and Licensing. This Officer will make the decisions on whether representations, other decisions under the Act, or applications for licence reviews should be referred to a licensing sub-committee established to determine matters under the Act or to the Licensing Committee charged with determining matters under the Act.
- 10.9 Where representations are rejected, the person making that representation will be given written reasons as to why that is the case.
- 10.10 This form of delegation is without prejudice to officers referring an application to a sub-committee, or to the Licensing Committee, or to Full Council, if considered appropriate in the circumstances of any particular case.
- 10.11 A hearing may be required to attach or exclude conditions to a licence unless the applicant waives their right to a hearing.
- 10.12 When determining an application, the council cannot take into account:
 - a. the likelihood of an applicant obtaining planning permission or building regulations;
 - b. the expected demand for facilities;
 - c. irrelevant matters which are not related to gambling or the licensing objectives;
 - d. moral objections or nuisance.
- 10.11 A Licensing Sub-Committee comprised of three councillors of the Licensing Committee who will sit to determine applications where representations have been received from Interested Parties and Responsible Authorities. Ward councillors will not sit on a sub-committee involving an application within their ward.
- 10.12 The Licensing Committee will also sit to determine general licensing matters that have been delegated.
- 10.13 Where a councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from

any involvement in the decision-making process affecting the licence in question.

- 10.14 The Licensing Sub-Committee will also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it under the Act.
- 10.15 The Licensing Committee will refer to the Full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.
- 10.16 Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied with clear reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the council's website as soon as possible after the decision has been confirmed, where it will form part of the Licensing Register required to be kept by the Council.
- 10.17 The Council will not be involved in the licensing of remote gambling as this falls under operating licence, regulated by the Gambling Commission as are personal licences for individuals. Spread betting is regulated by the Financial Services Authority, The National Lottery is regulated by the National Lottery Commission.

PART B

PREMISES LICENCES - CONSIDERATION OF APPLICATIONS

11. General Principles

- 11.1 Premises Licences are subject to the requirements set-out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Councils are able to exclude default conditions and also attach others, where it is believed to be appropriate and necessary to do so.

(i) Decision-making

- 11.2 This Authority is aware that in making decisions about Premises Licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- In accordance with any relevant Code of Practice issued by the Commission;
- In accordance with any relevant Guidance issued by the Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with this Statement.

- 11.3 The Authority recognises that Paragraph 5.34 of the Guidance states that *"moral or ethical objections to gambling are not a valid reason to reject applications for Premises Licences (with the exception of the casino resolution powers)." - see Section 13 on Casinos – and that Paragraph 5.22 further states that "s.153 makes it clear that in deciding whether or not to grant a licence, a Licensing Authority must not have regard to the expected demand for gambling premises that are the subject of the application."*

(ii) Definition of "premises"

- 11.4 In Section 353(1) of the Act, *"premises"* is defined as including *"any place and in particular – (a) a vessel, and (b) a vehicle"*. Section 152 of the Act states that a Premises Licence *"may not be issued in respect of premises if a premises licence already has effect in relation to the premises"*. However, a single building could be subject to more than one Premises Licence, provided they are for different parts of the building and these parts can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track, or shopping mall to obtain discrete Premises Licences, where appropriate safeguards are in place. When considering applications, this Authority is aware of the need to pay particular attention regarding sub-division of a single building or plot so as to ensure that the mandatory conditions relating to access between premises are or would be complied with.

- 11.5 The Guidance states at Paragraph 7.6 that: *"In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean 32 High Street cannot be the*

subject of separate premises licences for the basement and ground floor if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the Licensing Authority.” Further paragraph 7.7 states that “The Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a Licensing Authority should request a plan of the venue on which the premises should be identified as a separate unit”.

- 11.6 This Council takes particular note of Paragraph 7.26 the Guidance which states that:

“Licensing Authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

- 11.7 At Paragraph 7.33 of the Guidance, factors which may assist the Authority in determining whether two premises are truly separate have been provided these include:

- Is a separate registration for business rates in place for the premises?*
- Is the premises’ neighbouring premises owned by the same person or someone else?*
- Can each of the premises be accessed from the street or a public passageway?*
- Can the premises only be accessed from any other gambling premises?*

- 11.8 This Authority will consider the above and any other relevant factors in making its decision, depending on all the circumstances of the case.

- 11.9 Paragraph 7.23 of the Guidance provides the relevant access provisions for each type of premises, this is reproduced below:

Casinos

- *The principal entrance to the premises must be from a 'street' (as defined at Paragraph 7.21 of the Guidance)*
- *No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons*
- *No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.*

Adult Gaming Centre

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

Betting Shops

- *Access must be from a street (as defined at Paragraph 7.21 of the Guidance) or from other premises with a betting premises licence*
- *No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.*

Tracks

- *No customer must be able to access the premises directly from a casino or adult gaming centre.*

Bingo Premises

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

Family Entertainment Centre (Licensed)

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

Part 7 of the Guidance contains further advice on this issue, which this Authority will also carefully take into account in its decision-making.

(iii) Premises “ready for gambling”

- 11.10 The Guidance states at Paragraph 7.58 that “a licence to use premises for

gambling should only be issued in relation to premises that the Licensing Authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.”

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

11.12 In deciding whether a Premises Licence can be granted where there are outstanding construction or alteration works at a premises, this Authority will determine applications on their merits, applying the following two stage consideration process in accordance with Paragraph 7.59 of the Guidance:

- Whether, as a matter of substance after applying the principles in Section 153 of the Act, 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.

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

11.14 More detailed examples of the circumstances in which such a licence may be granted can be found within the Guidance at Paragraphs 7.58-7.65 inclusive.

(iv) Location

11.15 This Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As detailed in the Guidance, this Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Each application will be decided on its merits.

11.16 When determining an application to grant or vary a premises licence or whether to review a premises licence, regard will be taken as to the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children. The proximity of premises etc. taken into consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits.

11.17 With regard to these objectives, it is the Licensing Authority, upon receipt of any relevant representations, to look at specific location issues including:

- the possible impact a gambling premises may have on any premises that

provide services to children or young people, i.e. a school, or vulnerable adult centres in the area;

- the possible impact a gambling premises may have on residential areas; where there may be a high concentration of families with children;
- the size of the premises and the nature of the activities taking place;
- any levels of organised crime in the area.

11.18 The Council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the Licensing Objectives.

11.19 Since 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the Licensing Objectives posed by the provision of gambling facilities at their premises. They must have policies, procedures, and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this Statement of Principles.

11.20 The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

1. To take account of significant changes in local circumstance, including those identified in this policy;
2. When there are significant changes at a licensee's premises that may affect their mitigation of local risks;
3. When applying for a variation of a premises licence; and
4. In any case, undertake a local risk assessment when applying for a new premise licence.

11.21 The Council will expect the local risk assessment to consider as a minimum:

- Whether the premises is in an area subject to high levels of crime and/or disorder;
- The demographics of the area in relation to vulnerable groups;
- The location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children are likely to gather.

11.22 In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

11.23 Other matters that the assessment may include:

- the training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how

- the manning of premises affects this.
- details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- the layout of the premises so that staff have an unobstructed view of persons using the premises.
- the number of staff that will be available on the premises at any one time.
- if at any time the number of staff available on the premises is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.

(v) Planning

- 11.24 The Guidance states at Paragraph 7.58 that *“In determining applications, the Licensing Authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.”* This Council will therefore only take into account matters that are relevant to gambling and the Licensing Objectives,
- 11.25 In addition, this Council notes the Guidance at Paragraph 7.65 which states that *“When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”*

(vi) Duplication with other regulatory regimes

- 11.26 This Council seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This Authority will therefore not consider whether a premises subject of a licence application is likely to be awarded planning permission or building regulations approval.
- 11.27 When dealing with a Premises Licence application for finished buildings, this Council will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings/ other regulations and must not form part of the consideration for the Premises Licence.
- 11.28 In considering applications, and taking enforcement action, this Authority is

bound by other legislation as listed below, but is not intended to duplicate existing law and regulatory regimes that already place obligations on employers and operators, including:

- Section 17 of the Crime and Disorder Act 1998;
- Human Rights Act 1998;
- Health and Safety at Work etc. Act 1974;
- Environmental Protection Act 1990;
- Anti-Social Behaviour, Crime and Policing Act 2014
- Equality Act 2010;
- General Data Protection Regulations (GDPR) 2018.

DRAFT CBC POLICY

12. Licensing Objectives & Actions to Promote

- 12.1 Premises Licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Council has considered the Guidance and some comments are made below.

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

- 12.2 The Gambling Commission takes a leading role in preventing gambling from being a source of crime. In its Guidance for local authorities, has noted that “disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.”
- 12.3 The Council agrees with this statement The Council will, when determining applications, consider whether the grant of a premises licence in a particular location is likely to result in an increase in crime and disorder.
- 12.4 In considering licence applications, the council will particularly take into account the following:
1. the design and layout of the permit the training given to staff in crime prevention measures appropriate to those premises;
 2. physical security features installed in the premises. this may include matters such as the position of cash registers or the standard of Close Circuit Television (CCTV) that is installed;
 3. where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
 4. the likelihood of any violence, public order, or policing problem if the licence is granted.
- 12.5.1 Equally it will carefully consider whether control measures by way of conditions are appropriate to prevent the premises from being associated with or used to support crime and disorder, such as the provision of Security Industry Authority (SIA) Door Supervisors, controlled entry systems. The Council will also take into consideration the content of any risk assessments conducted by the Operator.

Ensuring that gambling is conducted in a fair and open way

- 12.5.2 This Council has noted that the Commission states at Paragraph 5.11 that it generally “*would not expect Licensing Authorities to find themselves dealing with issues of fairness and openness frequently. Fairness and openness is likely to be a matter for either the way specific gambling products are provided and therefore subject to the operating licence, or will be in relation to the*

suitability and actions of an individual and therefore subject to the personal licence”.

- 12.6 This will normally be a matter for either the operator and/or management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual who holds a personal licence under the Act. Both of which are the responsibility of the Gambling Commission, however if this Council suspects that gambling is not being conducted in a fair and open way, it will liaise with the Gambling Commission.

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

- 12.7 With limited exceptions, the access of children and young persons to those gambling premises, which are adult only environments, will not be permitted. The Council will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 12.8 The Council will consult with the Local Children Safeguarding Unit and / or Sussex Police on any application that indicates there may be concerns over access for children or vulnerable persons.
- 12.9 The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This Council will also consider specific measures which may be required for buildings which are subject to multiple Premises Licences and uses. This may include such requirements as:
1. Supervision of entrances;
 2. Segregation of gambling areas from areas frequented by children;
 3. Supervision of gaming machines in non-adult gambling specific premises and where adult gambling is available.
- 12.10 In accordance with Guidance, consideration will be given as to whether staff will be able to adequately supervise gambling premises, as adequate staffing is a factor to consider regarding the prevention of underage gaming. This Council will work together with operators to consider how any impediments to the supervision of premises might be most appropriately remedied. Supervision also applies to premises that are themselves not age-restricted (e.g. bingo and family entertainment centres) but which make gambling products and facilities available,
- 12.11 Where the Council considers the structure or layout to be an inhibition or potential inhibition to satisfying the Licensing Objective, the Council will expect the applicant/licensee to consider what changes are required to ensure the risk is mitigated. Changes might include the positioning of CCTV/staff, the use of floor-walkers and/or determining a suitable location for the staff counter so

as to ensure direct line of sight and/or segregation of facilities as listed above.

12.12 As regards the term “*vulnerable persons*” it is noted that the Commission does not seek to offer a definition but states at Paragraph 5.17 that “*it does for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health needs, a learning disability or substance misuse relating to alcohol or drugs*”.

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

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

Conditions

12.14. Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The council will principally draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case as a means to comply with the Act and promote the Licensing Objectives.

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

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

12.16. This Council notes that the mandatory and default conditions which attach to certain Premises Licences are set with the intention that it is ordinarily expected that no further regulation in relation to the matters that are being controlled will be required. This Authority will only consider doing so where there are regulatory concerns of an exceptional nature, and any additional licence conditions must relate to the Licensing Objectives.

12.17. Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Authority will consider utilising should there be a perceived need, such as the use of CCTV, qualified door supervisors, appropriate signage for adult only areas etc.

- 12.18. There are specific comments made in this regard under some of the licence types below. It is also for applicants for Premises Licences to offer their own suggestions as to ways in which the Licensing Objectives can be effectively met.
- 12.19. This Council will also ensure that where Category C or above gaming machines are on offer in premises to which children are admitted that:
- 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 the area where these machines are located;
 - Access to the area where the machines are located is supervised;
 - The area where these machines are located is arranged so that it can be observed by the staff or the holder of the licence; and
 - At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 12.20. These considerations will also apply to premises including buildings where multiple Premises Licences are applicable.
- 12.21. This Council is aware that Tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. As per the Guidance, this Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 12.22. It is noted that there are conditions which the Council cannot attach to Premises Licences which are:
- Any condition on the Premises Licence which makes it impossible to comply with an Operating Licence condition;
 - Conditions relating to gaming machine categories, numbers, or method of operation;
 - Conditions which provide that membership of a Club or body be required (the Act specifically removes the membership requirement for Casino and Bingo Clubs and this provision prevents it being reinstated); and
 - Conditions in relation to stakes, fees, winning or prizes.

Door Supervisors

- 12.23. This Council recognises Paragraph 33.1 of the Guidance where it states that *“If a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access, for example by children and young persons, then it may require that the entrances to the premises are controlled by a door supervisor. The licensing authority is able to impose a condition on the premises licence to this effect.”*

12.24 Where it is decided that supervision of entrances/machines is appropriate for particular cases, this Council will consider whether these need to be licensed by the Security Industry Authority or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary. This is supported by the Guidance at Part 33.

12.25 The Council will make an SIA Door Supervisor requirement if there is clear evidence that the premises cannot be adequately supervised and that supervision is necessary and appropriate to promote the licensing objectives.

13. Adult Gaming Centres

13.1 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect applicants to satisfy the Authority that there will be sufficient measures to, for example, ensure that persons under 18 years do not have access to the premises.

13.2 The Council may consider measures to meet the Licensing Objectives such as:

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

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

14. (Licensed) Family Entertainment Centres

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

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

- CCTV;
- Supervision of entrances/machine areas;

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

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

- 14.3 This Authority will seek to establish, so far as is reasonably possible, the extent to which any conditions attached to an Operating Licence controls the way in which the area containing the Category C gaming machines should be delineated.

15. Casinos

- 15.1 Section 7 (1) of the Act states that ‘a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games’. Casino games are defined by the Act to mean a game of chance which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants. Examples of casino games include roulette, blackjack, punto banco, three card poker and dice.
- 15.2 This Council has not passed a “no resolution” to prohibit the application and operation of casinos in the Borough at present. However, the Council reserves its right to review this situation and may at some time in the future, resolve not to permit casinos.
- 15.3 Should the Council choose to make such a resolution; this will be a resolution of Full council following considered debate and the reasons for making the resolution will be given. Despite this resolution, the situation nationally remains unaltered in that only the Councils that historically bid for and were successful in being granted permission to grant either a ‘large’ or ‘small’ casino licence, may do so. This Authority historically determined not to bid for such permission, but this is under review.

16. Bingo

- 16.1 This Council notes the following paragraphs of the Guidance:

Paragraph 18.5 – *“Licensing Authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed*

area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating a separate premises in that area. Before issuing additional premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.”

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

17. Betting Premises

- 17.1 *Self-Service Betting Terminals (SSBTs)* – Section 181 contains an express power for Authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. In accordance with the Guidance at Paragraph 19.9, when considering the number/nature/circumstances of SSBTs an operator wants to offer, the Council 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 the machines by children and young persons (it is an offence for persons under 18 to bet) or by vulnerable people.

18. Tracks

- 18.1 This Council is aware that Tracks may be subject to one or more Premises Licences, provided each licence relates to a specified area of the track. This Authority notes that Guidance and confirms that it will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 18.2 It is the applicant for a Track Premises Licence to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than Category D machines) are provided.
- 18.3 This Council may consider measures to meet the Licensing Objectives such as:
- Proof of age schemes;
 - CCTV;
 - Supervision of entrances/machine areas;
 - Physical separation of areas;
 - Location of entry;

- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes; and
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

- 18.4 *Gaming machines* - Where the applicant holds a Pool Betting Operating Licence (this is granted by the Commission) and is going to use the entitlement to four gaming machines, machines (other than Category D) should be located in areas from which children are excluded.

Applications and plans - Tracks

- 18.5 As part of an application for a Track Premises Licence, applicants are required to submit plans of the premises. As the Guidance states at Paragraph 20.43, *“This ensures that licensing authorities have the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan also informs future premises inspection activity.”*
- 18.6 The Council also notes Paragraphs 20.44 of the Guidance which states that:
- “Plans for tracks need not be in a particular scale but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.”*
- 18.7 The Council shares the Commission’s appreciation at Paragraph 20.46 of the Guidance that *“It is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Licensing Authorities should satisfy themselves that the plan provides sufficient information to enable them to assess an application.”*

19. Travelling Fairs

- 19.1 Without requiring any form of authorisation under the Act, travelling fairs may provide an unlimited number of Category D gaming machines and/or equal chance prize, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.
- 19.2 The Council will consider whether the travelling fair falls within the statutory definition. The Act defines a travelling fair as *“wholly or principally”* providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.
- 19.3 It is noted that the 27-day statutory maximum for land being used as a fair

applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. So far as is reasonably practicable, this Authority will monitor the use of land and will work with its neighbouring Authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

20. Provisional Statements

- 20.1 Developers may wish to apply to this Authority for Provisional Statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a Premises Licence. There is no need for the applicant to hold an Operating Licence in order to apply for a Provisional Statement.
- 20.2 Section 204 of the Act provides for a person to make an application to the Authority for a Provisional Statement in respect of premises that they:
- (a) Expect to be constructed;
 - (b) Expect to be altered; or
 - (c) Expect to acquire a right to occupy.
- 20.3 The process for considering an application for a Provisional Statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as applying for a Premises Licence. Responsible Authorities and Interested Parties may make representations and there are rights of appeal.
- 20.4 In contrast to the Premises Licence application, the applicant does not have to hold, or have applied for, an Operating Licence from the Commission and they do not have to have a right to occupy the premises in respect of which their application for a Provisional Statement is made.
- 20.5 The holder of a Provisional Statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The Authority will be constrained in the matters it can consider when determining the Premises Licence application, and in terms of representations about Premises Licence applications that follow the grant of a Provisional Statement, no further representations from relevant Responsible Authorities or Interested Parties can be taken into account unless:
- They concern matters which could not have been addressed at the Provisional Statement stage, or
 - They reflect a change in the applicant's circumstances.
- 20.6 In addition, the Council may refuse the Premises Licence (or grant it on terms different to those attached to the Provisional Statement) only by reference to matters:
- Which could not have been raised by way of representations at the

- Provisional Statement stage;
- Which, in the Council's opinion, reflect a change in the Operator's circumstances; or
- Where the premises has not been constructed in accordance with the plan and information submitted with the Provisional Statement application. This must be a substantial change to the plan and this Authority would discuss any concerns it has with the applicant before making a decision.

21. Betting Machines

- 21.1 While the Council has authority as to the number, nature, and circumstances of use of betting machines, it will consider limiting the number where there is clear evidence that such machines have been or are likely to be used in breach in the Licensing Objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines.

22. Reviews

- 22.1 Requests for a review of a Premises Licence can be made by Responsible Authorities or Interested Parties; however, it is for the Council to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
- In accordance with any relevant Code of Practice issued by the Commission;
 - In accordance with any relevant Guidance issued by the Commission;
 - Reasonably consistent with the licensing objectives; and
 - In accordance with this Statement.
- 22.2 The request for the review will also be subject to the consideration by the Council as to whether the request is frivolous, vexatious, irrelevant, repetitious or whether it will certainly not cause this Council to wish to alter/revoke/suspend/remove the Licence, or whether it is substantially the same as previous representations or requests for review.
- 22.3 The Council can also initiate a review of a particular Premises Licence, or a particular class of Premises Licence on the basis of any reason which it thinks is appropriate.
- 22.4 The Council will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may be that activities, including the following, are taking place:
- a. use of licensed premises for the sale and distribution of class a drugs and the laundering of the proceeds of drugs crimes;
 - b. use of licensed premises for the sale and distribution of illegal firearms;

- c. use of licensed premises for prostitution or the sale of unlawful pornography;
 - d. use of licensed premises as a base for organised criminal activity;
 - e. use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
 - f. use of licensed premises for the sale of smuggled tobacco or goods;
 - g. the use of licensed premises for the sale of stolen goods;
 - h. children and/or vulnerable persons are put at risk.
- 22.4 Once a valid application for a review has been received by the Authority, representations can be made by Responsible Authorities and Interested Parties during a 28 day period. This period begins 7 days after the application was received by the Authority, who will publish notice of the application within 7 days of receipt.
- 22.5 The Council must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 22.6 The purpose of the review will be to determine whether the Authority should take any action in relation to the Licence. If action is justified, the options open to the Authority are:-
- (a) Add, remove or amend a Licence condition imposed by the ;
 - (b) Exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
 - (c) Suspend the Premises Licence for a period not exceeding three months; and
 - (d) Revoke the Premises Licence.
- 22.7 In determining what action, if any, should be taken following a review, the Authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.
- 22.8 In particular, the Council as Licensing Authority may also initiate a review of a Premises Licence on the grounds that a holder of a Premises Licence has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 22.9 Once the review has been completed, the Authority must, as soon as possible, notify its decision to:
- The holder of the premises licence;
 - The applicant for review (if any);
 - The Gambling Commission;
 - Any person who made representations;
 - The Chief Officer of Police or Chief Constable; and
 - Her Majesty's Commissioners for Revenue and Customs

PART C

Permits / Temporary & Occasional Use Notice

- 23. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of principles on Permits – Section 247 of the Act and Schedule 10 Paragraph 7)**
- 23.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Council as Licensing Authority for this Permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use in accordance with the requirements of Section 238 of the Act.
- 23.2 Schedule 10, Paragraph 7 of the Act states that an Authority may *“prepare a statement of principles that they propose to apply”* in determining the suitability of an applicant for a Permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25 of the Act. The Guidance also states at Paragraph 24.8 *“In its Statement of Policy, a Licensing Authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for Permits..... Licensing Authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group.”*
- 23.3 Guidance also states at Paragraph 24.9 that *“An application for a Permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an Unlicensed Family Entertainment Centre, and if the Chief Officer of Police has been consulted on the application....Licensing Authorities may also consider asking applicants to demonstrate:*
- *A full understanding of the maximum stakes and prizes of the gambling that is permissible in Unlicensed Family Entertainment Centres;*
 - *That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and*
 - *That employees are trained to have a full understanding of the maximum stakes and prizes.”*
- 23.4 It should be noted that a Council cannot attach conditions to this type of Permit.
- 23.5 Statement of principles – The Council will expect applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include
- Appropriate measures/training for staff as regards suspected truant school children on the premises

- Measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

23.6 In accordance with Guidance, the Council expects that applicants to be able to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- That the applicant has no relevant convictions as are set out in Schedule 7 of the Act
- Staff are trained to have a full understanding of the maximum stakes and prizes.
- This Council also expects applicants to provide a plan in support of their application. The plan must clearly show the extent of the boundary or perimeter of the premises and the location at the premises in which the Category D gaming machines will be made available for use in reliance on the Permit. The plans should include entrance/ exit(s), fixed furniture/fittings, location of the various gaming machines and supervisory station(s)).
- Public Liability Insurance certificate for a minimum cover of £10 million.
- Operating schedule outlining how the applicant proposes to promote the Licensing Objectives.
- The applicant (individual or each company director) will provide a recent (within one month of issue) DBS check together with a list of all staff names to be employed at the premises, such a list to be updated following the termination or employment of any new member of staff. a recent (within one month of issue) DBS check will be required for each employee before they take up their relevant post.

23.7 Given that the premises is likely to appeal particularly to children and young persons, the Council as Licensing Authority will give considerable weight to matters relating to the protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group.

- a permit shall cease to have effect at the end of the period of ten years beginning with the date specified unless it ceases to have effect before that time in accordance with legislation, or it is renewed.
- a permit shall lapse if the holder ceases to occupy the premises specified.
- a permit shall not take effect if on the date specified the person to whom the permit is issued is not an occupier of the premises as specified.
- a permit shall lapse if the licensing authority notify the holder that the premises are not being used as a family entertainment centre (premises used wholly or mainly for use of gaming machine not above category d as defined in the act).
- a permit shall lapse if the holder ceases to exist, or goes into liquidation (within the meaning of Section 247(2) of the Insolvency Act 1986).
- a permit shall cease to have effect if the holder gives to the licensing authority notice of surrender, and either the permit, or a statement explaining why it is

not reasonably practicable to produce the permit.

24. (Alcohol) Licensed Premises Gaming Machine Permits & Automatic Entitlement
(Section 283 of the Act and Schedule 13 Paragraph 4(1))
(Section 282 of the Act)

Permit: 3 or more gaming machines

- 24.1 Under Section 283 of the Act, the holder of an appropriate alcohol Premises Licence granted under the Licensing Act 2003 (the Premises Licence must include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that alcohol is served only with food) may apply for a Permit if they wish to make available for use at the premises more than two gaming machines drawn from Category C and/or D. The Council must consider any application for a Permit based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and *“such matters as they think relevant”*.
- 24.2 The Council considers that *“such matters”* will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect applicants to satisfy the Authority that there will be sufficient measures to ensure that persons under 18 years do not have access to the adult only gaming machines. Measures which will satisfy the Council that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 24.3 It is recognised that some alcohol licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an Adult Gaming Centre Premises Licence.
- 24.4 It should be noted that the Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 24.5 It should also be noted that the holder of a Permit must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

Automatic entitlement: Maximum of 2 gaming machines

- 24.6 Under Section 282 of the Act, the holder of an appropriate alcohol Premises Licence granted under the Licensing Act 2003 (the Premises Licence must

include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that alcohol is served only with food) may give notice to the Authority that they wish to take advantage of the automatic entitlement to provide at the premises a maximum of two gaming machines again drawn from either Category C and/or D. There is no application process, however the holder of the Premises Licence is required to formally notify the Council prior to making gaming machines available for use.

24.7 However, the Council can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of Section 282 of the Act, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of the gaming machines;
- The premises are mainly used for gaming; or
- An offence under the Act has been committed on the premises.

24.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine. Alcohol licensed premises are able to provide some equal chance gaming. Licensees are referred to the advice provided by the Gambling Commission in this regard.

24.9 As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare as well as the promotion of a Responsible Gambling Policy and self-exclusion process.

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

24.11 The Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

25. Prize Gaming Permits

25.1 Schedule 14, Paragraph 8(1) of the Act states that an Authority may “*prepare a statement of principles that they propose to apply in exercising their functions under this Schedule*” which “*may, in particular, specify matters that the Licensing Authority proposes to consider in determining the suitability of*

the applicant for a Permit.”

25.2 Statement of principles - This Authority will expect that applicants should set out the types of gaming that they are intending to offer and they should also be able to demonstrate:

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

25.3 In accordance with the provisions of Schedule 14, Paragraph 8(3) of the Act, the Authority, when making its decision on an application for a Permit, does not need to (but may) have regard to the licensing objectives but must have regard to any Guidance issued by the Commission.

25.4 It should be noted that there are conditions in the Act by which the holder of the Permit must comply, but that the Authority cannot attach conditions. The conditions in the Act are:

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

26. Club Gaming and Club Machines Permits

26.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit which authorises an establishment to provide gaming machines as well as equal chance gaming and games of chance as prescribed in regulations, namely pontoon and chemin de fer. Up to a maximum of three gaming machines drawn from categories B3A, B4, C or D maybe provided, but only one B3A machine may be sited as part of this entitlement.

26.2 If a Club does not wish to have the full range of benefits permitted by a Club Gaming Permit or if they are a Commercial Club, then they may apply for a Club Machine Permit. This authorises gaming machines to be provided in accordance with the following requirements:

- Members Clubs and Miners' Welfare Institutes - maximum of three

- gaming machines drawn from categories B3A, B4, C or D. Only one B3A machine may be sited as part of this entitlement.
 - Commercial Clubs - maximum of three gaming machines drawn from categories B4, C or D.
- 26.3 Guidance states at Paragraph 25.4 that *"Members' clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming unless the gaming is restricted to that of a prescribed kind (currently bridge or whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence."*
- 26.4 The Guidance also states at Paragraph 25.38 that *"Licensing Authorities may only refuse an application on the grounds that:*
- (a) The applicant does not fulfil the requirements for a Members' or Commercial Club or Miners' Welfare Institute and therefore is not entitled to receive the type of Permit for which it has applied;*
 - (b) The applicant's premises are used wholly or mainly by children and/or young persons;*
 - (c) An offence under the Act or a breach of a Permit has been committed by the applicant while providing gaming facilities;*
 - (d) A Permit held by the applicant has been cancelled in the previous ten years; or*
 - (e) An objection has been lodged by the Commission or the Police."*
- 26.5 There is also a 'fast-track' procedure available under Schedule 12, Paragraph 10 of the Act in respect of premises which also benefit from a Club Premises Certificate granted under the Licensing Act 2003. As the Guidance states at Paragraphs 25.41 & 25.43, *"Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced."* and *"The grounds on which an application under this process may be refused are that:*
- (a) The Club is established primarily for gaming, other than gaming prescribed by Regulations under Section 266 of the Act;*
 - (b) In addition to the prescribed gaming, the applicant provides facilities for other gaming;*
 - (c) A Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled."*
- 26.6 There are statutory conditions on Club Gaming Permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a Code of Practice about the location and operation of gaming machines.

27. Temporary Use Notices

- 27.1 Temporary Use Notices allow the use of premises for gambling where there is

no Premises Licence in effect, however the holder of an appropriate operating licence wishes to use a premises temporarily for providing facilities for gambling. At Paragraph 14.1 of the Guidance, the Commission have suggested that premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues. Temporary Use Notices are often, but not exclusively, used to run poker tournaments.

27.2 Secondary legislation, The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 sets out the restrictions on the type of gambling to be offered under a Temporary Use Notice. These restrictions are:

- It can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both;
- Gambling under a Temporary Use Notice may only be made available on a maximum of 21 days in any 12-month period for any or all of a named set of premises;
- It can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner;
- Gaming machines may not be made available under a Temporary Use Notice.

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

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

27.5 The Council is likely to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

28. Occasional Use Notices:

28.1 The intention of Occasional Use Notices is to permit licensed betting operators with appropriate permission from the Commission, to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. The Occasional Use Notice must be served by a person who is responsible for administration of events on the track or by an occupier of a track.

28.2 The Council has very little discretion as regards these notices, except for ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Authority will, however, consider the definition of a 'track' and whether

the applicant is permitted to avail him/herself of the notice. A 'track' includes horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place. Land therefore which has a number of uses, one of which fulfils the definition of a track, can qualify for the Occasional Use Notice provisions (for example agricultural land upon which a point-to-point meeting takes place).

- 28.3 Betting operators cannot provide gaming machines at tracks by virtue of an Occasional Use Notice.

29. Complaints

- 29.1 The Council will investigate complaints against licensed premises in relation to matters relating to the Act and the Licensing Objectives for the activities under the Act for which it has responsibility. Other matters will be referred to the Gambling Commission.
- 29.2 However, in the first instance, complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.
- 29.3 Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the council may initially recommend a conciliation meeting to address and clarify the issues of concern.
- 29.4 This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections/representations, or for any licence holder to decline to participate in a conciliation meeting.
- 29.5 Due consideration will be given to all relevant representations unless they are considered to be irrelevant, frivolous, vexatious, or repetitious.

30.0 Further information

- 30.1 Further information about the Gambling Act 2005, this Statement of Gambling Policy and about the application process, including application forms and guidance notes can be obtained from:

Environmental Health & Licensing Team
Community Services
Crawley Borough Council Town Hall
The Boulevard
West Sussex
RH10 1UZ

Tel: **01293 438027**
Fax: **01293 438604**
Email: licensing@ Crawley.gov.uk
Website: www.crawley.gov.uk

Information is also available from

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: **0121 230 6500**
Website: www.gamblingcommission.gov.uk

DRAFT CBC POLICY

APPENDIX A – PLAN OF THE CRAWLEY BOROUGH COUNCIL AREA

Borough of Crawley



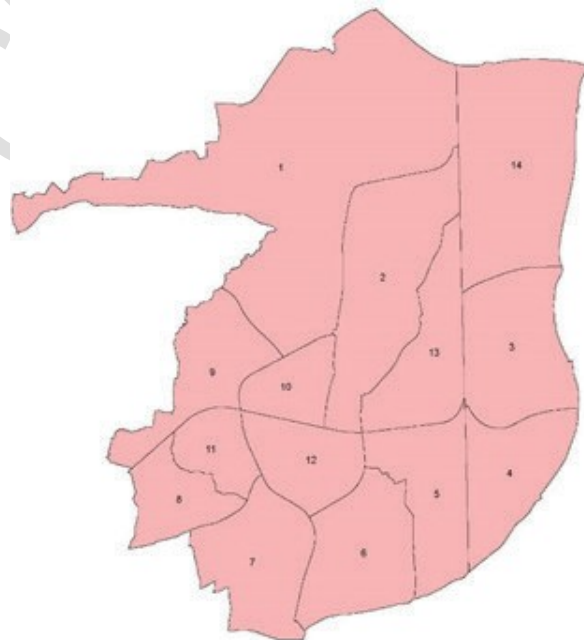
Shown within West Sussex

Geography

Status:	Borough
Region:	South East England
Admin. County:	West Sussex
Area:	44.97 km ²
Admin. HQ:	Crawley

Neighbourhoods of Crawley

1. Langley Green
2. Northgate
3. Pound Hill
4. Maidenbower
5. Furnace Green
6. Tilgate
7. Broadfield
8. Bewbush
9. Ifield
10. West Green
11. Gossops Green
12. Southgate
13. Three Bridges
14. Forge Wood



APPENDIX B Table of delegations of licensing functions under the Gambling Act 2005

Matter to be dealt with	Full Council	Sub-committee of licensing committee	
Three-year Licensing Policy	•		
Policy not to permit casinos	•		
Fee Setting - when appropriate		Portfolio holder	
Application for premises licences		Where representations have been received and not withdrawn	Where no r representations h
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no r representations h
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representa Com
Application for a provisional statement		Where representations have been received and not withdrawn	Where no repres representations h
Review of a premises licence		•	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no repres representations h
Cancellation of club gaming/ club machine permits		•	
Applications for other permits			
Cancellation of licensed premises gaming machine permits			
Consideration of temporary use notice			

Decision to give a counter notice to a temporary use notice		.	
Determination as to whether a person is an Interested Party			
Determination as to whether representations are relevant			
Determination as to whether a representation is frivolous, vexatious, or repetitive			

DRAFT CBC POLICY

APPENDIX C – RESPONSIBLE AUTHORITY DETAILS

Licensing Authority

Health, Safety and Licensing Manager, Crawley Town Hall, The Boulevard, Crawley, RH10 1UZ

Tel: 01293 438023 Email: Licensing@crawley.gov.uk Website: www.crawley.gov.uk

Environmental Health (Pollution)

Pollution Team, Crawley Town Hall, The Boulevard, Crawley, RH10 1UZ

Tel: 01293 438000 Email: EnviromentalServices@crawley.gov.uk Website: www.crawley.gov.uk

Health and Safety

Health and Safety Team, Crawley Town Hall, The Boulevard, Crawley, RH10 1UZ

Tel: 01293 438000 Email: EnviromentalServices@crawley.gov.uk Website: www.crawley.gov.uk

Planning Services

Environmental Health (Pollution)

Planning Team, Crawley Town Hall, The Boulevard, Crawley, RH10 1UZ

Tel: 01293 438000 Email: Developmentcontrol@crawley.gov.uk Website: www.crawley.gov.uk

Gambling Commission

Victoria Square House, Victoria Square, Birmingham, B2 4BP - Tel: 0121 230 6666

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Fax: 0121 230 6720 - Email: info@gamblingcommission.gov.uk - Website: www.gamblingcommission.gov.uk

HM Revenue and Customs (HMRC)

HM Revenue and Customs National Registration Unit Portcullis House, 21 India Street Glasgow, G2 4PZ

Excise Processing Teams, BX9 1GL, United Kingdom - Tel: 0300 322 7072 Option 7 - Email: nrubetting&gaming@hmrc.gsi.gov.uk - Website: www.hmrc.gov.uk

West Sussex Safeguarding Children Partnership

West Sussex Local Safeguarding Children Board, c/o Children's Safeguarding Unit, Room 24, Durban House, Bognor Regis, West Sussex, PO22 9RE - Tel: 03302

223337 - Email: cpu.team@westsussex.gcsx.gov.uk - Website: www.westsussex.gov.uk

Sussex Police

Chief Officer of Sussex Police, c/o Licensing Officer, Sussex Police, Centenary House, Durrington Lane, Worthing, West Sussex, BN13 2PQ - Tel: 0845 60 70 999 or 101 - Fax: 01243 843637 - Email: WS_Licensing_WOR@sussex.pnn.police.uk - Website: www.sussex.police.uk

West Sussex Fire and Rescue Service

Business Fire Safety, West Sussex Fire & Rescue Service, Horsham Fire Station,

Hurst Road, Horsham, West Sussex, RH12 2DN- Tel: 0330 222 3333 - Email: businessfiresafety@westsussex.gov.uk - Website: www.westsussex.gov.uk

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APPENDIX D – CONSULTEES - POLICY STATEMENT

Includes:

Councillors of Crawley Borough Council

West Sussex County Councillors

Henry Smith, MP

Responsible Authorities as specified at Appendix C

Mr Andy Isaacs, Compliance Manager, Gambling Commission

Adults' Services, West Sussex County Council

Holders of existing permissions granted under the Gambling Act 2005

Community Safety Partnership (CSP)

British Amusement Catering Trade Association (BACTA)

Association of British Bookmakers (ABB)

Bingo Association

National Casino Forum

Hospice Lotteries Association

Lotteries Council

Remote Gambling Association (RGA)

The Racecourse Association Limited

British Horse Racing Authority (BHA)

British Beer and Pub Association (BBPA)

GambleAware

GamCare

Gamblers Anonymous

Other Gambling Support Organisations

Licensing Consultants who have contacted the Council and requested to be consulted

Citizens Advice Bureau

Churches Together in Sussex

Children's Safeguarding Unit, West Sussex County Council

HM Revenues and Customs

Crawley Local Strategic Partnership

Representatives of the licence holders for premises in the Borough who are affected by this policy

Members of the public who are affected by this policy

Crawley and Gatwick Business Watch

Crawley Business Improvement District (BID)

Internal Partners responsible for Community Safety, Development Control and Economic Development

NB A full list of consultees will be held by the Council

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APPENDIX E – SUMMARY OF GAMING MACHINE CATEGORIES AND ENTITLEMENTS (This is subject to change)

Category of machine	Maximum stake	Maximum prize
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£2	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D - Non-money prize	30p	£8
D - Non-money prize (crane grab machines only)	£1	£50
D - Money prize	10p	£5
D - Combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D - Combined money and non-money prize (coin pusher or penny falls machine only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of maximum £20,000 linked progressive jackpot on premises basis only

APPENDIX F MAXIMUM FEES & CHARGES (UNDER REVIEW)

APPENDIX G

Glossary of terms

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

The Act	Gambling Act 2005
Licensing objectives	As defined in the Act and Statement of Licensing Policy
Council	Means Crawley Borough Council as
District	Means the area of West Sussex administered by Crawley Borough Council – see map in Appendix A
Licence	As defined in section 1.4 below.
Applications	Means applications for Licences or Permits defined in section 1.4 below.
Notifications	Means notifications of Temporary Use Notices, Occasional Use Notices, and licensed premises gaming machine notices
Act	Means the Gambling Act 2005
Regulations	Means Regulations made under the Gambling Act 2005
Premises	Means any place and includes a vehicle, vessel, or moveable structure
Code of practice	Means any relevant code of practice under Section 24 of the Gambling Act 2005
Mandatory condition	Means any specified condition provided by regulations to be attached to a licence
Betting machines	These are machines on the shop floor of the betting office through which a customer can place a bet without having to visit the counter, not to be confused with AWP's.
Responsible authority	<p>For the purposes of the Gambling Act 2005, the following are responsible authorities in relation to premises:</p> <ul style="list-style-type: none">• The Licensing Authority (Crawley Borough Council)• The Gambling Commission• Sussex Police• West Sussex Fire and Rescue Service• Head of Planning Services, Development Control, Crawley Borough Council

- Head of Environmental Services, Crawley Borough Council
- Children's Safeguarding Unit, Social Services, West Sussex County council (WSCC)
- HM Revenues and Customs

Interested party

For the purposes of the Gambling Act 2005, a person is an interested

party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.
- Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations.
- When considering whether a person is an "interested party," each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Gambling Commission's Guidance to Local Authorities.

Applications authorisations

Applications for licences and permits as defined in paragraph 1.15 and 1.16.

Authorised local authority officer

A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area.

Authorised person

A Licensing Officer and an officer of an authority other than a Licensing

Authority, both of whom have been authorised for a purpose relating to premises in that authority's area. The following are considered authorised persons:

- Inspectors appointed under the Fire Precautions Act 1971;
- Inspectors appointed under the Health and Safety at Work, etc. Act 1974
- Inspectors or Surveyors of ships appointed under the Merchant Shipping Act 1995;
- A person in a class prescribed in regulations by the secretary of State.

Automated roulette equipment

Two types: a. Linked to a live game of chance, e.g., Roulette
b. Plays live automated game, i.e., operates without human intervention

Automatic conditions	Conditions attached automatically to premises licences or authorisations. The Licensing Authority has no discretion not to include or modify them.
AWP machines	Amusement with Prizes Machines e.g., certain fruit machines
BACTA	British Amusement Catering Trade Association
Betting intermediary	Offers services via remote communication, such as the internet.
Betting ring betting machines bingo casino	An area that is used for temporary 'on course' betting facilities. A machine designed or adapted for use to bet on future real events (not a Gaming Machine) where a bet can be placed on the shop floor without the need to visit the counter. A game of equal chance. An arrangement whereby people are given an opportunity to participate in one or more casino games.
Casino games	Games of chance that are not equal chance gaming.
Casino premises licence categories	a) Regional Casino Premises Licence b) Large Casino Premises Licence c) Small Casino Premises Licence d) Casinos permitted under transitional arrangements
Casino resolution	Resolution not to issue Casino Premises
Child	Individual who is less than 16 years old.
Club gaming machine permit	Permit to enable the premises to provide gaming machines (three machines of Categories B, C or D)
Code of Practice	Means any relevant code of practice under section 24 of the Gambling Act 2005
Complex Lottery	An arrangement where: <ul style="list-style-type: none">• Persons are required to pay to participate in the arrangement;• In the course of the arrangement, one or more prizes are allocated to one or more members of a class;• The prizes are allocated by a series of processes; and• The first of those processes relies wholly on chance.
Council	Crawley Borough Council
Customer lotteries	Lotteries run by the occupiers of business premises who sell tickets only to customers present on their premises. These lotteries may not be conducted on vessels.
Default conditions	Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

Delegated powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
Domestic computer	Definition in forthcoming Regulations. Exempt from a Gaming Machine Permit.
Disorder	No set interpretation, however, likely to be connected to the way gambling is being conducted. In the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal chance gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants
EBT	Electronic Bingo Ticket Minder. Electronic equipment operated by a Bingo Operators Licence for playing bingo
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> • Small Society Lottery (required to register with Licensing Authorities. • Incidental Non-Commercial Lotteries e.g. Raffle at a dance/church fair • Private Lotteries e.g., Raffle at a student hall of residence • Customer Lotteries e.g., Supermarket holding a hamper raffle
External Lottery manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.
Fixed odds betting	General betting on tracks
Fixed odds betting terminal	A category B2 gaming machine
Game of chance	<p>A game of chance can include an element of chance and an element of skill. This does not include a sport.</p>
Gaming	Playing a game of chance for a prize.
Gaming machine	Machine covering all types of gambling activity, including AWP machines and betting on virtual events

Categories

Max. Stake

A Unlimited

Max Prize

B1 £2	£4,000
B2 £100	£500
B3 £1	£500
B4 £1	£250
C 50p	£25
D 10p or 30p*	£5 or £8*

*When non-monetary prize only

B2 machines are subject to change following Central government policy changes in 2018.

Guidance Guidance issued by the Gambling Commission dated May 2009.

Human Rights Act 1998 Article 1: Protocol 1 – the right to peaceful enjoyment of possessions

Articles 1, 6, 8 and 10 Article 6: the right to a fair hearing
Article 8: the right of respect for private and family

GDPR General Data Protection Regulations 2018

Authority /Council Crawley Borough Council as Licensing Authority/ the Council

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Crawley Borough Council

Report to Licensing Committee

7 November 2022

Revision of Licence Conditions – Driver and Vehicle

Report of the Head of Community Services – HCS/053

1. Purpose

- 1.1 Following implementation of the latest Hackney Carriage and Private Hire Licensing Policy on 1st April 2022, to amend licensing conditions relating to:
- Notification of a change to medical status or measures to manage a medical issue
 - Change the minimum size of engine permitted in a licensed vehicle from 1.6 cc to 1.4 cc or equivalent in the case of electric or hybrid vehicles.

2. Recommendations

- 2.1 That the Licensing Committee approves the amended conditions of the Hackney Carriage and Private Hire Licensing Policy, as detailed in paragraphs 4.7 and 4.9 of report HCS/053, for the following reasons:
- Improve public safety by reinstating a requirement on a licensed driver to notify the Council as Licensing Authority within a specified timescale of changes to medical circumstances as part of the “fit and proper” requirements
 - to allow for the licensed trade to have access to a broader range of vehicles for use as a licensed vehicle.

3. Reasons for the Recommendations

- 3.1 The primary purpose of the licensing regime is public safety and the revision to licence conditions is designed to support and promote this the proposed change to licence conditions regarding notification of medical matters reinstates what was previously in place but which appears to have been omitted in the latest version of the Policy and licence conditions.
- 3.2 A request has been received from the Hackney Carriage Association to reduce the minimum engine size from 1.6 cc to 1.4 cc or equivalent in the case of electric or hybrid vehicles. The reasons cited are that since Brexit and the COVID-19 pandemic, individuals have found it challenging to source suitable licensed vehicles in a timely manner and/or at an affordable price. Furthermore, technical advancement means that modern vehicles with a lower engine capacity can fulfil the same or similar functions to a 1.6 cc engine vehicle.
- 3.3 In July 2020, the Department for Transport (DfT) published the document entitled *Statutory Taxi & Private Hire Vehicle Standards* (“the Standards”) under Section 177(1) of the Policing and Crime Act 2017. The focus of the Standards is on protecting children and vulnerable adults from harm, however all passengers benefit

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from any changes made as a result of the implementation of the Standards. The document sets out a framework of policies which Licensing Authorities must have regard to when exercising their functions, including conditions relating to vehicles and drivers.

4. Background

Medical Notification

- 4.1 As previously noted, a key component in relation to Private Hire Driver Licence conditions was omitted during the last Hackney Carriage and Private Hire Policy, adopted on 1st April 2022. This was identified in recent months and requires revision.
- 4.2 As part of the application and renewal process, all licensed drivers must attain Group II Medical Standards, and remain fit and proper throughout the currency of a licence to Group II Standards.
- 4.3 Hackney Carriage drivers are also governed by bylaws and private hire drivers by licence conditions.
- 4.4 The reinstatement of the condition requiring that licensed drivers notify the Council as Licensing Authority of any change to medical condition, change in treatment or circumstance is in place to protect the travelling public and other road users as well as the licensed driver themselves.
- 4.5 In the case of some medical matters, DVLA Group II Medical Standards require:
 - That an individual ceases all activity as a licensed driver for a specified period until the relevant Group II Standards are met. (In some instances however, an individual may be unable to attain these Standards and cannot return to the role of licensed driver.)
 - Require additional assessment and monitoring by both the licensed individual, and medical experts.
- 4.6 The current licence conditions read:

“9. Where any of the following occur, the licensed driver must notify the Council of this fact and must do so in writing (or by email to taxis@crawley.gov.uk), so that the notification is delivered to the Council within 48 hours

(a) Any change to the Licence Holder’s personal details including home address, contact telephone number or email address.

(b) If the Licence Holder is charged with any criminal offence including any motoring offence.

(c) If the Licence Holder receives a simple caution from the police for any criminal offence,

(d) If the Licence Holder is convicted of for any criminal offence, including any motoring offence.

(e) If the Licence Holders changes from one private hire operator to another.”
- 4.7 It is proposed that the condition be amended to read as follows, with revisions highlighted in bold:

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*“9. Where any of the following occur, the licensed driver must notify the Council of this fact and must do so in writing (or by email to taxis@crawley.gov.uk), so that the notification is delivered to the Councils **Taxi Licensing Service** within 48 hours, **except in the case of medical matters which must be notified immediately.***

(a) Any change to the Licence Holder’s personal details including home address, contact telephone number or email address.

(b) If the Licence Holder is charged with any criminal offence including any motoring offence.

(c) If the Licence Holder receives a simple caution from the police for any criminal offence,

(d) If the Licence Holder is convicted of for any criminal offence, including any motoring offence.

e) If the Licence Holders changes from one private hire operator to another.”

f) any new medical condition, change to medical condition, medication or medical episode which has occurred and which could impact on that licensed driver attaining Group II Medical Standards or where a medical matter impacts their ability to operate as a licensed driver.

Revision to Engine Size

- 4.8 The Hackney Carriage Association has requested a revision to the condition relating to engine size. The current vehicle specification for hackney carriage and private hire vehicles states:

“ (d) With an engine having a capacity of at least 1600 cc. including vehicles badged by the manufacturer as “1.6” models.”

- 4.9 It is proposed that this is amended as follows:

(d) With an engine having capacity of at least 1400 cc, including vehicles badged by the manufacturer as “1.4 cc” models.” Any hybrid/LPG, electric or other alternatively powered vehicle must have an equal power output to a 1400cc engine.”

- 4.10 The reduction in engine size forms the development in engine technology has resulted in increasingly efficient and power output from smaller engines and represents stage one of a series of the review of the Councils approach to hackney carriage and private hire vehicle standards and emissions.

- 4.11 Members will be aware that the Council has declared a climate emergency and emissions was raised as a key requirement requiring further work as part of the review of the Taxi and Private Hire Licensing Policy. The current Policy, adopted on 1st April 202 makes reference to emissions, and the need to revisit the matter as part of future changes. It is noted that the licensed fleet can play a significant role in shaping future emissions and associated targets. In line with this, Members are advised that significant work is being undertaken by Officers in relation to the following before being returned to Committee for further consideration.

- Incentive schemes working across Sussex with other Licensing Authorities and the Energy Saving Trust to encourage the Trade to transition toward electric vehicles when seeking to purchase or rent electric vehicles. (The Energy Saving Trust will work with the Taxi Licensing Service and carry out a presentation to the Trade and Members regarding this proposal.)
- Working in partnership with West Sussex County Council and ConnectedKerb to install rapid electric charge points for electric and hybrid vehicles on and off street
- Phasing out of diesel vehicles

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- Instatement of Euro 6 Emissions Standards as a minimum requirement Euro 6 compliant being registered on or after 6 Feb 2014).
- Licensing of only Ultra Low Emission Vehicles (ULEV), as defined by the Vehicle Certification Agency: <https://www.vehicle-certification-agency.gov.uk/fcb/ulev.asp>
- Council will not renew any existing licences for diesel or petrol-fuelled vehicles that do not meet the latest Euro emissions standard.
- Replacement vehicles
- Consideration that the Council will not issue any licences for replacement diesel or petrol-fuelled vehicles that do not meet the latest Euro emissions standard

5. Financial & Legal Implications

- 5.1 The Taxi Licensing Service is self-financing and the costs associated with the service are recovered from fees and charges associated with the taxi licensing regime.
- 5.2 In some parts of the Police where there is a revision which has a financial implication for the Trade, transitional arrangements are in place, save where these are imposed as part of the Statutory Guidance.
- 5.3 Councillors must ensure that they exercise their decision making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 5.4 The Council is required to consider the impact any decision may have on crime and disorder in the area (Crime & Disorder Act 1998) which states as follows;
- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;
- (a) Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment, and
- (b) The misuse of drugs, alcohol and other substances in its area, and
- (c) Re-offending in its area.
- 5.5 Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the 'public sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- (b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

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- age
- disability
- gender reassignment marriage/civil partnership pregnancy/maternity race
- religion/belief
- gender and sexual orientation

6. Background Papers

- [Crawley Borough Council's Private Hire and Hackney Carriage Licensing Policy 2017](#)
- <https://democracy.crawley.gov.uk/documents/s15104/HCS22%20-%20Department%20for%20Transport%20Statutory%20Taxi%20Private%20Hire%20Standards%20-%20Overview%20of%20the%20Standard.pdf>
- <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

[Taxi Licensing Policy 2022](#)

Report author and Contact Officer:

Officer name: Kareen Plympton

Role Team Leader Principal – Health, Safety and Licensing

Email address kareen.plympton@crawley.gov.uk

Phone number 01293 438023

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