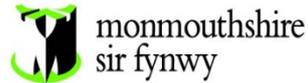


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Monday, 4 June 2018

## **Notice of Reports Received following Publication of Agenda.**

### **Licensing and Regulatory Committee**

**Tuesday, 12th June, 2018 at 10.00 am,**

Attached are reports that the committee will consider as part of the original agenda but were submitted to democratic services following publication of the agenda.

| <b>Item No</b> | <b>Item</b>  | <b>Pages</b> |
|----------------|--|--------------|
| <b>6.</b>      | <b>Draft Statement of Gambling Policy and Proposals for Casinos</b>        | 1 - 66       |
| <b>7.</b>      | <b>Proposed Changes to the Taxi and Private Hire Policy and Conditions</b> | 67 - 192     |

**Paul Matthews  
Chief Executive**

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## MONMOUTHSHIRE COUNTY COUNCIL REPORT

**SUBJECT:** Statement of Gambling Policy and Proposals for Casinos

**DIRECTORATE:** Social Care, Safeguarding and Health

**MEETING:** Licensing & Regulatory Committee

**Date to be considered:** 12<sup>th</sup> June 2018

**DIVISION/WARDS AFFECTED:** All Wards

### 1. PURPOSE:

- 1.1 To consider the approach to be adopted by Monmouthshire County Council with regard to casino premises applications within the County prior to submission to Full Council.
- 1.2 To consider the proposed 'Draft Statement of Gambling Policy 2019' prior to submission to Full Council.

### 2. RECOMMENDATION(S):

- 2.1 Members consider whether to retain the current resolution not to issue casino licences within the County of Monmouthshire prior to it being considered at Full Council.
- 2.2 Members consider the proposed updated policy statement and comment accordingly (changes highlighted in red), which is attached as Appendix A.

### 3. KEY ISSUES

- 3.1 Each Local Authority, under the provisions of Section 154 of the Gambling Act 2005, must issue a policy which will determine how they will discharge their functions. The current policy held by this Authority under the Gambling Act was approved at Full Council on 19<sup>th</sup> November 2015. There is a duty to review the policy every three years. The new policy will be required to commence on 31<sup>st</sup> January 2019, in accordance with the Act. This report sets out the procedure and proposed policy statement, in particular the principle regarding casinos, prior to consideration at Full Council.
- 3.2 The Council will need to consider firstly if they wish to continue with the resolution not to have a casino within the County. The decision on this will then be inserted into the revised Gambling Policy that will be published on 31<sup>st</sup> January 2019.
- 3.3 140 casinos were permitted across the UK, to continue to operate under grandfather rights when the Gambling Act came into force on 1<sup>st</sup> September 2007. Central Government upon the advice of the Casino Advisory Panel permitted a further 8 large and 8 small casinos, which have all been duly issued. There is currently no further provision for more casinos to be allocated. However, the Council still need to consider the course of action they wish to take with casinos and place this within the Gambling Policy should one of the 8 large or 8 small casinos become available or if Government changes their stance on casinos and increase the permitted numbers.
- 3.4 Before any licence for a Casino is granted the Casino Advisory Panel will advise Central Government that the area is in need of regeneration and Monmouthshire would have to satisfy them that this is the case along with the type of area, social impact, community benefits and unique characteristics. However, before a decision is made to go against the current stance not to have casinos within the County, Members should be aware of

the 'Chief Medical Officer for Wales Annual Report 2016-2017 – Gambling with our health' <http://gov.wales/topics/health/professionals/cmo/reports/?lang=en> and their concerns relating to Gambling which is referred to in the Future Generation report attached as Appendix B.

3.5 With regards to the Policy and how the Council will discharge their functions. The Policy must contain objectives regarding the following;

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Council will also need to have regard to any relevant code of practice issued by the Secretary of State, guidance issued by the Gambling Commission, how they exercise their functions consistent with the objectives and in accordance with the policy itself.

3.6 The Policy must be approved by Full Council and can last for a period of three years, in accordance with Section 154(2) of the Gambling Act 2005. It further states within Section 349 that prior to approval consultation must take place with;

- The Police
- The Fire Authority
- 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.

3.7 The revised policy must be published and in place for commencement on 31<sup>st</sup> January 2019. The Gwent Licensing Forum, which consists of Council Licensing Officers, Gambling Commission and Public Health covering the areas of Monmouthshire, Torfaen, Caerphilly, Blaenau Gwent and Newport, has worked on formulating a policy to incorporate any legal changes and best practice. The proposed Policy has been endorsed by the Gwent Licensing Forum with the aim of all five Authorities adopting this Policy, subject to changes pertinent to each Authorities area and character.

3.8 The timetable of events planned for the transition of the Statement of Gambling Policy are as follows:-

|  |  |
|--|--|
| 12 <sup>th</sup> June 2018                                   | First Draft of Policy to the Licensing and Regulatory Committee                |
| 18 <sup>st</sup> June 2018 –<br>31 <sup>st</sup> August 2018 | Consultation on Gambling Policy – Send out letters and put on the website.     |
| 18 <sup>th</sup> Sept 2018                                   | Final Draft, results of consultation to the Licensing and Regulatory Committee |
| 25 <sup>th</sup> Oct 2018                                    | Gambling Policy report to Full Council   |

|                               |                                 |
|-------------------------------|---------------------------------|
| End of Nov 2018               | Legal Notice in Newspaper       |
| 3 <sup>rd</sup> January 2019  | Publication of Gambling Policy  |
| 31 <sup>st</sup> January 2019 | Commencement of Gambling Policy |

#### **4 REASONS:**

- 4.1 The policy is necessary to guide consistent decisions and takes account of guidance.
- 4.2 There is a need to take account of collaborative approaches
- 4.3 To ensure that applications with no relevant information to consider can be dealt with without unnecessary delay.
- 4.4 To enforce the provisions of the Gambling Act 2005 effectively.

#### **5. RESOURCE IMPLICATIONS:**

- 5.1 Any additional costs will be absorbed within our existing licensing budget.

#### **6. WELLBEING AND FUTURE GENERATIONS IMPLICATIONS**

- 6.1 The 'Future Generations' template is attached as Appendix B. In summary, currently the Authority has a resolution not to permit casinos within the County. If this resolution is lifted it may promote excessive gambling within casinos. This may in turn impact on those who are vulnerable or addicted to gambling.
- 6.2 If the resolution not to permit casinos is maintained, this protects children and so contributes positively to the wellbeing of existing and future generations.
- 6.3 It is a statutory requirement to compile a Gambling Policy, as outlined in Section 3. Although not a 'proposal' (therefore not requiring full assessment) it does contribute positively to protecting children and other vulnerable persons from being harmed or exploited by gambling.

#### **7. CONSULTEES:**

Newport City Council, Blaenau Gwent County Borough Council, Torfaen County Borough Council, Caerphilly County Borough Council, Public Health and Gambling Commission.

#### **8. BACKGROUND PAPERS:**

Gambling Act 2005.  
Gambling Commission Guidance issued under Section 349 of the Gambling Act 2005.

#### **9. AUTHOR:**

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monmouthshire  
sir fynwy

## **Gambling Act 2005 Statement of Licensing Policy 2019**

**January 2019**

Further information can be obtained from:  
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Monmouthshire County Council  
Abergavenny Community Education Centre  
Old Hereford Road  
Abergavenny  
NP7 6EL  
Tel: 01873 735420  
Email: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Website: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

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# 1. Statement of Licensing Policy

## 1.1 Introduction

The Gambling Act 2005 requires the Council to prepare and publish a “Statement of Licensing Policy” that sets out the principles the Council proposes to apply in exercising its licensing functions when dealing with applications for Premises Licences, as required by the Act.

This Policy Statement takes effect on 31<sup>st</sup> January 2019. This Licensing Authority will update and publish a new Licensing Policy whenever necessary but in any case within 3 years of the date of this Policy, and will fully consult with partners, trade associations and residents groups as appropriate at that time, any representations received will be considered at that time.

However where updates are required due to changes in national legislation, statutory guidance or contact details the council reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects national legislation or statutory guidance.

In producing the final Policy Statement the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, any codes of practice and any responses from those consulted on the Policy Statement.

The Council has a legal obligation to comply with all legislation that promotes equality it has a policy in place to promote equality to all. The Planning and Public Protection Service Area has its own equalities framework which is available for inspection on our website. Licensing of persons and premises under the Gambling Act 2005 will actively promote equality of service and enforcement to all members of the community.

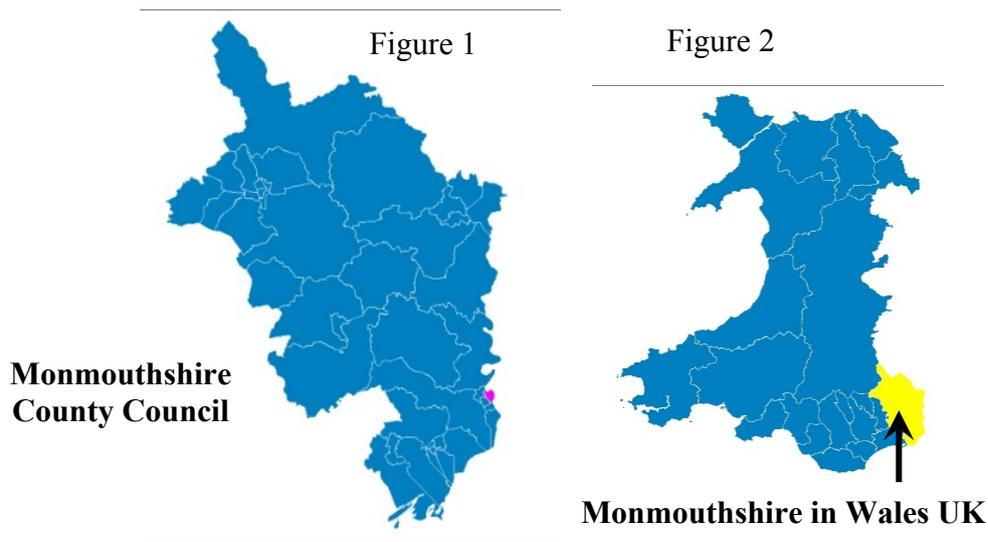
The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with such a right. The council will have regard to the Human Rights Act when considering any licensing issues, and particularly in respect of the way in which applications are considered and enforcement activities are carried out.

The council acknowledges that it may need to depart from this Policy and from the guidance issued under the Act in individual and exceptional circumstances, and where the case merits such a decision in the interests of the promotion of the licensing objectives. Any such decision will be taken in consultation with the appropriate legal advisors for the Licensing Authority, and the reasons for any such departure will be fully recorded.

## 1.2 Profile of Monmouthshire

The County of Monmouthshire is mainly rural in character. The County has five main towns namely Monmouth, Abergavenny, Caldicot, Chepstow and Usk, which are surrounded by numerous villages, each with their own individual character.

The area has a population of approximately 92,100. Monmouthshire is not densely populated, there is approximately 1 person per hectare, although there are concentrations of housing in some areas.



## 1.3 Objectives

In exercising most of its functions under the Gambling Act 2005 the Council, as the Licensing Authority, must have regard to the following licensing objectives:

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- **Ensuring that gambling is conducted in a fair and open way;**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

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

- **In accordance with any relevant code of practice issued by the Gambling Commission;**
- **In accordance with any relevant guidance issued by the Gambling Commission;**
- **Reasonably consistent with the licensing objectives;**
- **In accordance with the Council's Statement of Licensing Policy.**

#### **1.4 The Licensing Authority Functions**

The Council is 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 notification from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued (see section below on information exchange);
- Maintain registers of the permits and licences that are issued under these functions.

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

The Council recognises that the licensing function is only one means of promoting delivery of the three objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work in partnership with neighbouring authorities, Heddlu Gwent Police, the Community Safety Partnership, **Public Health**, local businesses, local people and those involved in child protection to promote the

licensing objectives as outlined. In addition, the Council recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

## **1.5 Consultation**

The Council has consulted widely upon this Statement before finalising and publishing. A list of those persons consulted is provided below, in line with the Act and the Gambling Commission's Guidance. Further details, together with a list of comments made and the consideration by the Council of those comments is available on request.

- The Chief Officer of Police;
- The Fire Authority;
- Representatives of the holders of various licences for premises within the County who will be affected by this Policy;
- Bodies representing businesses and residents in the County;
- Departments (including Responsible Authorities) within the Council with an interest in the licensing of gambling;
- Local Safeguarding Children Board;
- County Councillors
- Community and Town Councils;
- Other organisations as appear to be affected by licensing matters covered by this Statement;
- H.M. Revenue and Customs.
- **Local Health Board**

Consultation took place between **18<sup>th</sup> June 2018** and **31<sup>st</sup> August 2018** and, as far as practicable, the Council followed the Consultation Principles issued by the government which is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

This policy was approved at a meeting of the Full Council on **XXXX 2018** and was published on **3<sup>rd</sup> January 2019**, as well as being available at [www.monmouthshire.gov.uk](http://www.monmouthshire.gov.uk)

## **1.6 Responsible Authorities**

In exercising the Council's powers under Section 157(h) of the Act to designate, in writing, a body that is competent to advise the Council about the protection of children from harm, the following principles have been applied:

- The need for the body to be responsible for an area covering the whole of the Council's area;
- The need for the body to include senior and responsible representatives of appropriate public bodies in the county borough area, who have as a principal duty, responsibility for the protection of children from harm

In accordance with the Gambling Commission's Guidance this Council designates the **Social Care, Safeguarding and Health Department** for this purpose. Details of the bodies identified under the Act that are to be treated as Responsible Authorities are available via the Council's website.

### **1.7 Interested Parties**

Interested Parties can make representations about licence applications, or apply for a review of an existing licence based on the three licensing objectives as detailed in paragraph 1.3 of this Policy Statement.

An Interested Party is someone who:-

- (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 in either of the two groups above.

The principles the Council will apply to determine whether a person is an Interested Party are:

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

Interested Parties can be persons who are democratically elected, such as Councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, Town and Community Councils likely to be affected will be considered as interested parties. Other than these, however, 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 business interests that might be affected by the authorised activities. Correspondence from one of these persons, requesting the representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views, then care should be taken that the Councillors are not part of the Licensing and Regulatory Sub-Committee dealing with the licence application or in any other way have a personal interest that would preclude them from participating in a hearing. If there are any doubts then please contact the Licensing Section.

### **1.8 Exchange Of Information**

The principle that the Council will apply in respect of the exchange of information between it and the Gambling Commission and those bodies listed in Schedule 6 of the Act is that it will act in accordance with the provisions of the Gambling Act 2005 which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also have regard to any guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **1.9 Enforcement**

The Council's principles are that it will be guided by the Gambling Commission's Guidance to local authorities, the Regulators Code and the council's enforcement policy. It will endeavour to be:

- Proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

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

The Council has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission
- The principles set out in this Statement of Licensing Policy.
- The council's enforcement policy.

The main enforcement and compliance role for this Council in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions, which it authorises. The Gambling Commission is the enforcement body for the Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines are dealt with by the Council but should be notified to the Gambling Commission.

The council will take account of the Gambling Commissions guidance document 'Approach to Test Purchasing' when considering making test

purchases at gambling premises. The council will also follow its own policies and procedures regarding the use of underage test purchasers.

The Council also keeps itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.

### **1.10 Fundamental Rights**

Under the terms of the Act any individual/company may apply for a variety of permissions and have their applications considered on their individual merits. Equally, any Interested Party or Responsible Authority has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

Applicants and those making relevant representations in respect of applications to the Council have a right of appeal to the Magistrates Court against the decisions of the Council.

### **1.11 Integrating Strategies and Avoiding Duplication**

By consulting widely prior to this Policy Statement being published, the Council will take full account of local policies covering crime prevention, culture, transport, planning and tourism as part of an integrated strategy for the Council, Police and other agencies. Many of these strategies may not be directly related to the promotion of the three licensing objectives, but may indirectly impact upon them.

When considering any application, the Council will avoid duplication with other regulatory regimes so far as possible. Therefore, the Council will not attach conditions to a licence unless they are considered necessary, reasonable and proportionate to the use of premises for gambling consistent with the licensing objectives.

### **1.12 Sustainable Development Community Strategy**

The Local Government Act 2000 requires all local authorities to produce a community strategy within the framework of the UK Sustainable Development Strategy – “A better Quality of Life” and relevant regional strategies. **The Wellbeing and Future Generations (Wales) Act 2015 requires all Welsh local authorities to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change.**

Community strategies provide a focal point for the identification of local issues and aspirations on social inclusion, environmental protection, employment and economic development.

Local strategic partnerships, typically involving the police, local authorities, local health boards, and representatives from education, business and the voluntary sector organisations, are responsible for the achievement of locally set objectives.

Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent crime and disorder in the area. The Council will have particular regard to the likely impact of licensing on related crime and disorder in the County, particularly when considering the location, impact, operation and management of all proposed licence/permit applications, renewals and variations of conditions.

## 2. Premises Licences

### 2.1 General Principles

Premises Licences authorise the provision of gambling facilities on the following:-

- Casino Premises;
- Bingo Premises;
- Betting Premises (including race tracks used by betting intermediaries);
- Adult Gaming Centres (AGCs);
- Family Entertainment Centres (FECs).

Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be granted to those issued with an Operating Licence by the Gambling Commission.

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

The Council is aware that in making decisions about Premises Licences it should aim to permit the use of premises for gambling insofar as it thinks it:-

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with this Policy Statement.

This Council may also consider measures to meet the licensing objectives when making such decisions, for example:

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

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

It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for Premises Licences" and also that unmet demand is not a criterion for a licensing authority.

The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission places the onus on licence holders to complete a risk assessment. The council will have regard to this when considering applications. This is covered in detail in Section 6 of this statement.

***Definition of "Premises":***

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

The Gambling Commission states in its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence. But, that does not mean that a single building plot cannot be the subject of separate premises licence, e.g. the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important

consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer.

However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example, by ropes or moveable partitions, can properly be regarded as different premises.”

The Council takes particular note of the Gambling Commission’s Guidance for local authorities which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following –

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

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

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

## **2.2 Appropriate Licence Environment**

The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP), set out additional matters that the council should take into account when considering licence applications for premises licences.

**The Guidance** prescribe restrictions on gambling activities on premises, previously known as primary gambling activity. The council will consider any application based on the provisions in these codes and guidance.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

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

The Gambling Commission's Guidance for relevant access provisions for each premises type is reproduced in Appendix A:

### **2.3 Premises "ready for gambling"**

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

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

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

### **2.4 Other Considerations**

#### ***Location:***

The 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 per the Gambling Commission's Guidance for local authorities, the 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. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

### ***Planning***

The Gambling Commission Guidance to Licensing Authorities states:

- In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

The Council will not take into account irrelevant matters as per the above guidance. In addition, the Council notes the following excerpt from the Guidance:

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

### **2.5 Duplication with other Regulatory Regimes:**

The Council seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of it. It will though listen to, and consider carefully, any concerns about conditions, which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, the Council will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant

planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

## **2.6 Licensing Objectives:**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Gambling Commission's Guidance to licensing authorities and some comments are made below.

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

The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does, however, envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime, the Council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Council is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

### ***Ensure that gambling is conducted in a fair and open way:***

The Council has noted that the Gambling Commission states that it does not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences. There is, however, more of a role with regard to tracks, which is explained in more detail in the "tracks" section.

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

The Council has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council will, therefore, consider, as suggested in this Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas, etc.

The Council is also aware of the Codes of Practice, which the Gambling Commission issues as regards this licensing objective, in relation to specific premises.

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

**The** Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice (LCCP) prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises
- must have procedures for identifying customers who are at risk of gambling related harm.

The council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

See section 6 of this policy statement for further details and on the council’s requirements in relation to the LCCP.

**The Council will have regard to the Chief Medical Officer for Wales report to support the licensing objective in order to protect children and other vulnerable persons from being harmed or exploited by gambling.**

**The Council would expect applicants and licence holders to carry out the necessary checks on all relevant members of staff to ensure their suitability for employment, particularly in respect of premises where children and vulnerable people have access.**

## **2.7 Bet-Watch:**

The council encourage and will support local operators to create and maintain an information sharing network to discuss issues of problem gamblers that are identified. This will also be an opportunity for operators to discuss issues with the licensing officers.

## 2.8 Conditions:

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

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas, etc. **Specific regard will be against the local risk assessment for each premise, when making such decisions.** There are specific comments made in this regard under some of the licence types below. The Council will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively, **in conjunction with mandatory conditions specified in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007.**

Conditions the Council may impose on a licence could include;

### Security conditions

- A minimum of two members of staff after 10pm;
- The premises will have an intruder alarm and panic button;
- A monitor shall be placed inside the premises above the front door showing CCTV images of customers entering the premises.

### Anti-social behaviour conditions

- The licensee shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises;
- The licensee shall place and maintain a sign at the entrance which states that 'only drinks purchased on the premises may be consumed on the premises';
- The licensee shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.

### Underage controls

- Customers under 21 will have to provide ID;
- No machines in the Unlicensed Family Entertainment Centre to be sited within one metre of the Adult Gaming Centre entrance;
- Staff training records or certified copies should be available at the premises for inspection.

#### Player protection controls

- There shall be no cash point or ATM facilities on the premises;
- The licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the police or licensing authority upon request;
- Prominent GamCare documentation will be displayed at the premises.

This list is not exhaustive and merely gives an example of the type of conditions which may be imposed depending on the circumstances at each premises.

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

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

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

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

The 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 Gambling Commission's Guidance, this Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions, which the 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 Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- Conditions in relation to stakes, fees, winning or prizes.

## **2.9 Door Supervisors:**

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

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

## **2.10 Adult Gaming Centres**

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 the applicant to satisfy the Council that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.

## **2.11 (Licensed) Family Entertainment Centres**

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 the applicant to satisfy the Council, 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. **The applicant for a Family Entertainment Centre provide evidence that a suitable criminal record check with the Disclosure and Barring Service (DBS) has been conducted on all staff in his/her employment.**

**Children and young persons are permitted entry to licensed FECs but are not permitted to play Category C machines. The Council expects the applicant to ensure that there will be sufficient measures in place to prevent under 18 year olds having access to the adult only gaming machine areas. The Council will expect applicants to meet the licensing objectives and comply with all**

mandatory conditions and Codes of Practice issued by the Gambling Commission.

There is a requirement that there must be clear segregation between the types of machine in order that children do not have access to Category C machines. All Category C machines must be located in an area of the premises which is separate from the remainder of the premises by a physical barrier, which will prevent access other than through a designated entrance. The Council will seek to ensure that:

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

## **2.12 Casinos**

There are currently no casinos operating within the County. Following considerable debate at full Council on XXXX 2018 a resolution was passed not to issue casino licences within the County of Monmouthshire as provided for in section 166 Gambling Act 2005. This resolution may be reviewed as necessary, and at least every three years in line with the adoption of the Statement of Gambling Policy. There is no right of appeal against this resolution. Potential licence applicants should note that as a 'no-casino' resolution has been passed by this Council no applications for casino premises licence will be considered. Any applications received will be returned with a notification that a 'no casino' resolution is in place.

## **2.13 Bingo Premises**

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

A holder of bingo premises licences may make available for use of a number of category B gaming machines, not exceeding 20% of the total number of gaming machines, which are available for use on the premises

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.

Where Category C or above machines are available in the bingo premises to which children are admitted, the Council will seek to ensure that;

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff or the licence holder; and
- at the entrance to, and inside any such area, notices are prominently displayed indicating that access to the area is prohibited to persons under 18.

Where bingo is permitted in alcohol-licensed premises, this must be low turnover bingo only and applicants are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a Bingo Operating Licence.

## **2.14 Betting Premises**

### ***Betting machines:***

#### ***Self Service Betting Terminals (SSBTs):***

The Act provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Betting premises may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet over the counter. These “betting machines” are not gaming machines: they merely automate the process, which can be conducted in person and, therefore, do not require regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine **is** a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

The Council will, as per the Gambling Commission’s Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. The premises should also display notices with contact for help organisations e.g. GamCare.

The Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact who should be a senior individual and to whom the Authority will contact first should any compliance queries or issues arise.

## **2.15 Tracks**

The 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 Gambling Commission's Guidance, the Council will especially consider the impact upon the third licensing objective (i.e. 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.

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

## **2.16 Gaming Machines:**

There are many categories of gaming machine permitted at licensed and other premises and the number of such machines that may be permitted in each type of gambling premises are set out in the Act. The Council does not have the power to set different limits or further expand or restrict the categories of machine that are permitted. The exception to this is alcohol-licensed premises that hold gaming machine permits, where licensing authorities have discretion to specify the number of permitted gaming machines. In addition, limits are set separately in the Act for certain types of permit issued by licensing authorities. A table setting out gaming machine entitlement at each type of premises is attached at Appendix C.

There is a minimum age of 18 for all players for all category A, B and C machines, including category B3A gaming machines offering lottery style games. However there is no minimum age for players of category D machines. The holder of any permit or premises licence must comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

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

## **2.17 Betting Machines:**

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

## **2.18 Applications and plans:**

The Gambling Act **and Regulations** requires applicants to submit plans of the premises with their application, in order to ensure that the Council has the necessary information to make an informed judgement about whether the premises are fit for gambling. They will also be used for the Council to plan future premises inspection activity.

Plans for tracks should be drawn to scale sufficiently detailed to include the information required by regulations.

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

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

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

## **2.19 Travelling Fairs**

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

The Council will also consider whether the applicant falls within the statutory definition of a travelling fair contained in Section 286 of the Gambling Act 2005.

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

## **2.20 Provisional Statements**

Developers may wish to apply to this Council 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.

Section 204 of the Gambling Act provides for a person to make an application to the Council for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

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

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

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

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

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

### 3. Permits/Temporary And Occasional Use Notices

These forms of authorisations are as follows;

- Unlicensed Family Entertainment Centres (uFEC) Permits
- Prize Gaming Permits
- Licensed Premises Gaming Machine Permits
- Club Gaming Permits
- Club Gaming Machine Permits
- Temporary Use Notices (TUNs)
- Occasional Use Notices (OUNs)

A table setting out gaming machine entitlement is attached at Appendix D.

#### 3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits

Only premises that are wholly or mainly used for making gaming machines available may hold an Unlicensed Family Entertainment Centre. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines will be in a designated enclosed area and clearly defined when making an application to the Council.

Where a premise does not hold a Premises Licence but wishes to provide category D gaming machines, it may apply to the Council 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 and would, therefore, exclude any premises primarily used for any other purposes, e.g. canteens, fast food takeaways, leisure centres, garages and petrol filling stations, taxi offices.

An application for a permit may be granted only if the Council is satisfied that the premises will be used as an unlicensed Family Entertainment Centre and the Chief Officer of Police has been consulted on the application.

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection

considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

This Council will also expect, as per Gambling Commission Guidance, that applicants demonstrate:-

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

It should be noted that the Council cannot attach conditions to this type of permit.

### **3.2 (Alcohol) Licensed Premises Gaming Machine Permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The 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 Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, **then an application for a permit must be submitted and the Council must consider that application based upon the licensing objectives, any guidance and codes of practice issued by the Gambling Commission and “such matters as the Council think relevant.”** 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 harm or being exploited by gambling and will expect the applicant to satisfy the Council that there will be sufficient measures to ensure that under 18 year olds 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 of help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

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

It should be noted that the 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.

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

### **3.3 Prize Gaming Permits**

The Council has the right in accordance with this 'Statement of Principles' to specify matters that this authority propose to consider in determining the suitability of the applicant for a permit.

It also specifies that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:-

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

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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

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

- Participation in the gaming must not entitle the player to take part in any other gambling.

### **3.4 Club Gaming and Club Machines Permits**

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance. Members Clubs and Miners' Institutes and also Commercial Clubs may apply for a Club Machine Permit. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

The Council has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take into account a number of matters as outlined in the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

The Council may only refuse an application on the grounds that:

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold Club Premises Certificates under the Licensing Act 2003 and so cannot use the fast track procedure. As the Gambling Commission's Guidance for local authorities states: "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 the process may be refused are:

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

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

### **3.5 Temporary Use Notices**

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

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

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices. The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in part 8 of the Act is discussed in the Gambling Commission 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". In considering whether a place falls within the definition of "a set of premises", the Council needs to look at, amongst other things, the ownership/occupation and control of the premises.

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

### **3.6 Occasional Use Notices**

Where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an occasional use notice (OUN) without the need for a full premises licence. The intention behind OUNs 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 OUN dispenses with the need for a betting premises licence for the track in these circumstances).

Non-commercial, fundraising race nights can be run as betting events at sporting venues under the authority of an OUN, whether or not the sporting event on which the bets are taken is held at that venue. The sporting event on which the bets are or will be taken also need not be taking place at the same time as the betting under the OUN.

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

#### **4. Small Society Lotteries**

The Gambling Act 2005 sets out a definition of a lottery, detailed below, and provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences;
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, in accordance with section 14 of the Act.

A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and has been established as a non-commercial organisation. Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in section 2 of the Charities Act 2006;
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity;
- for any other non-commercial purpose other than that of private gain.

The society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Local authorities are entitled to operate their own lotteries, but may only do so if licensed by the Gambling Commission. Local authorities must commit a minimum of 20% of the proceeds from such lotteries for a purpose for which they have power to incur expenditure, and must also adhere to the other relevant provisions in the Act. They may also need to hold a remote gambling operating licence, in the event that they wish to sell lottery tickets via electronic or other remote technological methods such as over the telephone, email or via the internet.

Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and must be accompanied by a registration fee and a copy of the terms and conditions and the constitution to prove that they are a non-commercial society. Paragraphs 47 and 48 of Schedule 11 of the Act set out the grounds for licensing authorities to refuse a small society lottery registration application.

The Council will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. The Council considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact the Council via e-mail to [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk) or by letter at Licensing Section, Monmouthshire County Council, Abergavenny Community Education Centre, Old Hereford Road, Abergavenny NP7 6EL to register the lottery and to provide proof the collection is for charitable purposes, to support sporting, athletic or cultural activities.

## **5. Decision Making**

### **5.1 Administration, Exercise and Delegation of Functions**

The powers and duties of the Council under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

It is considered that many of the functions will be largely administrative in nature with no perceived areas of contention. In the interests of efficiency and cost effectiveness these will, for the most part, be carried out by officers.

The following schedule sets out the recommended delegation of functions and decisions by guidance. The Council may, nevertheless, refer any matter to the Licensing Committee or Sub-Committee.

The schedule of delegation of licensing functions is attached at Appendix B.

### **5.2 Appeals Procedure**

Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Sections 206 to 209 of the 2005 Act. Appeals must be made to the Magistrates Court for the area in which the licensing authority, which has considered the application, is situated.

An appeal has to be commenced by giving notice of the appeal by the appellant to; The Clerk to the Justices, Gwent Magistrates Court, The Law Courts, Faulkner Road, Newport, NP20 4PR, within a period of 21 days, beginning with the day on which the appellant was notified by the Council of the decision to be appealed against.

On determining an appeal, the Court may:

- Dismiss the appeal;
- Substitute the decision appealed against with any other decision that could have been made by the licensing authority;
- Remit the case to the licensing authority to dispose of the appeal in accordance with the direction of the Court.
- Make an order about costs.

### **5.3 Giving Reasons for Decisions**

In anticipation of such appeals, the Council will give comprehensive reasons for its decisions. The Council will address the extent to which decisions have been made with regard to any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

#### **5.4 Implementing the Determination of The Magistrates' Court**

As soon as the decision of the Magistrates' Court has been notified to all parties, the Council will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example, as a result of an ongoing judicial review). The Act provides for no other appeal against the determination of the Magistrates' Court.

#### **5.5 Complaints against Licensed Premises**

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Licensing and Gambling Sub-Committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they fit the exceptions in 5.6 below.

#### **5.6 Reviews**

Requests for a review can be made by Interested Parties or Responsible Authorities. However, it is for the Council to decide whether the review is to be carried out based upon any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

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

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.

Once a valid application for a review has been received by the Council, 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 Council, who will publish notice of the application within 7 days of receipt.

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

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

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

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

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

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

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

## **6. Licensing Conditions and Codes of Practice (LCCP)**

The Gambling Act 2005 requires the Gambling Commission to issue one or more codes of practice about the manner in which facilities for gambling are provided. The codes may be directed at the holders of operating or personal licences, or any other person involved in providing facilities for gambling.

The Act also requires licensing authorities to take into account when exercising their functions, any relevant code of practice issued by the Commission under section 24, in this case:-

- The Commission's *Licence conditions and codes of practice* (LCCP), which apply to holders of Gambling Commission operating or personal licences;
- Other codes - these are the Commission's code of practice for equal chance gaming and its code of practice for gaming machines in clubs and premises with an alcohol licence

The LCCP contains two types of code provision:

### **Social responsibility code provisions**

These are provisions describing arrangements which should be made by persons providing facilities for gambling for the purpose of:-

- (a) ensuring that gambling is conducted in a fair and open way;
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling; and
- (c) making assistance available to persons who are or may be affected by problems related to gambling.

Compliance with these is a condition of operator licences; therefore any breach of them by a licensed operator may lead the Commission to review the operator's licence with a view to suspension, revocation or the imposition of a financial penalty and would also expose the operator to the risk of prosecution; these provisions are in shaded boxes in the remainder of this document.

### **Ordinary code provisions**

These do not have the status of licence conditions in the case of licensed operators, but set out good practice; these code provisions are in the unshaded boxes in this document.

Codes of practice are admissible in evidence in criminal or civil proceedings and must be taken into account in any case in which the court or tribunal think them relevant, and by the Commission in the exercise of its functions; any departure from code provisions by an operator may be taken into account by the Commission, for example on a licence review (but could not lead to imposition of a financial penalty).

However, the Commission has made it clear that licensed operators may adopt alternative approaches to those set out if they have actively taken account of the provision and can demonstrate that an alternative approach is reasonable in the particular circumstances; or that to take an alternative approach would be acting in a similarly effective manner.

### **Risk Assessments - Premises**

The LCCP requires all existing licensees that provide gambling at their premises to assess the local risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. Licensees must take

into account any relevant matters identified in the licensing authorities (gambling) Statement of Policy when making their risk assessments.

A local risk assessment should also be undertaken or updated by a licensee, when applying for:-

- A new premises licence;
- When applying for a variation of an existing premises licence;
- To take into account any local significant changes in the local area;
- When there are significant changes within their premises that may affect the existing local risk assessment.

Operators are required to make the risk assessment available to licensing authorities when an application is submitted and a copy should be kept at the premises or otherwise on request, and this will form part of the Council's inspection regime or investigating complaints.

The code requires the Council to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this council expects the following matters to be considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may reflect benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

**Betting Track Premises** – The Gambling Commission states within it's LCCP code that Operators are required to make a risk assessment. However, Betting Track Premises are not required to seek an Operators Licence with the Gambling Commission and as such are not required to conduct a risk assessment. However, in the interest of the objectives of the Gambling Act 2003, namely i) preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime; ii) ensuring that gambling is conducted in a fair and open way; iii) protecting children and other vulnerable persons from being harmed or exploited by gambling, this Council would expect a Betting Track Premises to conduct a risk assessment for their premises.

The council expects the following matters to be considered by operators when making their risk assessment.

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling alleys, cinemas etc.;
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted;
- Areas that are prone to issues of youths participating in anti social behaviour, including such activities as graffiti/tagging, underage drinking, etc.;
- Recorded incidents of attempted underage gambling.

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling;
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments;
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends;
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

Other issues that may be considered could include;

- Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.
- the economic make-up of an area;
- the surrounding night-time economy;
- children's homes and care facilities;
- the area footfall eg. residential or commercial areas;
- banks and ATM nearby;
- known anti-social behaviour issues;
- housing facilities;
- job centres;
- hostel and support services for the homeless;
- alcohol and drug support facilities;
- pawn brokers and payday loan businesses;
- other gambling premises;
- mental health facilities;
- community buildings;
- residential care establishments;
- transport and parking facilities eg. bus stops, taxi ranks, train stations;

- presences of rough sleepers;
- unemployment rates for area;
- types and rates of crime in the area that could impact on the premises
- areas with significant areas of children, eg parks and playgrounds.

This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.

### **Significant changes to the premises**

From time to time operators will undertake a refresh of the premises' layout and décor, which is unlikely to prompt a review of the risk assessment for that premises. However, where there is a significant change at the premises that may affect the mitigation of local risks, then an operator must review its risk assessment and if necessary update it, taking into account the change and how it may affect one or more of the licensing objectives.

It is expected that gambling operators will undertake this risk assessment process as a matter of course for any premises refit, changes to layout or internal control measures. If any changes do require a review of the risk assessments for that premises gambling operators should ensure that they have a system in place to record and action any measures identified in that review.

The gambling operator will be responsible for identifying when a significant change to the premises has occurred. In order to assist gambling operators the Council has provided the following list of examples of what could be classified as a significant change to the premises (some of which may also require a variation to the existing premises licence).

- Any building work or premises refit where gambling facilities are relocated within the premises.
- The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
- Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff will require retraining on those policy changes.
- The entrance or entrances to the premises are changed, for example, the door materials are changed from metal with glazing to a full glass door or doors are reallocated from egress to ingress or vice versa.
- New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.
- The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol.

As with the examples of significant changes in local circumstances, the list above is not an exhaustive list of significant changes to premises.

The Council will not, as general practice, request a copy of the reviewed risk assessment if a significant change to the licensed premises has occurred, unless the change is one that will necessitate a variation application.

### **Variation of the premises licence**

Variations to premises licences are only those required to be made under section 187 of the Act and will not include changes of circumstances such as a change of premises' name or a change of licensee's address, etc.

The Commissions LCCP social responsibility code provision 10.1.1 requires that gambling operators must undertake a review of the local risk assessment and update it if necessary when preparing an application to vary the premises licence. Operators submitting a variation application to the Council may consider submitting a copy of the reviewed local risk assessment when submitting the application. This will then negate the need for the Council requesting to see a copy of this risk assessment and could potentially reduce the likelihood of a representation being made to the application.

If an operator wishes to vary a converted casino premises licence from one premises to another then the gambling operator should consider producing a new risk assessment for that premises. It is advisable that a copy of that assessment is submitted to the Council with the application form.

### **Regular review of risk assessment**

As a matter of best practice the Council recommends that operators establish a regular review regime in respect of their local risk assessments. This review programme can be carried out alongside other reviews on Health and Safety risk assessments for the premises. This review programme would ensure that, regardless of whether or not any of the trigger events set out above have occurred, these risk assessments are considered at regular intervals and updated if necessary.

It will be up to the gambling operator as to the frequency of these reviews but it is recommended that no more than three years should pass before these assessments are reviewed. Operators may wish to synchronise their reviews of the local risk assessments with the publication of the Council's Statement of Licensing Principles for Gambling. This would enable gambling operators to consider the Local Area Profile, which has been published in the Council's Statement of Licensing Principles for Gambling.

### **Local risks and control measures**

There are two specific parts to the risk assessment process:

- the assessment of the local risks
- the determination of appropriate mitigation to reduce those risks

The risks that operators must identify relate to the potential impact a gambling premises and its operation may have on the licensing objectives. Gambling operator should identify and list all of the local risks within the assessment that they have identified. The level of such risks can range from being low to very high depending on the potential impact that the gambling operator has assessed it to have on the licensing objectives. The level of any given risk will have a direct impact on the type and extent of the control measures that the gambling operators deems as being necessary to mitigate such risk.

Operators will already be assessing locations when looking for new sites or when reviewing the performance of their premises. The design of premises is also assessed to ensure that they will meet the needs of the gambling operation, will provide protection for staff and customers; and will have facilities for recording crime. Operators will also have implemented policies and procedures for the operation of premises in line with statutory and other regulatory requirements placed upon them by the Commission and other agencies.

Operators will already be familiar with identifying risks in relation to health and safety and food hygiene legislation. Risk assessments are also used for security and crime purposes, for example for money laundering and as part of trade association best practice, such as the Safe Bet Alliance.

This local risk assessment process, although similar requires a much broader range of considerations when identifying local risk. The requirement of the Commissions LCCP social responsibility code provision 10.1.1 is that gambling operators consider the local area in which the premises are situated and the impact that the premises operation may have on the licensing objectives.

### **Local area risks**

There are a number of factors relating to the local area that operators may consider which is independent of who the operator believes is their target market. It will be for the gambling operator to identify these risks. However, there may be occasions that the Commission or the Council will provide information on what they perceive as being a local risk. This may be specified in the Statement of Licensing Policy or in a separate guidance document, both of which will be found on the Council's website.

The local area will be different depending on the premises and the size of its operation. For example a large Bingo hall may have a wider catchment area than a neighbourhood betting shop as the Bingo hall attracts customers from further afield.

### **Risk Assessment**

Although gambling is a legal entertainment activity it can, in some locations, have a negative impact on individuals and the wider community. Monmouthshire Public Service Board has produced a Wellbeing Assessment

as part of the Wellbeing of Future Generations Act. The Assessment considers Economic, Social, Environmental and Cultural Wellbeing in the county as a whole whilst also focusing on 5 areas based around : Abergavenny, Monmouth, Chepstow, Caldicot and Central Monmouthshire.

Full details can be found on <http://www.monmouthshire.gov.uk/our-monmouthshire>

Crime data for local area can be obtained from [www.gwent.police.uk](http://www.gwent.police.uk)

### **Gambling operational risks**

The gambling operation relates to how the premises will be or is run. This will include the operator's policies and procedures which have been put in place to meet the requirements of the business, the Act and/or specific code provisions within the LCCP.

Gambling operators should identify operational risks in the local area to the licensing objectives and then consider whether there are control measures in excess of those already in place that would mitigate the risk. For example if there is a known illegal drug use in the local area the gambling operator may consider using control measures such as maglocks on the toilet doors or change the design to the toilet to deter people from using it for illegal drug use. It is likely that the identification of risks associated with this element of the assessment will be very similar for all premises with slight variations depending on any specific factors that relate to the premises or the local area.

The control measures that operators will put in place to mitigate any risk associated with the gambling operation will be dependent on the type of gambling activities provided, how the company operates and the size of the organisation.

### **Premises design risks**

The design of the premises is an extremely important factor when considering local risks. For example, an Adult Gaming Centre which is located within an area which has a high number of children and young people present throughout the day may identify that the doors on either side of the premises are being used by local children as a short cut to access the adjacent street. The appropriate mitigation in this case may be that the gambling operator closes off one of the doors to prevent it being used as a short cut.

As part of the design process, the layout of the premises is a major consideration as poorly conceived design may create significant risks to one or more of the licensing objectives. Gambling operators are experienced in premises design and often these considerations are made during the planning phase. It is advisable that gambling operators ensure that there is a process in place to record these key decisions at an early stage of the planning process for the premises design so that this can be included in their risk assessment.

## **Interior design risks**

The internal design and layout will reflect the premises operation and the type of gambling facilities that it offers. For some premises the design will be subject to certain limitations due to mandatory conditions on the gambling premises licence, such as the distance between gaming tables and other gambling facilities in casinos, and restrictions on the location of ATMs.

Operators should assess the risk presented by the internal layout of the premises and the location of gambling facilities within them. For example, if a gaming machine is placed within the direct line of sight of the cashier counter then staff will be able to monitor player behaviour and undertake interventions if there is a concern over the customers' spending habits. Staff can also monitor the use of the machines and can challenge any customers who are believed to be under the age of 18, or who damage the machines, or who appear to be attempting to launder money. By a simple assessment of the optimum location for these machines, operators can significantly reduce the risk to the licensing objectives.

## **Exterior design risks**

The exterior of premises will be a major advertisement for the gambling operator. However, the design should be assessed based on the associated risk. Operators may identify a risk associated with the design and introduce control measures based on that perceived risk. For example, if the premises have a large amount of glass frontage in an area prone to criminal damage, operators may consider the risk of damage to the standard toughened glass to be high and introduce a control measure such as roller shutters and/or external CCTV cameras.

## **Control measures**

Depending on the nature of the risk factors, the control measures identified to mitigate the perceived risk may be a combination of systems, design and physical measure. Control measures that relate to systems may be measures that have been put in place through policies and procedures. These can either be systems that apply to all of the operator's premises or systems that have been developed specifically for particular premises to deal with a specific local risk factor. System control measures may include staff training, security policies and procedures. They may also relate to having security personnel on entrances, implementing membership criteria and/or providing support to local vulnerable groups through financial or other means.

Design control measures are measures that are built into the design of the premises. These can include the location of gambling facilities and the design and location of cashier counters within the premises, and the exterior design of premises. For example, a control measure for the interior of the premises could involve moving a cashier counter from the rear of the premises to the front of the shop next to the main entrance. An external design control measure may

involve the exterior design being tailored to address local risks, for example, more open window displays to enable staff can see out of the premises or a design to avoid attracting children to the premises.

The final control measures relate to specific physical measure that will address an identified risk factor. These physical control measures may, for example, include alarms, CCTV cameras, doors, magnetic locks, time locks on safes, spit kits, window shutters, fogging systems, UV lights in toilets.

The control measures identified to mitigate a perceived risk may involve a combination of systems, design and physical measures. For example to address the risk factors relating to children gaining access to an over 18 restricted gambling premises, the operator may identify the following control measures:

**Systems:** PASS card or age verification policies, challenge 21 scheme, staff training and door staff.

**Design:** Exterior design which will not attract children into the premises, the entrance layout will enable staff and security to watch those entering the premises and challenge them on the grounds of age.

**Physical:** Magnetic door locks and ID scans.

### **Step 1: Undertaking a local risk assessment**

The risk assessment should be carried out through a step-by-step approach. Gambling operators may first assess the local area and identify the relevant risk factors, then assess the gambling operation, and finally assess the premises design, both internal and external. Once the risk factors have been identified, the control measures to mitigate the risks should be considered. These control measures will either already be in place or will need to be implemented.

- Assessors should start by identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important. Use Community wellbeing profile and local knowledge will assist.

### **Step 2: Gambling operation and physical design**

In assessing the risk factors associated with a gambling operation the assessor should take into account the local risks which are commonly accepted by broader stakeholders and how that gambling operation may affect that risk.

The physical design of the premises is a key consideration as this could have a significant impact on the risk to the licensing objectives. In assessing the risk factors associated with the premises design and layout reference is needed to the local area risks factors already identified to ensure the design doesn't add to that risk. The design, both internal and external should be considered and specific risk factors identified and noted.

### **Step 3: Control measures**

Once the risk factors have been identified, the assessor should seek to identify control measures that would mitigate the identified risks. Such control measures will relate to one of the three categories of control measures mentioned above (systems, design and physical). Some risk factors may require a combination of control measures to adequately mitigate the risk.

### **Step 4: Action Plan**

Once the assessment has been carried out an action plan should be completed so that any identified actions are documented and a deadline for completing the required piece of work is set and agreed.

### **Completed assessment**

The control measures must be implemented on the premises and, if applicable, staff on the premises should be trained in their use or trained on the new policy or procedure. The assessment must be retained and should be reviewed whenever a trigger occurs or as part of a regular review regime

## **7. Further Information**

Further information about the Gambling Act 2005, this Statement of Licensing Policy or the application process can be obtained from:

Licensing Section  
Monmouthshire County Council  
Abergavenny Community Education Centre  
Old Hereford Road  
Abergavenny  
NP7 6EL  
Telephone: 01873 735420  
Fax: 01633 644878  
Email: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Website: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

Information is also available from:

The Gambling Commission  
Victoria Square House  
Birmingham  
B2 4BP  
Telephone: 0121 230 6666  
Fax: 0121 230 6720  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The Department for Culture, Media and Sport  
2– 4 Cockspur Street  
London  
SW1Y 5DH  
Telephone: 020 7211 6200  
Website: [www.culture.gov.uk](http://www.culture.gov.uk)

## **Appendix A Access to Premises**

### **Casinos**

- The principal access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises, which holds a gambling premises licence.

### **Adult Gaming Centre**

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

### **Betting Shops**

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

### **Tracks**

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

- a casino;
- an adult gaming centre.

### **Bingo Premises**

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

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

### **Family Entertainment Centre**

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

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

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

## Appendix B Schedule of Delegation of Licensing Functions and Decisions

| Matters to be dealt with   | Full Council | Sub-Committee  | Officers   |
|--|--------------|--|--|
| Three year Gambling Policy   | x            |  |  |
| Policy not to permit casinos   | x            |  |  |
| Fee Setting – when appropriate (Fee Setting for Premises Licence be delegated to the Licensing and Regulatory Committee, |              | x  |  |
| Application for Premises Licence   |              | Where representations have been received and not withdrawn   | Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid. |
| Application for a variation to a licence   |              | Where representations have been received and not withdrawn   | Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid. |
| Application for a transfer of a licence  |              | Where representations have been received from the Commission | Where no representation has been received from the Commission  |
| Application for a provisional statement  |              | Where representations have been received and not withdrawn   | Where no representations received/representations have been withdrawn/authorised to  |

| <b>Matters to be dealt with</b>  | <b>Full Council</b> | <b>Sub-Committee</b>                                | <b>Officers</b>  |
|--|---------------------|---|--|
|  |                     |   | dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.   |
| Review of a Premises Licence   |                     | x   |  |
| Revocation of a premises licence for failure to pay annual licence fee |                     |   | x  |
| Application for club gaming/club machine permits                       |                     | Where objections have been made (and not withdrawn) | Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid. |
| Cancellation of club gaming/club machine permits                       |                     | x   |  |
| Applications for other permits   |                     | Where objections have been made and not withdrawn   | Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid. |
| Cancellation of licensed premises gaming machine permits               |                     | x   | Authorised to cancel a permit, with the holder having the right to a hearing at the Sub-Committee.   |
| Consideration of temporary use notice                                  |                     |   | Consideration/authorised to dispense with a hearing if all parties are in agreeance/authorised   |

| Matters to be dealt with                                    | Full Council | Sub-Committee | Officers   |
|---|--------------|---------------|--|
|   |              |               | to assess if objection is valid.   |
| Decision to give a counter notice to a temporary use notice |              | x             |  |
| Small Society Lotteries                                     |              | x             | Registration, Refusal and revocation of a lottery registration with the applicant/holder having the right to a hearing at the Sub-Committee. |

## Appendix C Definitions

**NOTE:** In this Policy, the following definitions are included to provide an explanation to certain terms included in the Act and, therefore, in the Statement of Licensing Policy. In some cases they are an abbreviation of what is stated in the Gambling Act 2005 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Gambling Act 2005.

‘The Council’ means Monmouthshire County Council, acting as the Licensing Authority as defined by the Gambling Act 2005.

‘The Act’ means the Gambling Act 2005.

‘The County’ means the County of Monmouthshire.

‘The Licensing Authority’ the authority in whose area the premises is wholly/partly situated. The Licensing Authority (as in the issuing authority) is also a responsible authority.

‘The Gambling Commission’ a body set up by the Government as the unified regulator for gambling, replacing the Gaming Board.

‘Responsible Authority’ means a public body that must be notified of certain applications for premises licences and permits, and are entitled to make representations on any of the licensing objectives.

‘Children’ means individuals who are less than 16 years old.

‘Young person’ means individuals who are aged less than 18 years old and 16 years and over.

‘Vulnerable person’ will not be defined but the assumption is that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

‘Mandatory Conditions’ means a specified condition provided by regulations to be attached to premises licences.

‘Default Conditions’ means a specified condition provided for by regulations to be attached to a licence unless excluded by the Council.

‘Premises’ means any place, including a vessel or moveable structure.

‘Tracks’ means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

## Appendix D Summary of Machine Provisions by Premises

| Machine category   |   |   |    |   |                                      |   |   |
|--|---|---|----|---|--------------------------------------|---|---|
| Premises type  | A | B1  | B2 | B3  | B4                                   | C | D |
| <b>Large casino</b><br>(machine/table ratio of 5-1 up to maximum)                          |   |   |    | Maximum of 150 machines<br>Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) |                                      |   |   |
| <b>Small casino</b><br>(machine/table ratio of 2-1 up to maximum)                          |   |   |    | Maximum of 80 machines<br>Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)   |                                      |   |   |
| <b>Pre-2005 Act casino</b><br>(no machine/table ratio)                                     |   |   |    | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead  |                                      |   |   |
| <b>Betting premises and tracks occupied by pool betting</b>                                |   |   |    | Maximum of 4 machines categories B2 to D (except B3A machines)  |                                      |   |   |
| <b>Bingo premises<sup>1</sup></b>  |   | Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4 |    |   | No limit on category C or D machines |   |   |
| <b>Adult gaming centre<sup>2</sup></b>   |   | Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4 |    |   | No limit on category C or D machines |   |   |
| <b>Licensed family entertainment centre<sup>3</sup></b>                                    |   |   |    | No limit on category C or D machines  |                                      |   |   |
| <b>Family entertainment centre (with permit)<sup>3</sup></b>                               |   |   |    | No limit on category D machines   |                                      |   |   |
| <b>Clubs or miners' welfare institute (with permits)<sup>4</sup></b>                       |   |   |    | Maximum of 3 machines in categories B3A or B4 to D  |                                      |   |   |
| <b>Qualifying alcohol-licensed premises</b>  |   |   |    | 1 or 2 machines of category C or D automatic upon notification  |                                      |   |   |
| <b>Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)</b> |   |   |    | Number of category C-D machines as specified on permit  |                                      |   |   |
| <b>Travelling fair</b>   |   | No limit on category D machines   |    |   |                                      |   |   |

<sup>1</sup> Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight (The Gambling Act 2005 (Gaming Machines in Bingo Premises) Order 2009) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>2</sup> Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>3</sup> Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.

<sup>4</sup> Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.

<sup>5</sup> Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

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|   |  |
|---|--|
| <p><b>Name of the Officer</b> Linda O’Gorman / David H Jones</p> <p><b>Phone no:</b> 01633 644214<br/><b>E-mail:</b> <a href="mailto:lindaogorman@monmouthshire.gov.uk">lindaogorman@monmouthshire.gov.uk</a></p> | <p><b>Please give a brief description of the aims of the proposal</b></p> <p>To consider the Council’s existing resolution to not permit casinos within the County of Monmouthshire.</p> |
| <p><b>Name of Service</b></p> <p>Licensing</p>  | <p><b>Date Future Generations Evaluation</b></p> <p>5<sup>th</sup> June 2018</p>   |

1. **Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.

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| Well Being Goal  | How does the proposal contribute to this goal? (positive and negative)   | What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts? |
|--|--|---|
| <p><b>A prosperous Wales</b><br/>Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>                                 | <p>Generally considered that gambling has a negative impact on the personal wealth of participants.</p>                              | <p>Would not want to encourage wider scale gambling, as could lead to addiction and financial hardship.</p>     |
| <p><b>A resilient Wales</b><br/>Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)</p> | <p>N/A</p>   |   |
| <p><b>A healthier Wales</b><br/>People’s physical and mental wellbeing is maximized and health impacts are understood</p>                                  | <p>Could promote excessive gambling, which may impact on those who are vulnerable/addicted to gambling if Casinos are permitted.</p> | <p>As above.</p>  |

| Well Being Goal   | How does the proposal contribute to this goal? (positive and negative)                                | What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts? |
|---|---|---|
| <b>A Wales of cohesive communities</b><br>Communities are attractive, viable, safe and well connected   | Larger scale gambling can be problematic and have a negative impact on local communities.             |   |
| <b>A globally responsible Wales</b><br>Taking account of impact on global well-being when considering local social, economic and environmental wellbeing                                | The proposal has a positive impact by clearly stating casinos will not be permitted in Monmouthshire. |   |
| <b>A Wales of vibrant culture and thriving Welsh language</b><br>Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation | N/A   |   |
| <b>A more equal Wales</b><br>People can fulfil their potential no matter what their background or circumstances   |   |   |

**2. How has your proposal embedded and prioritised the sustainable governance principles in its development?**

| Sustainable Development Principle  | How does your proposal demonstrate you have met this principle?   | What has been done to better to meet this principle? |
|--|---|--|
|  Balancing short term need with long term and planning for the future | A resolution not to permit casinos protects vulnerable people from being harmed or exploited by gambling. |  |

| Sustainable Development Principle  | How does your proposal demonstrate you have met this principle?   | What has been done to better to meet this principle? |
|--|---|--|
|  <p>Working together with other partners to deliver objectives</p>                              | N/A   |  |
|  <p>Involving those with an interest and seeking their views</p>                                | Gambling addiction is well documented.  |  |
|  <p>Putting resources into preventing problems occurring or getting worse</p>                   | By preventing a casino coming to Monmouthshire protects some of our more vulnerable members of society. |  |
|  <p>Positively impacting on people, economy and environment and trying to benefit all three</p> | As above.   |  |

**3. Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below.

| Protected Characteristics     | Describe any positive impacts your proposal has on the protected characteristic | Describe any negative impacts your proposal has on the protected characteristic | What has been/will be done to mitigate any negative impacts or better contribute to positive impacts? |
|-------------------------------|---|---|---|
| Age                           | Protects children by not 'normalising' gambling                                 |   |   |
| Disability                    | Neutral   |   |   |
| Gender reassignment           | “   |   |   |
| Marriage or civil partnership | “   |   |   |
| Race                          | “   |   |   |
| Religion or Belief            | “   |   |   |
| Sex                           | “   |   |   |
| Sexual Orientation            | “   |   |   |
| Welsh Language                | “   |   |   |

4. Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities? For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

|                     | Describe any positive impacts your proposal has on safeguarding and corporate parenting | Describe any negative impacts your proposal has on safeguarding and corporate parenting | What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts? |
|---------------------|---|---|--|
| Safeguarding        | The resolution to not permit a casino contributes positively to protecting children     |   |  |
| Corporate Parenting |   |   |  |

5. What evidence and data has informed the development of your proposal?

The Chief Medical Officer for Wales Annual Report 2016-17 – Gambling with our health’ <http://gov.wales/topics/health/professionals/cmo/reports/?lang=en>

Some of the key points that this report has raised is as follows;

The most important benefit of the gambling industry is the tax revenues, which are considerable in the UK: in 2017 this amounted to £2.7 billion. This income is used by the UK government to help fund its programme for government. However, the economic benefits of gambling need to be balanced against the social and health harms to people who gamble, their family, friends and wider society. While most people who participate in gambling activities do so without any significant problems, for others gambling is problematic; causing damage to their health and to wider society.

The availability of gambling products and platforms to diverse groups, and the developments in the infrastructure of game design, make gambling an immediate and rapidly evolving public health issue. The public health approach aims to improve quality of life for all and to achieve health equity. This focus on equity is necessary as people living in areas of deprivation are more likely to experience gambling-related harm.

The harms caused by gambling for the individual include anxiety, stress, depression, and alcohol and substance misuse. These factors are likely to have a wider impact on family and friends. Further family problems can include ‘money troubles’ and family breakdown, as well as neglect and violence towards any partner or children. There are higher rates of separation and divorce among problem gamblers compared to the general population. Further impacts of gambling include the inability to function at work, and financial problems which can lead to homelessness. The harms from gambling to wider society include fraud, theft, loss of productivity in the workforce, and the cost of treating this addiction. Gambling harm not only affects the individual, but the family and wider society.

In Wales, 61% of adults (around 1.5 million people) had gambled in the last 12 months. 63% of men and 59% of women report gambling participation in the past 12 months. In Wales, 1.1% of the population (30,000 people) self-reported as having a problem with gambling. A further 3.8% of people in Wales are estimated to be at risk of problem gambling.

The number of casinos in Wales is small and relatively stable. The number of people visiting casinos in the UK has increased significantly in recent years, from 18.2 million visits (2011/12) to 30 million visits (2014/15).

While young people are least likely to gamble, problem and at-risk gamblers make up 2% of people aged 11 to 15, which equates to around 60,000 young people in the UK. Children who experience gambling in the household are four times more likely to gamble themselves than those who do not experience gambling in the household. Young people are spending more time online. Indeed, 18-24 year olds report that they are more likely to have been prompted to gamble by adverts and posts on social media. No organization is specifically dedicated to building resilience in young people and discussing gambling with them. In Wales, 16% of children aged 11-15 had gambled in the last week. The most popular forms of gambling for children were fruit machines and placing bets with friends. Every week, 450,000 children aged 11-15 years old in England and Wales report being involved in gambling. This represents 16% of this age group, compared with 8% consuming alcohol, 6% taking illegal drugs and 5% engaged in smoking. Whilst the harms accrued from each of these behaviours is different, these figures show the scale of gambling being reported in this age group. There is some international evidence from the United States of America that college or university students may be at greater risk of problem gambling than the general population. Universities in Wales often offer support for financial problems and addictions including gambling.

**6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

Continuing the existing resolution not to permit casinos in the County has a positive impact by protecting children and other vulnerable persons from being harmed or exploited by gambling.

**7. Actions. As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable.**

| What are you going to do  | When are you going to do it? | Who is responsible | Progress |
|---|------------------------------|--------------------|----------|
| Incorporate resolution into the Authority's Gambling Policy 2019. | By 31/1/2019                 |                    |          |
|   |                              |                    |          |
|   |                              |                    |          |

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**8. Monitoring: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.**

|  |              |
|--|--------------|
| The impacts of this proposal will be evaluated on: | By 31/1/2022 |
|--|--------------|

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|                                  |  |
|----------------------------------|--|
| <b>SUBJECT:</b>                  | <b>Hackney Carriage and Private Hire Driver, Vehicle and Operator Conditions</b> |
| <b>DIRECTORATE:</b>              | <b>Social Care and Health</b>  |
| <b>MEETING:</b>                  | <b>Licensing and Regulatory Committee</b>  |
| <b>Date to be considered:</b>    | <b>12<sup>th</sup> June 2018</b>   |
| <b>DIVISIONS/WARDS AFFECTED:</b> | <b>All Wards</b>   |

## 1. PURPOSE

- 1.1 To approve new MCC Taxi and Private Hire Policy 2018 and consider new safety measures for licensed vehicles.

## 2. RECOMMENDATION

To consider the amendments to the existing Taxi and Private Policy and Conditions adopted 13<sup>th</sup> September 2016 as follows;

- 2.1 To amend the policy in Section 6 and replace it with the recommendations from the Institute of Licensing 'Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades – published in April 2018'. Changes highlighted in red in the proposed Taxi and Private Hire Policy and Conditions 2018 attached as Appendix 1.
- 2.2 To amend the policy in Appendix A and N to accommodate the legal requirements by Immigration to check licence holders right to work in the United Kingdom. Changes highlighted in red in the proposed Taxi and Private Hire Policy and Conditions 2018 attached as Appendix 1.
- 2.3 To consider one of the following options to adopt in the proposed new policy:
- (a) To amend the policy allowing vehicles to be licensed for the full capacity of passengers as manufactured with new safety measures adopted (see below 3.15), which has the approval of the Royal Society of Preventions of Accidents (ROSPA). If adopted the proposed changes are highlighted in red in Appendix G of the proposed Taxi and Private Hire Policy and Conditions 2018 attached as Appendix 1.
  - (b) To retain the current 5-8 passenger seat conditions referred to in the current Taxi and Private Policy and Conditions 2016, adopted 13<sup>th</sup> September 2016. The restriction being (i) No seat should be required to be moved to allow any passenger to enter or egress the vehicle. (ii) There must be a clear passageway to each row of seats if only one door is normally used this must be on the nearside (similar to buses).

## 3. KEY ISSUES

- 3.1 The following proposals to amend the existing Taxi and Private Hire Policy and Conditions 2016, following either information received or as a result of legal changes.

- 3.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney carriage and Private Hire services. A person must satisfy the authority that they are a fit and proper person to hold a licence and each case will always be considered on its own merit. It is the final part of the process of an application when the decision is made, whether by the Licensing and Regulatory Committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgement as to their fitness and propriety.
- 3.3 It was recognised that there was disparity between Authorities on how they assess licences. As such the Institute of Licensing produced the Guidance on determining the suitability of applicants and licensees in the hackney and private trades, this was published in April 2018, with a recommendation for Authorities to adopt. The guidance was carried out working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.
- 3.4 It is recommended that this Authority adopts this guidance within its revised proposed Taxi and Private Hire Policy and Conditions 2018 as attached as Appendix 1 and referred to within 2.1 above.
- 3.5 The main changes are the timescales for dealing with information received, it contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

### **Appendix A and N - Right to work requirements**

- 3.6 The Immigration Act 2016 amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle and hackney carriage sector, with effect from 1 December 2016. The provisions in the 2016 Act prohibit all licensing authorities across the UK from issuing to anyone who is disqualified by reason of their immigration status and they discharge this duty by conducting immigration checks. As such the policy, will be required to change in Appendix A and N, in order to accommodate this legislation. The changes required are highlighted in red in the revised proposed Taxi and Private Hire Policy and Conditions 2018 as attached as Appendix 1 and referred to within 2.2 above

### **Appendix G - Passenger access/egress conditions**

- 3.7 Section 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 permits an authority to attach a condition they consider reasonably necessary for hackney carriages and private hire vehicles, whereby type, size, design, safety and its comfort can be a factor before a vehicle is issued with a licence.
- 3.8 July 2002 - The Royal Society for the Prevention of Accidents (ROSPA) suggested passengers should have safe egress in the event of an emergency. In the interest of passenger safety a report was submitted to the Licensing and Regulatory Committee, where Members approved conditions relating to the carrying of 7-8 passengers. The condition related to licensed hackney carriage and private hire

vehicles to provide direct access and egress to a door for all passengers, without the need to fold a seat.

- 3.9 15<sup>th</sup> March 2010 – The Licensing and Regulatory Committee approved the updated condition referred to in 3.8 above, to include vehicles carrying more than 4 passengers and was not restricted to 7-8 passengers.
- 3.10 17<sup>th</sup> June 2014 – Members considered within the Licensing and Regulatory Committee, following a request from the trade to remove the condition that requires access and egress without the need to move another seat. At this hearing Members rejected the request of the trade and in the interest of public safety retained this condition. This was further upheld and continued to remain in force when the taxi and private hire policy was revised on 1<sup>st</sup> April 2016 and 13<sup>th</sup> September 2016, following consultation with the trade.
- 3.11 1<sup>st</sup> April 2016 and 13<sup>th</sup> September 2016 the Licensing and Regulatory Committee adopted the Taxi and Private Hire Policy and Conditions 2016. The policy adopted on the 13<sup>th</sup> September 2016 is currently in place and is subject to revision within this report and is referred to within the recommendations in Section 2 above. It must be noted that on both Committee hearings to amend the policy, access and egress without the need to move another seat was retained within the policy.
- 3.12 26<sup>th</sup> September 2017 – The Licensing and Regulatory Committee reconsidered the policy following a request from a member of the taxi trade to remove the condition that requires access and egress without the need to move another seat.

At this hearing the proprietor supplied the EuroNCap attached as Appendix 2 this is the safety test manufacturers provide for every vehicle before the vehicle is sold to the public.

Also within this hearing consideration was given to the Powys County Council report that was submitted to their Licensing Committee on 6<sup>th</sup> March 2014 regarding their policy on passenger safety, attached as Appendix 3. Powys County Council decided at this hearing to remove the condition regarding folding seats. The Powys County Council report attached as Appendix 3 referred to a Magistrates Court hearing, recommendations made by the Department of Transport (Dft) and ROSPA before they came to their decision.

Licensing Officers at that time consulted with Licensing Expert Panel of Wales, for Authorities in Wales to give their policy on this matter. The Authorities that responded are referred to in Appendix 4. Two other Authorities stated they required clear access to a door with similar restrictions to Monmouthshire

Members of the Licensing and Regulatory Committee viewed a variety of makes and models and also photos were submitted of such vehicles these photographs are attached as Appendix 5 and 6.

After hearing all the evidence put before them Monmouthshire County Council's, Licensing and Regulatory Committee retained the condition referred to in 3.10 above.

- 3.13 15<sup>th</sup> March 2018 - Monmouthshire held a Talk Transport Event, whereby numerous proprietors informed us they are struggling to purchase reasonably priced vehicles that comply with the current 5-8 passenger conditions requiring clear access/egress for passengers without moving/tilting a seat. Monmouthshire is currently conducting a Transport Review and has taken account the feedback of the Transport day. The Transport Review has highlighted inconsistency with Monmouthshire Passenger

Transport Unit (PTU) encouraging external companies to bid for Monmouthshire contracts, using vehicles with 8 passenger seats (including vehicles with folding seats) when the same vehicles would not be licensed by Monmouthshire County Council. Therefore, preventing those holding a licence with this Council partaking in such contracts. In light of this fact, the PTU have provided figures on the potential cost to Monmouthshire should our Policy not change.

“There are currently 49 home to school transport contracts where an 8 seat vehicle is specified for use. If we were unable to specific the use of an 8 seat vehicle given the limited number of licensed vehicles available we would have to increase vehicle capacity to 12 seat PSV vehicles. Through cost analysis of current contracts the difference between an 8 seat and 12 seat vehicle can vary substantially dependent on area and whether the contract is ALN. It is difficult to quantify the financial impact of retendering all 8 seat contracts as 12 seats, but a conservative estimate of £20 per vehicle would result in increased costs of £186k per annum. We would also have significant concerns over vehicle and driver availability to fulfil the additional PSV 12 seat contracts.”

- 3.14 The Transport Review also highlighted concerns that individual licensing officers are currently required to assess if a vehicle has clear access with a suitable gap for passengers to enter/egress the vehicle without a set width of a specific distance. Therefore one officer may deem a gap adequate and another officer may not. Whilst licensing officers are trained on basic vehicle checks officers are not qualified to comment on vehicle standards or safety.
- 3.15 25<sup>th</sup> May 2018 – Following the information received in 3.12 and 3.13 above, the Licensing Section consulted with the taxi trade for their views if the condition regarding folding seats and the restrictions that may affect the trade as a whole. The responses are attached as Appendix 7. Proprietors have also reported they are retaining older vehicles, reluctant to replace with newer models in fear of Monmouthshire requesting a seat be removed. To demonstrate the scope and age of our vehicles currently licensed for 5-8 passengers please see the current vehicle fleet attached as Appendix 8.

Amongst the responses from the taxi trade a proprietor mentioned the modern vehicles having extra safety for children with isofix seats. Isofix points within vehicles enable child car seats to be plugged into the corresponding fitting points in the car, removing the need to use the car’s seat belts to secure the seat. An additional top tether or supporting leg is used to prevent the child seat tilting or rotating in an impact. From November 2012 isofix is mandatory within every car with more than two seats. Licensed vehicles use children’s car seats when transporting children up to the age of 12 or height of 135cm tall (whichever comes first) as required by legislation.

- 3.16 31<sup>st</sup> May 2018 – Although cost implication are an important factor for the Transport Review and the taxi trade, this is not a matter that would be considered for Licensing purposes, where safety is paramount, not only the trade themselves but for the public that use such vehicles. As such, Licensing sought the views of ROSPA and if they had any recommendations should the condition to not have a folding seat be removed. On 31<sup>st</sup> May 2018 ROSPA provided the following response;

*RoSPA understands that licensing conditions imposed by local authorities with regard to Multi-Purpose Vehicles (MPVs) still vary across Wales and beyond. “RoSPA’s views are unchanged from our 2014 response and the safe egress of all occupants in the event of an emergency should remain the priority. We note the alternative seating policy now*

*essence allows seats that have to be moved in order for passengers to enter or exit the vehicle, provided the vehicle has:*

- *at least three doors to the passenger compartment*
- *clear signs on how to lift the seats in the second row*
- *operating levers to lift the seats that are coloured yellow or orange*
- *windows on the near and offside of the rear row of seats that can be used as exits in an emergency, with window exit signs*
- *a quick release device on the rear door for use in an emergency if one of the side passenger doors is inaccessible in an accident*

*This type of policy seems a reasonable way of mitigating the risk of passengers in the rearmost row struggling to exit the vehicle quickly in an emergency because they have to climb over or move another seat. However, it still leaves some risk that egress could be impeded; on the current level of data and knowledge available it does not seem possible to be certain whether this option is best.”*

It is following this response from ROSPA, that the recommendation to remove the condition, subject to further provisions highlighted in red in Appendix G of the proposed Appendix 1 of the proposed Taxi and Private Hire Policy and Conditions 2018 as stated in 2.3(a). The further provisions proposed are as follows, not taking into consideration Basildon District Councils view of having the quick release device on the rear door as most models do not have this facility;

- All vehicles must have at least 3 doors for passenger access/egress.
- Clear signs indicate how to tilt the seat from the rear row pointing to the handle/leaver/or other mechanism.
- All handles/ leavers or other mechanisms used to fold or tilt a seat are painted illuminous yellow or orange.
- In a row of seats without clear access to a door there must be windows on both sides of the vehicle and the proprietor must not laminate the glass with any extra window tinting over and above the design of the manufacturer.

#### **4. REASONS**

Members consider and adopt the proposals to amend the current Taxi and Private Hire Policy and Conditions 2016, stated in the recommendations of section 2 above. The proposal will provide uniformity and clarity to the trade, whilst upholding safety requirements.

#### **5. RESOURCE IMPLICATIONS**

Costs will be part of cost recovery and fee setting.

#### **6. WELLBEING AND FUTURE GENERATIONS IMPLICATIONS**

The ‘Future Generations’ template is attached as Appendix 9.

#### **7. CONSULTEES**

Wales Licensing Expert Panel  
RoSPA  
DVSA  
Passenger Transport Section  
MCC Transport Review Group  
Licensed Monmouthshire County Council Drivers/Proprietors/Operators

**8. BACKGROUND PAPERS**

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976

Institute of Licensing – Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018

**9. AUTHOR:**

Linda O’Gorman, Principal Licensing Officer

Leigh Beach, Licensing Enforcement Officer

**10. CONTACT DETAILS:**

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E-mail: leighbeach@monmouthshire.gov.uk

# TEST RESULTS

## Ford Transit Custom

Ford Transit Custom, 2.2 diesel 'Trend' Kombi, LHD

20



ADULT OCCUPANT



PEDESTRIAN

### ADULT OCCUPANT

#### FRONTAL IMPACT

12,8 pts



Driver



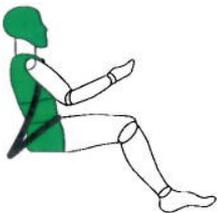
Passenger

#### SIDE IMPACT CAR

8 pts

#### SIDE IMPACT POLE

7,1 pts



Car



Pole

#### REAR IMPACT (WHIPLASH)

2,4 pts



- GOOD
- ADEQUATE
- MARGINAL
- WEAK
- POOR

#### FRONTAL IMPACT

##### HEAD

|                          |        |
|--------------------------|--------|
| Driver airbag contact    | stable |
| Passenger airbag contact | stable |

##### CHEST

|                                   |        |
|-----------------------------------|--------|
| Passenger compartment             | stable |
| Windscreen Pillar rearward        | 9mm    |
| Steering wheel rearward           | none   |
| Steering wheel upward             | 36mm   |
| Chest contact with steering wheel | none   |

##### UPPER LEGS, KNEES AND PELVIS

|                               |             |
|-------------------------------|-------------|
| Stiff structures in dashboard | Steerin box |
| Concentrated loads on knees   | Steerin box |

##### LOWER LEGS AND FEET

|                         |          |
|-------------------------|----------|
| Footwell Collapse       | none     |
| Rearward pedal movement | clutch - |
| Upward pedal movement   | clutch - |

#### SIDE IMPACT

|                         |     |
|-------------------------|-----|
| Head protection airbag  | Yes |
| Chest protection airbag | Yes |

#### WHIPLASH

|                      |       |
|----------------------|-------|
| Seat description     |       |
| Head restraint type  |       |
| Geometric assessment | 0 pts |

#### TESTS

|                   |       |
|-------------------|-------|
| - High severity   | 0 pts |
| - Medium severity | 0 pts |
| - Low severity    | 0 pts |

## CHILD OCCUPANT

Total 44 pts | 90%

### 18 MONTH OLD CHILD

**Restraint** Britax Baby Safe Plus ISOFIX  
**Group** 0, 0+  
**Facing** rearward  
**Installation** ISOFIX anchorages and top tether



PERFORMANCE 12 pts  
 INSTRUCTIONS 4 pts  
 INSTALLATION 2 pts

### FRONTAL IMPACT

**Head forward movement** protected  
**Head acceleration** good  
**Chest load** good

### SIDE IMPACT

**Head containment** protected  
**Head acceleration** good

### 3 YEAR OLD CHILD

**Restraint** Britax Duo Plus ISOFIX  
**Group** 1  
**Facing** forward  
**Installation** ISOFIX anchorages and top tether



PERFORMANCE 12 pts  
 INSTRUCTIONS 4 pts  
 INSTALLATION 2 pts

### FRONTAL IMPACT

**Head forward movement** protected  
**Head acceleration** good  
**Chest load** good

### SIDE IMPACT

**Head containment** protected  
**Head acceleration** good

### VEHICLE BASED ASSESSMENT

8 pts

### Airbag warning Label

Text and pictogram on both sides of passenger sun visor

## PEDESTRIAN

Total 14 pts | 48%



**GOOD** (Green)  
**MARGINAL** (Orange)  
**POOR** (Red)

**HEAD** 12 pts  
**PELVIS** 0 pts  
**LEG** 2,3 pts

## SAFETY ASSIST

Total 5 pts | 71%

### SPEED LIMITATION ASSISTANCE 1 pts

- active, optional Pass

### ELECTRONIC STABILITY CONTROL (ESC) 3 pts

- ESP Pass

Yaw rate ratio (1.00s) 2,11 %

Yaw rate ratio (1.75s) -3,33 %

Lateral displacement (1.07s) 2,58 m

### SEATBELT REMINDER 1 pts

- driver Pass

- passenger Not assessed

- rear Not assessed

## DETAILS OF TESTED CAR

### SPECIFICATIONS

|                                      |  |
|--------------------------------------|--|
| <b>Tested model</b>                  | Ford Transit Custom, 2.2 diesel 'Trend' Kombi, LHD                     |
| <b>Body type</b>                     | Van-based people carrier   |
| <b>Year of publication</b>           | 2012   |
| <b>Kerb weight</b>                   | 2091kg   |
| <b>VIN from which rating applies</b> | applies to all Transit and Tourneo Customs of the specification tested |

### SAFETY EQUIPMENT

|                                       |                              |
|---------------------------------------|------------------------------|
| <b>Front seatbelt pretensioners</b>   | meeting fitment requirements |
| <b>Front seatbelt load limiters</b>   | meeting fitment requirements |
| <b>Driver frontal airbag</b>          |                              |
| <b>Front passenger frontal airbag</b> | meeting fitment requirements |
| <b>Side body airbags</b>              | meeting fitment requirements |
| <b>Side head airbags</b>              | meeting fitment requirements |
| <b>Speed Limitation Assistance</b>    | meeting fitment requirements |
| <b>Electronic Stability Control</b>   |                              |
| <b>Seatbelt Reminder</b>              | driver only                  |

## EURO NCAP ADVANCED REWARDS

2012 - Ford Lane Keeping Alert



## COMMENTS

### Adult occupant

The passenger compartment remained stable in the frontal impact test. Dummy readings indicated good protection of the knees and femurs of the driver and passenger dummies. However, structures in the dashboard were thought to present a risk to occupants of different sizes or those sat in different positions. The Transit Custom scored maximum points in the side barrier test with good protection of all body regions. In the more severe side pole impact, protection of the chest and abdomen was adequate while that of the head and pelvis was good. Whiplash protection was assessed by analysing the geometry of front and rear seats and head restraints. The assessment revealed marginal protection against whiplash in the event of a rear-end collision.

### Child occupant

Based on dummy results in the frontal and side impacts, the Transit Custom scored maximum points for its protection of both the 18 month and 3 year infants. In the frontal impact, forward movement of the 3 year dummy, sat in a forward-facing restraint, was not excessive and, in the side impact, both dummies were properly contained within the protective shells of their restraints, minimising the likelihood of head contact with parts of the vehicle interior. The front passenger airbag can be disabled to allow a rearward-facing child restraint to be used in that seating position. Clear information is provided to the driver about the status of the airbag and the system was rewarded. The dangers of using a rearward-facing restraint in that seat without first disabling the airbag are clearly labelled on the vehicle interior.

### Pedestrian

The bumper provided mixed protection to pedestrians' legs with good protection in some areas and poor or marginal protection in others. Similarly, in those areas likely to be struck by the head of a child or that of an adult, protection was mostly poor or marginal but was good in some areas. Assessment of the front edge of the bonnet was not appropriate owing to the shape and height of the vehicle.

### Safety assist

## TEST RESULTS

The Transit Custom has electronic stability control as standard equipment on passenger-carrying and commercial variants. A seatbelt reminder for the driver is also standard equipment. A driver-set speed limitation device is not fitted to all variants but is standard equipment in more than half of vehicles sold and met Euro NCAP's requirements for fitment and functionality.

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, RIGHTS OF WAY AND TAXI LICENSING COMMITTEE

DATE: 6<sup>TH</sup> MARCH 2014

REPORT AUTHOR: Senior Licensing Officer

SUBJECT: Hackney Carriage and Private Hire Licensing - Multi Purpose Vehicles

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REPORT FOR: DECISION

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## 1. INTRODUCTION

1.1 Under the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, Local Authorities have the power to grant Licences for Hackney Carriage and Private Hire Vehicles subject to a number of conditions.

1.2 In the interests of passenger safety, it is currently the policy of the Council to ensure that all licensed hackney carriage and private hire vehicles provide direct access and egress to a door for all passengers, this was agreed by the Council's Licensing Committee in 2002. The current licence condition reads:

***'All passengers shall have access to a door, openable from inside the vehicle, without the need to climb over the rear of any seat, or the need to lower the back of any seat.'***

1.3 This policy affects the licensing of MPV (Multi purpose vehicle) type vehicles that have two rows of passenger seats in the rear, sometimes requiring the permanent removal of a seat from the middle row to enable access to the rear row of seats and so allow the vehicle to be licensed. In such cases this effectively reduces the seating capacity of the vehicle.

1.4 Following a recent hearing, at which the licensing review panel were requested to consider licensing the full seating capacity of an MPV type vehicle licensed as private hire; the panel in conclusion requested that this policy be re-visited and reviewed if appropriate.

## 2. BACKGROUND

2.1 In 2002 when the Council adopted this policy it was in line with the way in which other authorities licensed Hackney carriages and Private Hire Vehicles. A benchmarking survey at the time found that more authorities in Wales had adopted this policy than had not.

2.2 In November 2003 the authority were challenged on this policy when a Hackney Carriage proprietor appealed at Magistrates court the decision of the Council not to licence the full seating capacity of his MPV.

2.3 At the appeal the authority presented in support the opinion given by ROSPA at the time:

*'It is RoSPA's view that all vehicles designed or used for public transport (including hackney carriages and private hire cabs) should provide adequate*

and ready means of access to each and every seat.

*Passengers should be able to exit the vehicle without having to climb over or move a seat or wait for another passenger to exit. (Passengers sitting in the middle of the rear seat would have to wait if they had passengers on either side of them).*

*Therefore, RoSPA supports the policy of many Licensing Authorities of limiting the number of seats in MPVs that are used as taxis or private hire vehicles to provide passengers in the rear with safe access to and from the vehicle.'*

The magistrates upheld the decision of the Council.

- 2.4 Since this case in 2003 the authority has not been challenged on this policy and the licence condition has not been reviewed or revisited.

### **3. CONSIDERATIONS**

- 3.1 The Department for Transport issues guidance to local authorities on Hackney Carriage and Private Hire Licensing, the most recent guidance issued in March 2010 states:

*'It may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).'*

*'The Department encourages local licensing authorities, as a matter of best practice, to play their part in promoting flexible services, so as to increase the availability of transport to the travelling public. This can be done partly by drawing the possibilities to the attention of taxi and PHV trade. It also should be borne in mind that vehicles with a higher seating capacity than the vehicles typically licensed as taxis (for example those with 6, 7 or 8 passenger seats) may be used'*

- 3.2 The current view of ROSPA has been sought. Their e-mail response is attached at Annex A. In summary they state they are in the ambivalent position of supporting the policy of requiring passengers to be able to exit a taxi or private hire vehicle without having to climb over or move a seat, but not opposing local authorities who decide that the benefits of enabling people carriers to be used as taxis or private hire to carry one extra passenger outweigh the risk of passengers in the rearmost row struggling to exit the vehicle quickly in an emergency.
- 3.3 A recent benchmarking survey of authorities in Wales has revealed that the authorities retaining a policy on requiring direct access to all seats without the need to lower the back of a seat are now in the minority, with authorities who have reversed their decision citing that they had lost in court when the policy had been challenged.
- 3.4 The points above leave the authority in somewhat of a quandary as to what would be the best way forward. I have subsequently spoken directly with Michelle Harrington, Road Safety Manager at Rospa regarding this dilemma and she clarified their position as outlined in the e-mail message and also pointed out that whilst from a logical viewpoint it would appear that passengers who have direct access to a door are afforded a greater degree of passenger safety there was in fact no data or evidence to support this. She went on to say that the biggest factor, by far, influencing the safety of passengers in vehicles is the wearing of a seat belt.
- 3.5 One matter that may also be worth considering is that the general safety performance of cars will have improved in the 12 years since the policy was first adopted, all new cars are now subject to Euro New Car Assessment programme (Euro NCAP) which tests vehicles in

a variety of crash simulations. The star rating awarded to vehicles by NCAP and car safety features becoming an important factor in the marketing of vehicles by manufacturers.

#### 4 DECISION

4.1 Members are asked to consider the appropriate way forward given the considerations outlined above. The options are:

- **To retain the current policy and licence condition,**  
Based on the logical inference that passengers having direct access to a passenger door are not at risk of becoming trapped, they have a greater chance of escape from the vehicle in the event of an accident and are therefore safer. This view is supported by Rospa.
- **To reverse the policy and remove the licence condition.**  
This would be line with the 2010 Dft guidance suggesting that such a policy may be restrictive. In addition, by Rospa’s admission there is no data to suggest that passengers are any safer in a vehicle when they do not have direct access to a door, and finally that vehicle safety in the last 12 years since the policy was introduced has improved with safety features and Ncap testing now becoming important factors for manufacturers competing to market their vehicles.

|                       |              |  |                          |
|-----------------------|--------------|--|--------------------------|
| Contact Officer       | Tel:         | Fax:   | Email:                   |
| Sue Jones             | 01874 612263 | 01874 612323   | susan.evans@powys.gov.uk |
| Relevant Policy (ies) |              | Hackney Carriage and Private Hire Vehicle Licence Conditions |                          |

|                               |                  |
|-------------------------------|------------------|
| Relevant Portfolio Member(s): | Cllr John Powell |
| Relevant Local Member(s):     | N/A              |

Our neighbouring authorities have been consulted with regards to this condition, below are the conditions each authority have in relation to 5-8 passenger vehicles:-

### **Blaenau Gwent County Borough Council**

No seat should be required to be moved to allow any passenger to enter or exit the vehicle. All seats must face forward or backwards to the direction of travel. There must be a clear passageway to each row of seats.

### **Torfaen County Borough Council**

In the case of a vehicle that carries more than 4 passengers no seat should be required to be moved to allow any passenger to enter or egress the vehicle.

Vehicles that have 3 rows of seats, e.g. people carriers where seats have to be tilted or moved to give access to the rear row of seats will not be licensed unless one of the seats in the middle row is removed to allow unimpeded access to the rear seats. The seat removed to facilitate entry as described must have the mounting secured to prevent the seat from being easily re-fitted into the vehicle.

Where access to the rear seats is made through a gap between the seats in the middle row the gap must be a minimum of 30 cm to allow clear access to the rear seats

### **Newport City Council**

Each passenger shall have direct access to a door without the need to remove or completely fold flat other seating. Where passengers do not have direct access to an adjacent door, vehicles that have seats that “tilt” forward by a single operation will be permitted by the Council. A clear sign within the vehicle should clearly indicate the location of the handle that operates the tilt forward seat.

### **Caerphilly County Borough Council**

Licence vehicles to carry the number of passengers stated in the vehicle registration certificate (log book) minus the driver.

Statement - “We found that having all vehicles with moveable seats be approved by committee too onerous on all involved.”

### **Powys County Council**

No folding seat restrictions

### **Herefordshire Council**

Herefordshire Council have the following condition attached

- Unobstructed access to all emergency doors or exits. (Seats must be located to facilitate this).

The following is also in addition to all other conditions and applies to mini buses and MPVs that are licensed as private hire vehicles and taxis:

- The vehicle must have at least two doors to the rear of the driver for the exclusive unobstructed use of passengers.

Appendix Five



Vehicle with three rear seats. Seat required to move forward before a passenger can enter or egress the back seats



Vehicle with two rear seats. Seat required to move forward before a passenger can enter or egress the back seats

**Emails received from our currently licensed Drivers, Proprietors and Operators regarding the 5-8 passenger tilting/folding seat requirements.**

Requesting removal of condition

1. It wont affect me either way but I have always wondered why vehical manufacturers deem these vehicasl safe for families to travel in but Monmouthshire Council don't so for me they should be allowed.
2. I would say that this could be allowed as these vehicles are rigorously safety tested by the appropriate agencies for the manufacturers. As long as this seat is checked daily to ensure full working order as it should be. Other councils allow these type of vehicles to be used so I feel we should not penalise our operators. It also brings into question that other Council operators are allowed to operate in our County doing School runs in these vehicles.
3. I would like to confirm that i think the the ruling for licensing 5-8 seat vehicles with folding seats should be changed. Vehicles leave the factory with folding seats and are save so this should be reflected in MCC policies.  
MCC is behind the times with these vehicles and are making it hard for operators wishing to update their vehicles as all the newer 8 seat minibuses have folding seats.
4. We would very much like this to be introduced and the removal of the folding seat condition

Vehicle manufacturers spend a considerable amount of money to ensure safety and access, they would not make vehicles unsuitable. Whether it be for own use or as a licenced vehicle, the safety of the occupants is still the same. By removing a seat in line with the folding seat condition, we are limited not only to the PTU contracts we can offer, but to the prices we have to charge to enable us to effectively pay for the transport. We feel that the time spent and ease to fold the chairs and exit from the minibus that the manufacturer has designed should be acceptable. All people are equal, and paying customers or a minibus for home use is still people travelling in a minibus. The Euro Ncap reports (who give safety marks on vehicles and are the benchmark) have given our minibus that is effected a 5 star rating WITH all seats in. If there was a safety issue, then it would not have such a hgh trating. Please see the report attached.

Also see NCap video for safety on passanger occupancy in the rear of the Custom :

<https://www.euroncap.com/en/results/ford/transit-custom/10925>

I refer in particlular to adult and child safety paragraphs :

Adult occupant Child occupant Based on dummy results in the frontal and side impacts, the Transit Custom scored maximum points for its protection of both the 18 month and 3 year infants. In the frontal impact, forward movement of the 3 year dummy, sat in a forward-facing restraint, was not excessive and, in the side impact, both dummies were properly contained within the protective shells of their restraints, minimising the likelihood of head contact with parts of the vehicle interior. The front passenger airbag can be disabled to allow a rearward-facing child restraint to be used in that seating position. Clear information is provided to the driver about the status of the airbag and the system was rewarded. The dangers of using a rearward-facing restraint in that seat without first disabling the airbag are clearly labelled on the vehicle interior. The passenger compartment remained stable in the frontal impact test. Dummy readings indicated good protection of the knees and femurs of the driver and passenger dummies. However, structures in the dashboard were thought to present a risk to occupants of different sizes or those sat in different positions. The Transit Custom scored maximum points in the side barrier test with good protection of all body regions. In the more severe side pole impact, protection of the chest and abdomen was adequate while that of the head and pelvis was good. Whiplash protection was assessed by analysing the geometry of front and rear seats and head restraints. The assessment revealed marginal protection against whiplash in the event of a rear-end collision.

I feel that in relation to our Transit Custom which we have removed a seat, these safety factors and the ease of design should allow us to have all seats fitted.

5. I feel that the rule should be removed.as modern 5/8 seater's have under gone goverment safety checks and have been found to be safe for purpose.I would also put forward that any 5/8 seater's be restricted to an age limit of 10 years for licencing as they do not meet enough safety requirements brakes lights seatbelts extra.
6. I would like to see the regulation changed so we can have a seat put back in to make it an 8 seater passenger carrying vehicle.
7. I operate an 8 seater Renault Traffic that I have had to plate under Monmouthshire Licencing to only carry 7 passengers, I think this vehicle should be able to carry 8 as this is what the vehicle was designed to do, I would of thought Renault would of carried out the legal requirements needed before making this vehicle, I used to be licenced under Newport Council with the same vehicle when it was licenced for 8 passenger and never had a problem doing this.

I agree that you have to tip 1 seat forward to get out from the back, which takes no longer as the middle row can get out from the drivers side as there are 2 doors to get the passengers out from on most minibuses so in all including the rear door my vehicle has 5 doors.

So yes I would like to be able to licence this vehicle to carry 8 passengers.

8. I don't feel there is a safety risk for Passengers if folding seats are in a vehicle.  
The vehicles are VOSA tested and approved for use on U.K. roads up to the Passanger capacity, why is this not a good enough test for use as a taxi.  
The construction and use is no different so I don't believe personally that any restrictions or extra safety measures are necessary.  
Thank you for consulting us on this issue and I look forward to the outcome.
9. I would like the conditions removed . I have a peugeot 5008 exec 7 seater but mcc will only licence me for 4 passengers. I am not allowed to carry my family in it !!! . I have 5 kids and a wife .  
It borders on farcical that other authorities licence this vehicle for its capacity of 6 passengers. So does my insurance but mcc does not .  
There should be central rules that all councils follow not a different set for every council
10. I would like it to change as it's causing a real nuisance and preventing me on fulfilling taxi work
- 11.

We would like to have the condition of only having 7 and 5 seater vehicles removed as I think we are one of the only ones with a 6 seater licensed which we do have a lot of work for. We would like to upgrade our fleet but due these conditions we don't wish to lose the work that we already have. We also cannot upgrade our fleet as we will be unable to bid on school contracts, as they require 6 and 8 seats on some contracts.  
The busses that we own at the moment which are disabled vehicles we want to upgrade them as they are getting rather old. We have looked at upgrading our minibuses 18 months ago but as this condition is in place we would not be able to licence them as an 6 seater or an 8 seater. This condition severely restricts our ability to bid on school contracts, also some of our TV productions work. We think that it is unfair as other councils in the surrounding areas are now going to be able to bid on Monmouthshire councils school contracts, and they are able to use 6 and 8 seater vehicles. We would also like to upgrade our 6 and 8 seater vehicles as our minibuses are 2.4ltrs however the new vehicles that are available are 1.9ltrs and are also a lot more fuel efficient, which makes a big impact on the environment. If you have any further queries or questions I will gladly make myself available for your meeting. As we employ 27 people we would respectfully ask that this condition would be removed so that we can make plans for the future.

12.

At the moment Monmouthshire Private Hire and Hackney vehicles are subject to a restriction of seating capacity, ie six seater and eight seater are normally only allowed to have seats for five or seven passengers, however surrounding authorities have no such restriction.

Monmouthshire operators are at a competitive disadvantage with other operators, therefore, especially when it comes to school contract tendering we give one example: A six seat vehicle is specified for a contract, this means a Ford Galaxy 1.9ltr vehicle cannot be used as one seat must be removed. A seven seat vehicle is, therefore, necessary, a Ford Transit short wheel base with a 2.2ltr engine must be used. This is bigger, heavier and more expensive to operate.

It is not unsafe to operate six/eight seater vehicles as they are allowed to operate elsewhere.

There are a very limited amount of number of eight seat vehicles with rear facing seats in the passenger(rear) area but there is also alot of customers who will not travel in such vehicles. We suspect it would also be a problem for certain children as carry at the moment.

We, therefore, respectfully ask that this policy be re-assessed by the licensing committee and that the taxi association representative(s) be present during all or part of the re-assessment. One "rep" has a good deal of technical expertise in this matter.

13. In response to the question on supporting the 5-8 seat policy to change in regard to the folding seat I do indeed remain supportive of this change, I will however point out that since my appeal in September nothing substantial has changed to my best knowledge for anything to be looked at in a different way in relation to this folding seat. The committee decided to keep the rule in place as they all agreed they wouldn't be happy travelling in this way, Councillor Strong even went on to say how he "would not want to be part of a council that changed this rule". The factor that I see is bringing this relook about is that of a financial one on the council's part as it's clearly been stated they are looking at their own vehicles, I am also aware that school contracts are overdue for tender and this policy has an impact on school runs. May I point out that in my original appeal I pointed these issues out myself. It was also firmly stated by a senior licensing officer during the visit at the Raglan depo that cost is not a factor in terms of the rule being changed. It is for these reasons I cannot see how it can be changed and if it is then I shall seek to take further action.
- I will attend the meeting if possible, however, in terms of speaking I feel it somewhat inappropriate, my appeal meeting taught me that whilst I might speak it doesn't mean I'll be listened to as the decision will no doubt already be made given the reasonings for the relook.
- My appeal in September taught me a lot about how things are done within the council and to be honest I was a very naïve individual going into it, I have seen many issues that cause concern and I would actually like to speak with maybe a member or 2 of the committee at some point, I feel there are some genuine public safety issues as well as vehicle safety issues and others that need to be addressed.

14. I think it's a good idea to change the rules on removing a seat

15. I am writing this letter on behalf of myself \_\_\_\_\_ and company \_\_\_\_\_ of Abergavenny, asking licencing authority and committee members to consider lifting the exciting conditions regarding 8 / 6 seater licence vehicles
- Reasons for this request

Now that monmothshire county council PTU have opened the door to outside licencing authorities it has left a very unfair playing field for licenced operators of monmothshire county council, due to other licencing authorities not having conditions regarding 8/6 seaters, leaves us operator's wide open to a massive dipping trade as we can no longer tender for these contracts.

I have got two 8 seater transit tourneo mini buses that I would like to up date , but because of these conditions these buses are going to have to work on as it's nealy impossible to find a realistic price range exchange as all NEW ford. transits does not match your conditions which means I would lose a seat and 2 school contracts as these are 8 seater contracts, I can't believe that the multi million pounds car manufacturers spend on safety of their passagers and the terms and conditions exciting, are saying that it's not safe , which I find it hard to believe

If I was to buy a vehicle to replace my existing 8 seater, I would have to pay an additional cost to alter the seating arrangement to conference seating and this is something that I will not do as I have built my business on not expecting my customers to do something that I couldn't do myself by traveling backwards and for everybody who is reading this letter, I am asking you to please be honest and think about whether you would like to travel to the airport backwards, I think if I was to ask my customers whether they would like to travel facing forwards or facing backwards I think we all know the answer

So please can you take my letter into consideration and don't let your own operator's be at a disadvantage to outside authority operators.

16. I am writing this email regarding the lifting of conditions for 6/8 seater vehicles on behalf of myself \_\_\_\_\_. I would like the licencing authority and all committee members to consider lifting the existing conditions regarding seating arrangements on 6/8 seater.

As Monmouthshire County Council Passenger transport unit are allowing outside licensing authority's to tender for school contracts, as they have no conditions with regards to 6 and 8 seater vehicles, this has left great disadvantages for licenced operators of Monmouthshire County Council and a big loss in revenue as we can no longer tender for such contracts.

The safety aspect makes no sense as the firm's that make these vehicles would not spend billions a year on safety if it deemed unsafe for the general public. Company's who buy new vehicles are then asked to remove a seat which is at cost to them, in order for them to meet Monmouthshire County Council's guide lines for such vehicles.

Conference seating is allowed but if u conducted a survey on how many people like to travel backwards, I think you will find that the overall majority would not.

17. I would like to extend the seating to 6 and 8 seater as we all seem to be turning away a fair amount of work, especially at weekends.  
I am confident the extra seating would be safe as the manufactures wouldn't make as many models aimed towards businesses such as ours.  
Isofix seatbelts are also included as these provide extra safety.
18. I would like to approve the removal of the (folding seat condition)
19. in regards to the folded seat policy I feel that this should be scrapped all the 6 seater cars and bus have been test and approved fit of purpose by the main dealers if its that much hassle to exit in an emergency why not have glass hammer fit in the vehicles (This view was submitted x3 times by different drivers).
20. As a taxi operator in Abergavenny I feel the need to put the extra seating in the vehicle as I get a lot of enquiries in which I cannot accomodate as I've only got 7seats and also feel if the seating wasn't safe the manufacturer would not provide theses vehicles in which they have been fully checked and tried

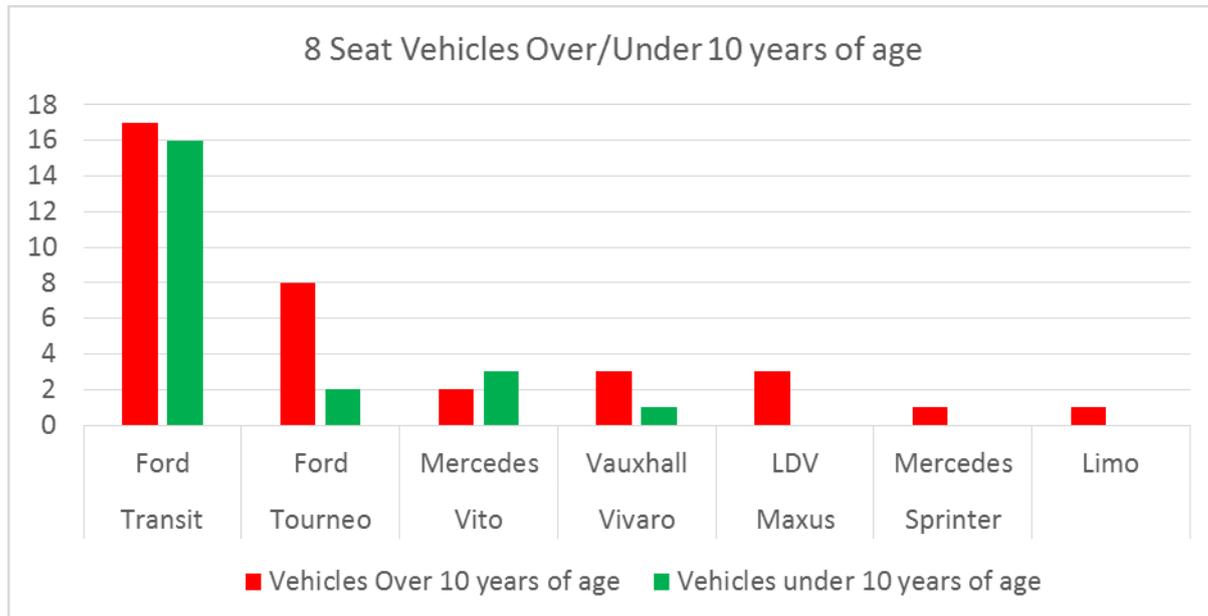
#### Requesting the condition remains

1. I believe condition 5 should stay as it has been in place for a number of years.  
The condition makes it a lot safer as passenger to get in and out easier and also a lot more graceful.

Current vehicles licensed with Monmouthshire CC with 5-8 passenger seats

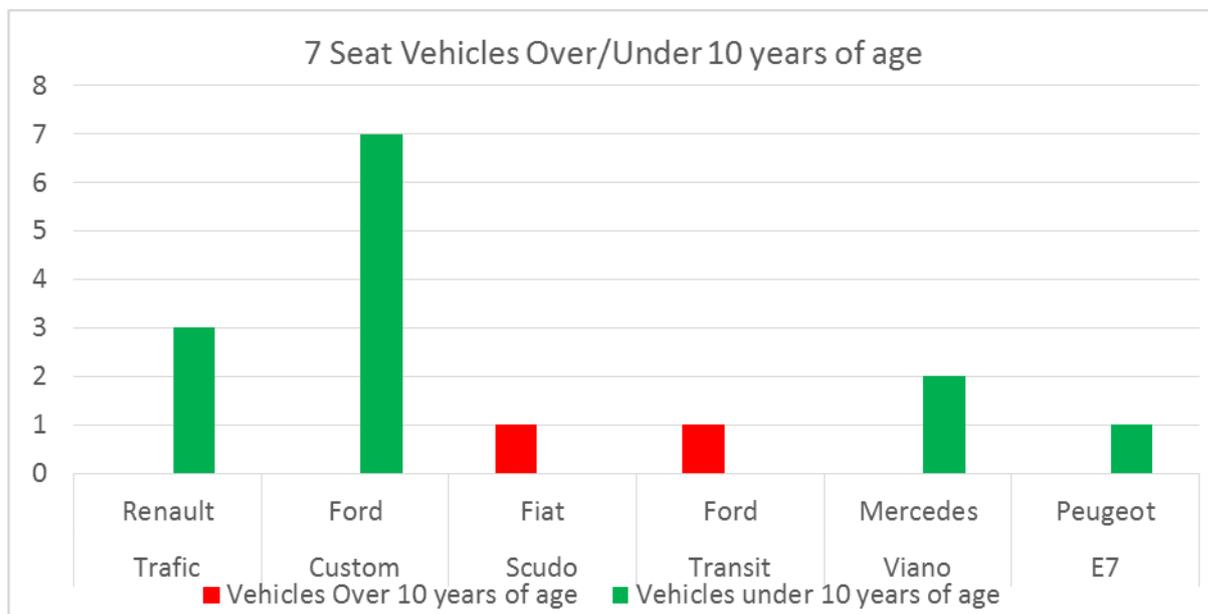
8 Passenger Seats

There are high numbers of 8 seat vehicles over 10 years of age because the current licensed proprietors are reluctant to replace and lose a passenger seat.



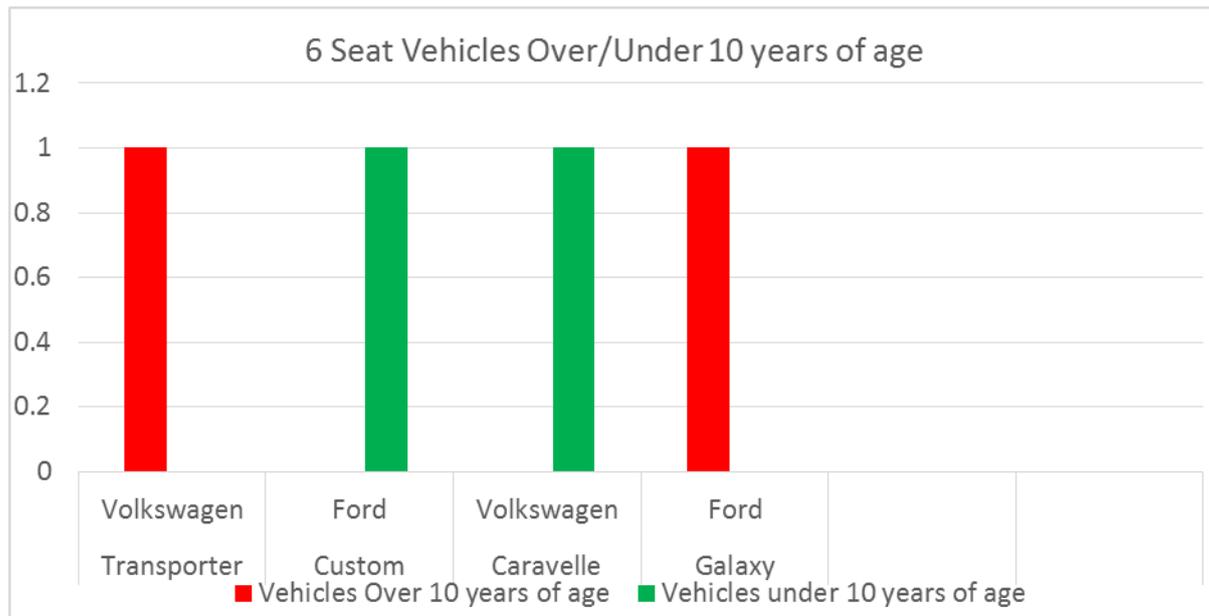
7 Passenger Seats

The graph below includes vehicles that are registered as 8 seats but due to current policy restrictions were required to remove a seat and is licensed for 7 passengers. However, also included are those registered as 7 seats.



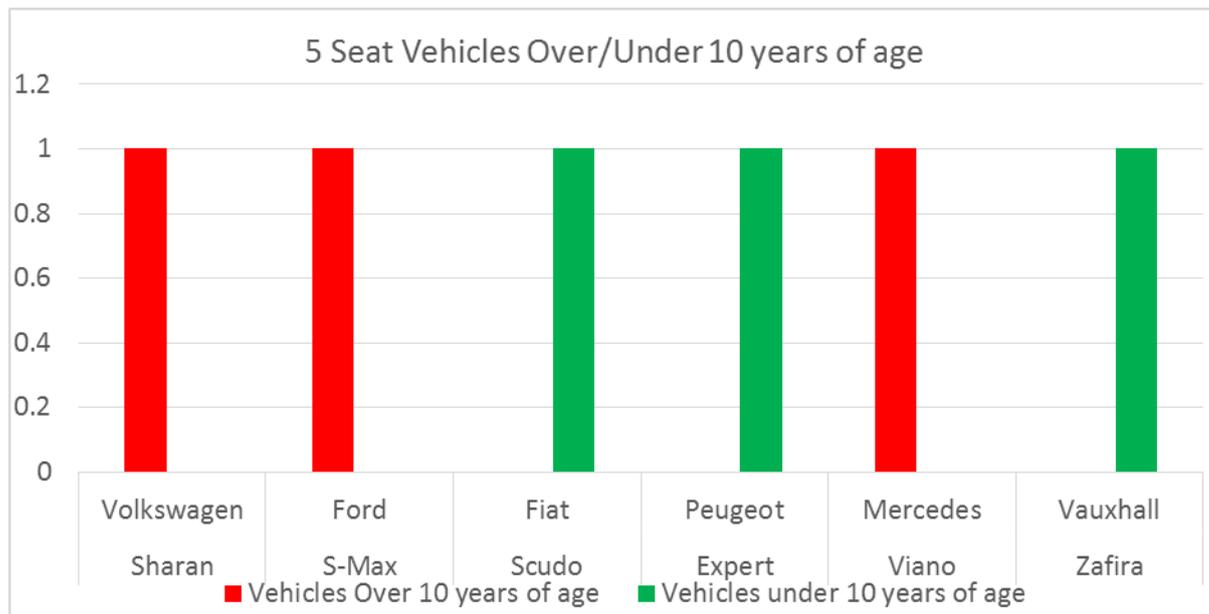
## 6 Passenger Seats

There are two vehicles here over 10 years of age because the manufacturers are reluctant to replace with a modern vehicle and lose a passenger seat.



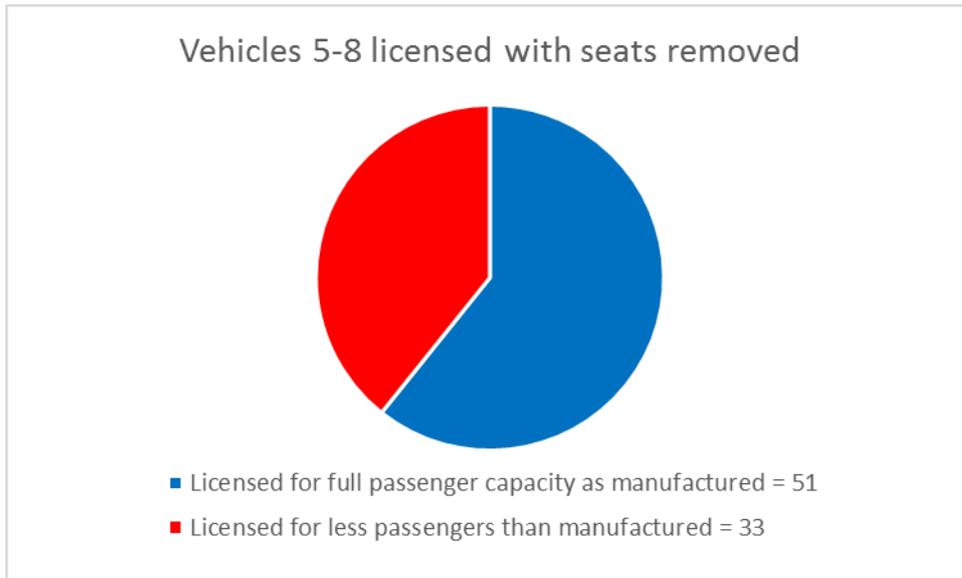
## 5 Passenger Seats

There are 3 vehicles over and under 10 years of age.



## Percentage of vehicles 5-8 seats licensed with seats removed

The below chart shows the high quantity of vehicles currently licensed for 5-8 passengers when the manufacturer designed them to carry more passengers. 33 were required to remove seats.



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monmouthshire  
sir fynwy

# Monmouthshire County Council's Taxi and Private Hire Policy and Conditions 2018

12<sup>th</sup> June 2018

Further information can be obtained from:  
Licensing Section  
Monmouthshire County Council  
Abergavenny Community Education Centre  
Old Hereford Road  
Abergavenny  
NP7 6EL  
Tel: 01873 735420  
Email: [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Website: [www.monmouthshire.gov.uk/licensing](http://www.monmouthshire.gov.uk/licensing)

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## 1. INTRODUCTION

1.1 This document has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 as amended, which places on Monmouthshire County Council as the Licensing Authority the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

1.2 In this Policy, the following abbreviations have been used:

|                  |   |   |
|------------------|---|---|
| DPM              | - | Data Protection Mandate                                     |
| DfT              | - | Department of Transport                                     |
| DBS              | - | Disclosure and Barring Service (formerly CRB)               |
| Driver's Licence | - | Dual Driver's Licence                                       |
| DVLA             | - | Driver and Vehicle Licensing Agency                         |
| EA               | - | Equalities Act 2010   |
| LA               | - | Licensing Authority of Monmouthshire County Council         |
| LG(MP)A          | - | Local Government (Miscellaneous Provisions) Act 1976        |
| MCC              | - | Monmouthshire County Council                                |
| The Policy       | - | Monmouthshire County Council's Taxi and Private Hire Policy |
| TPCA             | - | Town Police Clauses Act 1847                                |

### **Aims of Licensing**

1.3 The aim of hackney carriage and private hire licensing is to protect the public whilst ensuring that they have reasonable access to hackney carriage and private hire services because of the part they play in local transport provision.

### **Objectives**

1.4 The LA's objectives are:

- To ensure the safety of the public affected by the operation of hackney carriage and private hire services.
- To ensure the safety and comfort of users of hackney carriage and private hire services.
- To encourage the provision of high quality and accessible hackney carriage and private hire services.

## **About the Policy**

- 1.5 This Policy aims to:
- Set out the Licensing Authority's approach to regulation, enforcement and sanction of vehicles, drivers and operators;
  - Define and offer guidance on the legislation in relation to the provision of hackney carriage and private hire vehicles; and
  - Set out the licensing conditions applicable to drivers, vehicles and operators.
- 1.6 In exercising its discretion in carrying out its regulatory functions, the LA will have regard to this Policy document and the aims and objectives set out above. The LA will also take into account the DfT's Best Practice Guidance.
- 1.7 Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the LA to depart substantially from the Policy, clear and compelling reasons will be given.
- 1.8 This Policy has been prepared in full consultation with all drivers and operators including representatives of Monmouthshire's Taxi Association and with many stakeholder groups. The Policy will be formally reviewed as and when required; however the Policy and its appendices may also be changed in the interim period to accommodate changes in law, corrections of errors and other triggers to policy change. The LA reserves the right to alter this Policy to ensure compliance with the law as a minor policy change without further consultation.
- 1.9 The Policy was approved by the Licensing and Regulatory Committee on 22<sup>nd</sup> March 2016.
- 1.10 The conditions stated within this Policy will apply to both hackney carriage and private hire drivers, vehicles and their operators. This therefore means any licence or badge granted will be known as a Dual Licence and Dual Badge. However, it shall be noted that within this document there are circumstances where conditions relate specifically to private hire drivers and hackney carriage drivers.
- 1.11 Guidance relating to the process for all applications is available from the LA.

## **2. DRIVERS**

### **Dual Driver Licences**

- 2.1 A person must be considered fit and proper to hold a driver's licence with this Authority.
- 2.2 The LA does not issue separate drivers' licences in respect of private hire and hackney carriages. Instead the LA issues a dual driver's licence which gives the holder the flexibility to drive either type of vehicle.
- 2.3 A licence will not be granted to a person who is under 21 years of age. In addition, a licence cannot be granted to anyone over 21 who has not held a full driving licence for a period of 1 year.
- 2.4 The driver's licence shall remain in force for a period of 3 years unless the LA specifies a lesser period, revokes or suspends a licence. The full requirements an applicant must meet for the dual driver's licence can be found in Appendix A.

### **The Knowledge Test**

- 2.5 Drivers must have a good working knowledge of the area within which they intend to work. Therefore to maintain the high standards that the LA expects of its drivers, a licence to drive a hackney carriage or private hire vehicle shall not be granted until the applicant has successfully passed this test.
- 2.6 The test is in four parts, namely (a) Literacy and Numeracy test, (b) Verbal communication test, (C) Law and Conditions and (d) Knowledge of the County. Further information concerning the knowledge test can be found in Appendix A.

### **Conditions**

- 2.7 The LA is not permitted to attach conditions to a hackney carriage driver's licence. However the LA may impose such additional conditions on a private hire driver's licence as it deems reasonable and necessary. A driver must be considered as a fit and proper person to hold a driver's licence with this Authority.
- 2.8 It is considered that the conditions set out in Appendix B are reasonably necessary and appropriate for all licensed drivers but it is accepted that they may only be legally imposed when a licensed driver drives a Private Hire Vehicle. However all drivers are expected to comply with these conditions.

- 2.9 Many of the requirements prescribed within the Hackney Carriage Byelaws are effectively hackney carriage driver's conditions. As the Byelaws are an appendix to this Policy, a full policy review is not considered necessary to make changes to these Byelaws which would be consulted upon separately in any case. The current Byelaws are attached as Appendix C.

### **Grant and renewal of licences**

- 2.10 Holders of existing licences will be reminded at least one month before their licences are due to be renewed. However, the onus is on the driver to ensure an application is submitted prior to expiry of the licence. The procedure for both grant and renewal is set out in Appendix A.
- 2.11 Applicants must provide a DBS enhanced disclosure that is no older than 3 months at the time of grant or when the DBS is reviewed after 3 years. The DBS enhanced disclosure must also have had checks made for those working with vulnerable adults and children.

### **The Driver's Badge**

- 2.12 The LA will supply the driver's badge and photographic A4 licence. The badge and licence remain the property of the LA and must be returned at the expiry of the driver's licence. In any event, both must be returned to the LA should the licence be suspended or revoked following the end of the appeal period unless suspended or revoked with immediate effect.
- 2.13 Where a badge has been damaged, lost or stolen this must be reported to the LA immediately and a new one obtained.

### **Cautions, Warnings, Convictions and Endorsements**

- 2.14 Where offences leading to the above are committed by licensed drivers, it is important in the interests of consistency and transparency that a procedure should be in place to consider what effect this should have on their licence. Part 6 of this document outlines the principles and sanctions that will be applied although each case will be treated on its merit.
- 2.15 Drivers must report cautions, warnings, convictions and endorsements in line with the licence conditions, which are set out at Appendix B.

### **Licence Fees**

- 2.16 The LA shall review all licence fees on an annual basis. All fees shall be based on cost recovery. All licence fees, including administration fees, shall be published on the Council's website.

## **3. VEHICLES**

### **Hackney Carriage and Private Hire Vehicle Licences**

- 3.1 The vehicle licence will remain in force for a period of one year unless the LA specifies a lesser period or revokes or suspends the licence.
- 3.2 Vehicles must be suitable in type, size and design for use as a licensed vehicle. The LA will licence any vehicle manufactured or adapted to carry up to 8 passengers (excluding driver) provided it meets the criteria set out at Appendix D.
- 3.3 Due to material differences between other Licensing Authorities' policies compared to MCC's Policy and Conditions, the LA does not permit a licensed vehicle to be licensed with another Licensing Authority.
- 3.4 In accordance with Section 40 of the TPCA (relating to hackney carriages) and Section 48(1) of the LG(MP)A (relating to private hire vehicles) the applicant for the vehicle licence must be the proprietor or part proprietor of the vehicle.
- 3.5 As part of the application proves for a hackney carriage proprietor's licence, the LA will require proof of proprietorship by way of a bill of sale, a hire/purchase/lease agreement together with the registration document.
- 3.6 Private hire vehicles are licensed to perform pre-booked work only, which is obtained through private hire operator. Hackney carriages are licensed to 'ply for hire', i.e. to pick up passengers in the street or whilst waiting at authorised taxi ranks and may also accept pre-booked fares. There are a number of taxi ranks within the County, the locations of which are available from the Licensing Section or on the Council's web site.
- 3.7 All vehicles must be in a suitable mechanical condition, safe comfortable and approved for licensing by the LA to operate as a hackney carriage or private hire vehicle. All vehicle proprietors will therefore be required to submit a certificate of testing by an approved garage of MCC set out in Appendix E. The vehicle will be exempt from the provisions of Section 44 of the Road Traffic Act 1972 (Annual MOT testing of vehicles) by reason MCC being in possession of a certificate issued by the Secretary of State for Transport pursuant to

regulations 30(m) and 30(n) of the Motor Vehicle (Tests) Regulations 1976 as amended. Applicants are advised to complete the form V112 issued by the DVLA as proof they are not required to have a MOT certificate. All vehicle proprietors will therefore be required to produce a certificate of testing on the following occasions:

- New applications
- The replacement of a vehicle
- Vehicles over 1 year from date of registration and under 5 years – annual tests
- Vehicles over 5 years from date of registration and under 10 years – 6 monthly tests
- Vehicles 10 years and over – 4 monthly tests
- At the request of the LA where deemed necessary

### **Limitation of numbers**

- 3.8 No powers exist for Licensing Authorities to limit the numbers of Private Hire vehicles which they licence. The present legal provisions on restricting the numbers of Hackney Carriage Vehicles are set out in Section 16 of the Transport Act 1985. This provides that the grant of Hackney Carriage licence may be refused, for the purpose of limiting the number of licensed Hackney Carriages “if but only is, the Local Authority is satisfied that there is no significant demand for the services of Hackney Carriage (within the area to which the licence would apply) which is unmet.”
- 3.9 Many local Licensing Authorities, including Monmouthshire, do not impose any quantitative restrictions for Hackney Carriages and the DfT regards this as best practice. Should an Authority elect to impose restrictions on number, the DfT guidance states that such a decision should be reconsidered frequently, taking into account whether the restrictions should continue. It is suggested that the matter should be approached in terms of the interests of those who use the services of such vehicles.
- 3.10 Where quantitative restrictions are imposed, vehicle licence plates can command a premium. This tends to suggest that there are people who want to enter the market and provide a Services to the public but are being prevented from doing so by the limitation of numbers. It may be difficult to justify a quantitative control in such circumstances.
- 3.11 If the Local Authority takes the view that a quantity restriction can be justified in principle, the DfT Guidance advises that the level at which the limit should be set be addressed by means of a survey, which would necessarily involve costs.

- 3.12 The Council has not at this time decided to set a limit on the number of Hackney Carriages which it licence: no evidence has been provided of any difficulty arising from this stance.

### **Intended Use Policy**

- 3.13 It is entirely lawful for a hackney carriage licensed by one authority to undertake pre-booked hirings (private hire) outside of the authority area. This has led to a situation where a significant number of hackney carriages licensed by an authority in some cases undertaking private hire work entirely outside of that Council area. Whilst the current situation is not unlawful, it is not ideal from an enforcement point of view for vehicles to be operating predominantly outside of the local authority area where they are licensed. It also very difficult to monitor vehicles easily if they rarely operate within their area and this could have huge safety issues. The Authority must be satisfied before a hackney carriage vehicle licence is issued that the hackney carriage will operate within the County and have adopted an intended use policy attached as Appendix F.

### **5-8 Passenger Vehicle Inspection**

- 3.14 In the interest of passenger safety the Council has introduced a further requirement of inspection of vehicles for vehicles that carry 5-8 passengers. This was introduced to ensure safe access and egress from the vehicle. An authorised officer of the Council will inspect the vehicle before an application for a licence is issued. The criteria of inspection are attached as Appendix G.

### **Vehicle Licence Plates**

- 3.15 In accordance with Section 48(6)(a) relating to Private Hire Vehicles and Section 47(1) relating Hackney Carriages of the LG(MP)A, the vehicle licence plate approved by the LA. Two external plates shall be affixed to the front and rear of the vehicle, directly above, below, to the left or right hand side of the vehicle registration number plate. The plates shall be maintained in a good condition and clear and visible. The plates must be securely fixed onto the vehicle by either nuts and bolts, self tapping screws or rivets, or indirectly by means of the bracket supplied by the Council. The interior plate shall be fixed onto the front window in such a position as to be easily observed by the passengers.
- 3.16 The LA recognises that because of the nature of their business, some owners of these vehicles may wish to apply for exemption from displaying the private hire licence plate. Details of vehicles, make, model and registration numbers must be provided to the LA together with clear reasons for this exemption request whereupon a decision shall be made by the Head of Regulatory

Services or the Principal Licensing Officer acting under delegated powers, the matter may also be deferred to the Licensing and Regulatory Committee if a decision cannot be reached. The licence plate need not be displayed on a licensed car if the vehicle is in connection with a funeral and/or being used in connection with a wedding.

- 3.17 All decisions will authorise specific occasions and each application shall be treated on its own merit. However the following conditions shall always apply to such vehicles:
- (a) The private hire licence plate must be kept within the vehicle at all times and be made available for inspection;
  - (b) The licence plate shall be affixed to the vehicle at all times than that specified in the authorisation letter;
  - (c) The driver shall at all times whilst working wear the driver's badge above any outer clothing and in such a position that is clearly visible to the public;
  - (d) The authorisation letter must be kept in the vehicle at all times and available for inspection; and
  - (e) The internal plate issued by the LA must be displayed onto the front window in such a position as to be easily observed by passengers.
- 3.18 The loss or damage of a vehicle licence plate shall immediately be reported to the LA so that a replacement can be obtained. Until a new licence plate is issued the vehicle shall not be used for the carriage of fare paying passengers.
- 3.19 On revocation, suspension or expiry of the vehicle licence, the plates must be returned to the Council within 7 days (Section 58 LG(MP)A), unless a suspension notice has been issued. It is an offence to transfer a plate without prior consultation with the Licensing Section. If you do not return the plate to the Licensing Section, you could be liable to prosecution. Any authorised officer of the Council or the Police is entitled to remove and retain the said plate immediately.
- 3.20 The vehicle licence plates remain the property of the LA and shall not be copied or used in a fraudulent manner.

### **Taxi Meters**

- 3.21 Any new taximeter shall be fitted with an appropriate device bearing the words "FOR HIRE" on each side thereof and in plain letters at least two inches in height, of the appropriate device, so that the words are conveniently legible. The fitting of the taximeters can use the Meter Calibration Centre's attached as Appendix H

- 3.22 The taximeter shall not begin operation until the hirer's journey has commenced.
- 3.23 Prior to hiring no fares shall be recorded on the face of the meter.
- 3.24 Meters shall be used for charging all journeys that start and finish within the County.
- 3.25 In the case of journeys ending outside the County, a fare greater than that shown on the meter may be charged but only where an agreement to pay more than the metered fare has been made in advance of the hiring commencing. In cases where such an agreement has not been made with the hirer, only the metered fare may be charged.
- 3.26 If a hackney carriage is used under a contract for private hire, the meter shall be used and a fare not greater than that shown on the meter may be charged. In addition the meter may only be engaged from the point in the controlled district where the hirer commences his/her journey.
- 3.27 The taximeter must be programmed with the current tariff as approved by the Council, and when the taximeter is in action there shall be recorded on the face of the meter, in clearly legible figures a fare not exceeding the rate of fare which the proprietor or driver is so authorised to charge.
- 3.28 The word "FARE" or similar, shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon.
- 3.29 The taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring.
- 3.30 The taximeter and all fittings thereof shall be so affixed so the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them, except by breaking, damaging or permanently displacing the seals or other appliances.
- 3.31 The illuminated roof sign shall be wired to the taximeter so as to enable it to be extinguished during the carrying of a fare for which the meter is in operation.
- 3.32 The proprietor of a Hackney Carriage shall cause the current table of fares, fixed by the Council, to be exhibited inside the carriage in clearly distinguishable

letters and figures, together with a notice displaying the limitations on the fare rates and charges to be made.

- 3.33 The proprietor of a Hackney Carriage shall not tamper with, or permit any person to tamper with, any taximeter which the carriage is provided, with the fitting thereof or with the seals affixed thereto.

### **Trailers**

- 3.34 Trailers can be used in connection with hackney carriages and private hire bookings but cannot be used for plying for hire. The LA has imposed conditions concerning the use of trailers that are set out in Appendix I.

### **Horse Drawn Carriages and Non-Motorised Vehicles**

- 3.35 Any hackney carriage licence granted for use with a horse drawn carriage or a Non-motorised vehicle (eg. Pedicabs, Rickshaws etc) will be subject to the conditions set out at Appendix J.

### **Advertising**

- 3.36 Where a proprietor of a hackney carriage vehicle wishes to place advertisements on or in a vehicle written consent must be obtained from the Head of Regulatory Services or the Principal Licensing Officer acting under delegated powers, the matter may also be deferred to the Licensing and Regulatory Committee if a decision cannot be reached. Any authorisation and all applications shall be approved separately and individually and in accordance with the principles laid down at Appendix K.

### **Replacement Vehicles**

- 3.37 There is no statutory mechanism to change a vehicle once the licence has been issued. The LA however recognises that proprietors may wish to change their vehicle during the period of licence. As such it is necessary for the proprietor to surrender the licence (which include the licence plates) in respect of the original vehicle. Upon receipt of a new application and appropriate fee, the LA will issue a new licence (inclusive of licence plates) in respect of replacement vehicle.
- 3.38 This approach will also be taken in respect of vehicles that have been involved in an accident where a temporary replacement vehicle is required. Regardless of the period of time the replacement vehicle is to be used for, the procedure as outlined above must be undertaken for the replacement vehicle, and again when the original vehicle is returned to service.

- 3.39 If a vehicle is provided on a temporary basis from a leasing/hire company, it will be necessary to provide a hiring agreement specifying the length of the hire; this is to ensure the vehicle licence holder has a proprietorship interest in the vehicle.

### **Conditions**

- 3.40 The LA is empowered to impose such conditions as it considers reasonably necessary in relation to the grant of a hackney carriage private hire vehicle licence. As these vehicles provide a service to the public, it is appropriate to set criteria by way of condition for the external and internal condition of the vehicle, provided that these are not unreasonably onerous. These conditions are set out at Appendix D.

### **Hackney carriage fare table**

- 3.41 The LA shall fix the rates or fares for time and distance and all other charges in connection with the hire of a hackney carriage by means of a fare table.
- 3.42 On receipt of an application for a proposed increase in fares for hackney carriages, the request shall be submitted to MCC's Licensing and Regulatory Committee for determination. Requests shall be fair and proportionate, provide clear reasons and must state a reasonable timescale for implementation. The LA shall then publish a notice on one occasion setting out the proposed table of fares together with a date for the fares to take effect in a newspaper that circulate the County of Monmouthshire. At the end of the period, the LA will consider the application and any objections received. Where there are relevant and valid objections the fare increase will be postponed and will be returned to the LA to determine. Where there are no objections at the end of the consultation period, the LA shall distribute new fare cards to the hackney vehicle proprietors as soon as reasonably practicable.
- 3.43 The current table of fares must be displayed prominently within the vehicle to enable passengers to clearly view at all times.
- 3.44 The proprietor must produce a new calibration certificate to the LA, as proof the new tariff is in operation on the taximeter.

### **CCTV In Vehicles**

- 3.51 MCC recognises that an in-vehicle CCTV system may provide a safer environment for the benefit of the drivers and passengers by deterring and preventing the occurrence of crime; reducing the fear of crime; assisting the

Police in investigating incidents of crime. As such MCC permits the use of CCTV in private hire / hackney carriage vehicles subject to conditions as attaches as Appendix L

### **Licence Fees**

- 3.52 The LA shall review all licence fees on an annual basis. All fees shall be based on cost recovery. Licence fees shall be published on the Council's web site.

## **4 NON-STANDARD VEHICLES**

### **Contract Vehicles**

- 4.1 All stretched limousines, executive and other similar vehicles shall be licensed by the LA and reasonable and proportionate conditions shall be attached to the licences as necessary to ensure that such vehicles are safe to convey members of the travelling public.

### **Stretched Limousines and Novelty Vehicles**

- 4.2 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work, along with novelty vehicles, such as fire engines and ambulances. These vehicles are considered private hire vehicles by the work they perform and as such this LA shall licence these vehicles in line with the criteria set out in this Policy.
- 4.3 The application process shall be exactly the same as for drivers, vehicles and operators.
- 4.4 Each application will be considered on its own merit and public safety will be of prime importance.

### **Conditions**

- 4.5 The LA consider it necessary to impose additional standard conditions to those specified in Appendix D in relation to these vehicles. These are set out at Appendix M
- 4.6 All other relevant driver's, vehicle's and operator's conditions shall otherwise apply to the licence.

## **Executive and other vehicles**

- 4.7 It is recognised that there is a demand for executive and other vehicles to be used as a private hire vehicle carrying passengers on business contract work and special events. As these vehicles may not fall within this policy the Head of Regulatory Services or the Principal Licensing Officer acting under delegated powers will decide whether or not to grant the licence. The matter may also be deferred to the Licensing and Regulatory Committee.

## **5 OPERATORS**

### **Operator's Licence**

- 5.1 An operator's licence is required for the purpose of making provision for the invitation or acceptance of bookings for a private hire vehicle. The LA may impose any conditions to the grant of an operator's licence as it considers reasonably necessary. The operator's licence will remain in force for a period of five years unless the LA specifies a lesser period, revokes or suspends the licence. The licence is not transferable.
- 5.2 Applications for an operator's licence must be made on the prescribed form, together with the appropriate fee and requested documentation. The LA will then decide whether the applicant is a fit and proper person to hold an operator's licence.
- 5.3 To ensure public safety and effective enforcement is carried out by the LA. MCC requires the Operator base licensed by MCC to be within the County.
- 5.4 Where an Operator uses a second 'satellite' base as an Operator's office (whether it is business or residential address) within the same controlled district they shall inform the LA so that the addresses may be stated on the Licence. The LA reserves the right to charge for every additional office.

### **Conditions**

- 5.5 The LA has the power to impose such conditions on an operator's licence as it considers necessary. The standard conditions applicable to all operators are set out at Appendix N.

### **Licence Fees**

- 5.6 The LA shall review all licence fees on an annual basis. All fees shall be based on cost recovery. Licence fees, including administration fees, shall be published on the Council's web site.

## 6 PRINCIPLES WHEN CONSIDERING APPLICATIONS AND REVIEWS OF EXISTING LICENCES

- 6.1 New and renewal applications together with reviews of licences will be determined in line with the principles set out below. New and renewal applications will either be granted (possibly with conditions) or refused. Reviews of licences can result in additional being placed on the licence, the issuing of a warning, no further action or the suspension/revocation of the licence. Revocation procedures are attached as Appendix O.

### Protection of the Public

- 6.2 The purpose of hackney carriage and private hire licensing is to protect and ensure the safety of the travelling public; there are many instances **where an application will be refused, or a licence or revoked or suspended if the person falls short of the fit and proper test. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account.**
- 6.3 The LA makes decisions on the balance of probabilities rather than beyond reasonable doubt.
- 6.4 **It is recognised that this policy is not legislation, it is however, the Authority's baseline for acceptability. As such, it will only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.**
- 6.5 **One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.**
- 6.6 **Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.**
- 6.7 **Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any**

way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

- 6.8 There are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver, private hire driver (this authority adopts a dual badge for drivers that permits them to drive a private hire vehicle and a hackney carriage vehicle) and private hire operator. In relation to all of these licences, the authority has the discretion to grant, revoke and suspend a licence.
- 6.9 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 6.10 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 6.11 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership) is “safe and suitable” to hold the licence.
- 6.12 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.
- 6.13 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
- 6.14 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 6.15 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.

- 6.16 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 6.17 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 6.18 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 6.19 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 6.20 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 6.21 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 6.23 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 6.24 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.

- 6.25 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 6.26 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 6.27 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

### **Drivers**

- 6.28 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 6.29 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 6.30 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 6.31 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

### ***Crimes resulting in death***

- 6.31 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### ***Exploitation***

- 6.32 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### ***Offences involving violence***

- 6.33 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

### ***Possession of a weapon***

- 6.34 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### ***Sex and indecency offences***

- 6.35 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 6.36 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

### ***Dishonesty***

- 6.37 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### ***Drugs***

- 6.38 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 6.39 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### ***Discrimination***

- 6.40 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### ***Motoring convictions***

- 6.41 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

***Drink driving / driving under the influence of drugs / using a hand-held telephone or hand held device whilst driving***

- 6.42 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 6.43 Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

***Other motoring offences***

- 6.44 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 6.45 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

***Hackney carriage and private hire offences***

- 6.46 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

***Vehicle use offences***

- 6.47 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

**Private Hire Operators**

- 6.48 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

- 6.49 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 6.50 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.
- 6.51 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

### **Vehicle Proprietors**

- 6.52 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 6.53 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 6.54 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 6.55 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 6.56 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

### **Penalty Points And Other Matters To Be Considered**

#### **Warnings and Penalty Points**

- 6.57 The LA will issue warnings as are appropriate to the circumstances. Minor or first time transgressions are likely to attract a written warning, repeated or more serious conduct may lead to a review of the licence.
- 6.58 For uniformity in dealing with minor infringements, penalty points may be issued by the LA. When 12 or more points are issued within a 12 month period a review of the licence will be heard by the Licensing and Regulatory Committee. The criteria for the penalty points is attached as Appendix P.

**Failure to comply with a reasonable request from an authorised officer**

- 6.59 The LA takes failure to comply with a reasonable request from an authorised officer seriously, and is likely to result in a written warning. Repeated instances of non-compliance may justify a review of the licence.

**Failure to comply with dress code**

- 6.60 The LA takes non-compliance of dress code seriously; persistent breaches of the code may result in a written warning. Subsequent offences may lead to a review of the licence.

**Failure to respond to interview request**

- 6.61 The LA considers failure to respond to an officer's request for an interview whether formal or informal to be serious as it prevents the LA from investigating issues and complaints and shows a disregard for the safety of the travelling public. In these circumstances the LA shall consider suspension of a driver's licence pending the outcome of the investigation.

**Failure to report an accident**

- 6.62 A first offence of failure to report an accident within the specified time will normally be dealt with by issuing a written warning. Subsequent and persistent offences may result in a review of the licence and/or prosecution.

**Failure to show a duty of care**

- 6.63 Drivers are expected to show a duty of care to both the passengers and any property they carry in their vehicles. Drivers who fail to demonstrate a duty of care may receive a written warning, or dependent on the circumstances, the LA may consider a review of the licence to be justified.

**Defective vehicles**

- 6.64 If a defect is identified on a vehicle that could affect the safety of that vehicle, a stop/suspension notice will be issued with immediate effect. This will stop the vehicle from being used until the defect is remedied and the repair appropriately certified.
- 6.65 The driver and/or proprietor may be subject to enforcement action where there are found to be defects to a vehicle that may compromise the safety of the public.
- 6.66 In accordance with Section 68 of the LG(MP)A 1976 where a vehicle that is suspended or revoked is not produced for re-examination with two months from the date of the suspension/revocation notice the vehicle licence will be deemed to be revoked.

### **Failure to attend (or co-operate during) a vehicle licensing inspection**

- 6.67 Where a driver fails to attend a vehicle inspection or is un-cooperative during an inspection, a disregard of enforcement authority is shown and may be subject to a written warning or a review of the licence.

### **Refusal to carry a passenger in a hackney carriage vehicle**

- 6.68 In these circumstances the driver will be invited to state the reasons for the refusal. If the LA is satisfied that the driver had a justifiable reason then no action will be taken.

- 6.69 If, however, there appears to be no acceptable justification for the refusal, a first offence will normally be dealt with by the issue of a written warning. Subsequent or repeated offences may, however, be dealt with by way of a review of the licence and/or prosecution.

### **Unauthorised ranking**

- 6.70 Depending on the circumstances, a first offence will normally result in a written warning. Subsequent and repeated contraventions may, however, result in a review of the licence.

### **Private Hire Vehicle plying for hire**

- 6.71 A first offence will normally result in the issue of a written warning. Subsequent and repeated offences may, however, be dealt with by way of a review of the licence and/or prosecution.

### **Exceeding the permitted number of passengers**

- 6.72 This may result in a written warning, a review of the licence and/or prosecution dependent on the circumstances of each case.

### **Unauthorised Advertising on Vehicles**

- 6.73 A first offence will normally result in the issue of a written warning. Subsequent and repeated contraventions may, however, be dealt with by way of a review of a licence. In all cases the unauthorised advertisement shall be removed with immediate effect and future authorisation may not be given to the persistent offender.

### **Failure to display vehicle licence plates or wear badges**

- 6.74 A first offence may result in either the issue of penalty points, a written warning or be dealt with by way of prosecution. Subsequent and persistent contraventions may, however, be dealt with by way of a review of the licence.

### **Failure to produce insurance**

- 6.75 Where a driver fails, for whatever reason, produce insurance to the LA a notice suspending the licence of the PHV or HC shall be issued. This suspension will only be lifted upon receipt of proof of valid insurance.

### **Rude or aggressive Behaviour**

- 6.76 In less serious cases a written warning of future conduct may be given. However, if it persists or the nature or level of the rude or aggressive behaviour leads to the LA to be concerned about public safety, this may result in immediate revocation (pending investigation) and/or a review of the licence.
- 6.77 In other cases where an offence has been committed and not listed within this Policy, the LA will deal with each case in accordance with the Enforcement Policy. Each matter will, however, be dealt with on its own merit.

### **Offence of an unlicensed driver to drive a licensed vehicle**

- 6.78 It is an offence under the LG(MP)A and TPCA respectively for an unlicensed driver to drive a licensed vehicle. Where an operator or vehicle proprietor permits an unlicensed driver to drive his/her vehicle, the LA may issue a written warning, proceed to prosecution and/or review the licence. It is however accepted that a person who does not hold a driver's licence may drive a vehicle in connection with the testing of the vehicle for statutory purposes or for the purpose of work necessary to keep the vehicle in good order. This may only be carried out by a qualified mechanic and no passengers may be conveyed in the vehicle during the test.

### **Smoking in vehicle**

- 6.79 Where a driver smokes tobacco or any other like substance in a licensed vehicle or permits smoking in a licensed vehicle the LA shall take a serious view as this demonstrates a clear disregard for the law and for the health of both the driver and customer. Where a driver contravenes this legislation, the LA shall issue a written warning or consider recommending prosecution and/or review of the drivers' licence.
- 6.80 In addition, drivers are not permitted to use electronic cigarettes or similar devices in licensed vehicles as this can be mistaken for smoking tobacco or any other like substance. The LA considers that this does not promote the professional image expected of a licensed driver.

### **Principles of the Rehabilitation of Offenders Act 1974 (as amended)**

- 6.81 **Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no "spent" convictions and that any and all criminal convictions (apart from "protected convictions" and "protected cautions" where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker.**
- 6.82 Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.

- 6.83 The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- 6.84 When considering an application, if the Licensing Authority is satisfied that justice cannot be done except by taking into account, all warnings, cautions, convictions, additional information on the DBS disclosure or information provided by the Police, including a person's spent convictions when determining whether or not an applicant or driver is a fit and proper person to hold a licence, it may take such information into account. The rehabilitation periods to which reference is most commonly made are set out below.

### Summary of Rehabilitation Periods Applicable to Certain Sentences

(Section 5 Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012)

| <b>For Custodial Sentences</b> |  |
|--------------------------------|--|
| Sentence                       | Rehabilitation Period (Period of sentence plus the 'buffer' period below which applies from end of sentence) |
| 0-6 months                     | 2 Years  |
| 6-30 months                    | 4 Years  |
| 30 months – 4 years            | 7 Years  |
| Over 4 years                   | Never Spent  |

| <b>For Non - Custodial Sentences</b>  |  |
|---|--|
| <b>Sentence</b>   | <b>'Buffer' period will apply from end of sentence</b>               |
| Community order (& Youth Rehabilitation Order)                              | 1 Year (If no end of sentence date, 2 years from date of conviction) |
| <b>Sentence</b>   | <b>Period</b>  |
| Fine  | 1 Year (from date of conviction)                                     |
| Absolute discharge  | None   |
| Conditional discharge, referral order, reparation order, action plan order, | Period of Order  |

|   |  |
|---|--|
| supervision order, bind over order,<br>hospital order |  |
|---|--|

The above periods are halved for persons under 18 years at date of conviction (except for custodial sentences of up to 6 months where the buffer period will be 18 months for persons under 18 years at the date of conviction).

## **7. RIGHT OF APPEAL**

7.1 The following rights of appeal are provided by the LG(MP)A 1976 :

- Appeal against conditions imposed on a hackney carriage proprietor's licence: Section 47
- Appeal against the refusal to grant a private hire vehicle licence or conditions imposed on such a licence: Section 48
- Appeal against refusal to grant a private hire driver's licence or conditions imposed on such a licence: Section 52
- Appeal against refusal to grant a private hire operator's licence or conditions imposed on such a licence: Section 55
- Appeal against refusal to grant a hackney carriage driver's licence: Section 59
- Appeal against suspension, revocation or refusal to renew a hackney carriage or private hire driver's licence: Section 61
- Appeal against suspension, revocation or refusal to renew a private hire operator's licence: Section 62

7.2 The statutory rights of appeal in connection with

- Dual Badge Drivers' Licences
- Private Hire Operators' Licences
- Private Hire Vehicle Licences

Are to the Magistrates' Court. These appeals can be both against a refusal to grant or renew a licence and in respect of a decision to suspend or revoke a licence that is in existence, as well as a right of appeal against the conditions that may be imposed on any such licence by the Licensing Authority.

7.3 An appeal against the refusal to grant a Hackney Carriage Proprietor's Licence (the Public Health Act 1875) however lies directly to the Crown Court but an appeal against a failure to renew or suspend or revoke a Hackney Carriage Proprietor's Licence is to the Magistrates' Court.

7.4 Where an appeal is the Magistrates' Court applicants must lodge an appeal within a period of 21 days from the day on which the applicant was notified by the LA of any decision.

- 7.5 Section 52 of the Road Safety Act 2006 gives the LA the power to suspend or revoke a driver's licence **with immediate effect** where they are of the opinion that the interests of public safety require such a course of action. The driver may still appeal against this decision but it shall be noted that as this decision is immediate the driver is unable to drive in the appeal period.

### **Hearings**

- 7.6 Hearings of the Licensing and Regulatory Committee will take place in public save where the Committee considers, that the hearing, or part thereof, be heard in private having regard to:
- (a) any unfairness to a party that is likely to result from a hearing in public; and
  - (b) the need to protect as far as possible, the commercial or other legitimate interests of a party.
- 7.7 In reaching a decision, the Licensing and Regulatory Committee will balance the public interest in the hearing taking place in public against the public interest in ensuring that a party has a fair hearing that does not result in harm to the commercial or other legitimate interests of the party.
- 7.8 The Licensing and Regulatory Committee are at liberty to reconsider at any point within the hearing whether the public interest requires that a part of the hearing take place in the absence of the public or whether documents which are being considered by the Committee should be excluded from publication and make a ruling accordingly.

### **Hearing Procedure**

- 7.9 The procedure to be followed at a hearing is available from the LA.

## **8. COMPLAINTS AND ENFORCEMENT**

### **Inspections**

- 8.1 Any authorised officer of MCC or any constable shall have the power at all reasonable times to inspect and examine any licensed vehicle without prior notice.
- 8.2 Any authorised officer of MCC shall have the right to inspect any licensed driver at all reasonable times without prior notice.
- 8.3 Any authorised Officer of MCC shall have the right to inspect any licensed operator bases including satellite bases without prior notice.

## **Complaints against Officers of the Licensing Authority**

- 8.4 All complaints against a member of the Licensing Team should initially be address to the Head of Regulatory Services, The Drama Centre, Pen-y-Pound, Abergavenny NP7 5UD Tel: 01873 735420. Alternatively the matter can be forwarded to the Customer Relations Team, Monmouthshire County Council, PO Box 106, Caldicot NP26 9AN Tel: 01633 644644.

## **Complaints against Drivers/Operators**

- 8.5 Complaints received from members of the public regarding the conduct of drivers, vehicles and operators will be considered and investigated by the Licensing Office. When a complaint is received in relation to safeguarding, the MCC safeguarding procedures will be followed.
- 8.6 The LA has adopted an Enforcement Policy, available on the Council's web site, in accordance with the principles of consistence, transparency, proportionality and objectivity.
- 8.7 In general, however, where a complaint is received the Licensing Officers **may**:
- Interview the complainant and take witness statements.
  - Investigate the matter by interviewing the driver/operator. This may be done under caution where there is a likelihood of prosecution.
  - Consider the Driver's/Operator's behaviour and public safety issues.
  - Consider the Driver's/Operator's previous history.
  - Decide on whether to take no action, suspend or revoke the licence, suspend or revoke a licence with immediate effect or issue a written warning or simple caution. These actions are not exhaustive.
  - In cases where the public are at risk or public safety is compromised suspension or revocation will be with immediate effect.
  - In cases of proven, repeated and persistent breach of conditions – consider a written warning or a review of the licence.

## APPENDIX A

### DUAL DRIVER REQUIREMENTS

1. All applicants and relevant documentation must be submitted to the LA in its entirety in order to prevent the possibility of documentation going astray. The applicant must have attained the age of 21 years. Therefore, no piecemeal applications will be processed. The application form must submit with the application such fee as may be demanded by the Council for the issue of the licence. The following documentation must be submitted:

### REQUIREMENTS

#### Disclosure and Barring Service (DBS) Enhanced Check

2. This check assists the LA in determining whether or not the applicant is a fit and proper person to hold a licence. DBS disclosure applications must be completed through MCC's LA and disclosures must be less than 3 months old at the time of application. In the event the applicant has already furnished such information to the Council or from another bona fide recognised body, it may be accepted providing the check has been conducted 3 months preceding their application and the DBS is enhanced and also the enquiry has requested details under the Education Act 2002, Protection of Children and Vulnerable and other relevant information. With regard to the disclosure results or information contained in disclosures, the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 amends the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 in relation to hackney carriage and private hire drivers. This amendment means that there are no 'spent' convictions and that any and all criminal convictions (apart from 'protected convictions' and 'protected cautions' where they are declared – these are single, minor and elderly matters that do not appear on any DBS certificate) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker.
3. With regard to the employment of Foreign Nationals, the LA recognises that the DBS disclosure will only provide information from the time the applicant has resided in the UK. In such circumstances and where there is a need to check any potential criminal record, which will also include persons who have spent more than 6 months (from the age of 10 years old) living outside the UK or EU country, the LA will seek guidance from the DBS on how to obtain further information. Where the information is not listed in the disclosure, then the applicant may be required to obtain a Certificate of Good Conduct from his or her Embassy. Any costs incurred in this process will be borne by the applicant. MCC shall, however, take all reasonable and proportionate steps to ensure that a foreign national driver is a fit and proper person. Each case shall be judged on its merits.

## **Immigration Checks Policy**

4. **LA's must** check on an applicant's eligibility/right to work before granting a Hackney Carriage or Private Hire driver's licence. MCC will only grant a Hackney Carriage/Private Hire driver's licence to those who have the right to work within the UK. Drivers will be required to provide evidence to the Authority regarding their immigration status. Those drivers who have a right to work within the UK but have lost evidence of this will be required to obtain written approval from the Home Office. (Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY Tel: 020 8196 3011).
5. If an applicant applies for a licence and does not have the right to work within the United Kingdom, their details **will** be passed to the Border and Immigration Agency. Further details can be found on [www.bia.homeoffice.gov.uk/employingmigrants](http://www.bia.homeoffice.gov.uk/employingmigrants)

## **Data Protection Mandate (DPM)**

6. All drivers are required to sign a driver's licence DPM which permits the LA's approved organisation to carry out a check on an individual's driving history upon new and renewal applications. It will be used to confirm that an applicant has held a full driving licence for a period of at least twelve months and to prevent the potential for fraudulent activity of obtaining multiple licences. If the LA has any cause for concern it may carry out additional checks at its own expense.

## **Medical Certification**

7. A medical certificate on application is required. If the applicant is under 45 years of age one medical is required until the person reaches 45 years of age. If the applicant is over 45 years, but less than 65 years a medical is required every 5 years. If any applicant is over 65 years of age a medical is required annually. The medical shall be the DVLA group 2 standard and the examiner undertaking the medical must be carried out by the applicants General Practitioner or by a registered medical practitioner approved by the Council. The practitioner must have access to the applicants/driver's medical history. Reference should be made to the DVLA Medical Examination Report D4 information booklet (available from [www.dvla.gov.uk](http://www.dvla.gov.uk)) for a list of the medical conditions they may prevent an applicant from being certified medically fit to drive a hackney carriage or private hire vehicle. The Medical Practitioner must also refer to the "At a glance guide to the current medical standards of fitness to drive" also available from the DVLA before submitting a result of the examination.

8. Those applicant who have already undertaken and satisfied the requirements of a DVLA Group 2 medical prior to application may not be required to undertake a further medical. Each case will be treated on its own merit however the medical must cover the period of the licence and the LA reserve the right to require an up to date certificate where there are concerns.

### **DVLA Driving Licence**

9. All applicants must hold a full driving licence issued by the DVLA, or the DVNLI (Northern Ireland), for that class of vehicle, granted under Part III of the Road Traffic Act, 1972 or Northern Ireland equivalent, authorising them to drive that class of vehicle. Under the Driving Licences (Community Driving Licence) Regulations 1996, a full driving licence issued by another EC/EEA state will count toward the grant of a licence if the holder has held such a licence for the previous 12 months. In addition MCC will require applicants who hold EC/EEA driving licences to have a GB counterpart document.
10. GB counterparts can be obtained free of charge from the DVLA on submission of the form D9 which is available from [www.dvla.gov.uk](http://www.dvla.gov.uk).

### **Driver Tests**

11. Evidence that the applicant has passed the knowledge test approved by the LA. Payment of this test to be met by the applicant prior to submitting an application. The test comprised of the following:-

**Section 1** – Basic Skills assessment covering Literacy and Numeracy.

**Section 2** – Verbal Communication and Comprehension Test

**Section 3** – Law and Conditions – This will involve all applicants being tested on the basic requirements of hackney carriage and private hire licensing laws and conditions laid down in this Policy.

**Section 4** – Knowledge of the County - Candidates will need to identify places within the County selected at random.

12. If a driver licensed by MCC fail to renew their licence and allow the licence to lapse, it is recognised that he/she has a clear disregard for the Law and Conditions and as such will be required to re-sit Section 3 of the driver test at their own expense.

### **Safeguarding Children and Vulnerable Persons Training**

13. All drivers and operators (including existing licence holders) will be required to attend a training session on safeguarding children and vulnerable persons. The training session will cover the conduct and responsibilities of those licensed and in particular will provide training in identifying when vulnerable people are in need of protection and how to ensure they are taken to a place of safety and the appropriate reports are made to the police and social services. The training provider must be approved by the LA. A certificate must be submitted to MCC

LA as confirmation that the training has been conducted. Certificates will only be accepted by training providers approved by the LA.

14. New applicants will be required to conduct the training at their own expense prior to submitting an application.
15. All drivers and Operators will be required to conduct refresher training , at their own expense, and submit the required certificate as confirmation the training has been conducted prior to submitting a renewal application.

### **Disability Awareness**

16. The council requires all operators and drivers to be compliant with the provisions of the Equalities Act 2010, which has specific sections on private hire and hackney carriages not discriminating on the grounds of disability, including the requirement to carry assistance dogs of disabled people.
17. The council supports any form of transport that provides a service for disabled persons and encourages operators and proprietors to provide a 24 hour service for disabled persons. The council strongly encourages the provision of wheelchair accessible vehicles in private hire and the hackney carriage trade.
18. Drivers and operators are expected to have knowledge in safe methods of conveying disabled persons, wheelchair bound or not.
19. The council encourages all drivers to attend training on dealing with disabled people; this does not only include people in wheelchairs but knowledge of the needs of people with a wide range of disabilities.
20. Disabilities include; limited or restricted movement, sight or hearing disabilities, learning difficulties and mental impairment. This list is not exhaustive; the provisions of the current Equalities Act will be taken into account when determining if a person is classed as disabled.
21. Drivers of wheelchair accessible vehicles are advised to attend a recognised training course to ensure that they comply with health and safety requirements for handling and securing wheelchairs.
22. The council may review the licences of any driver/operator who is found to be deficient in disability awareness following a complaint. The lack of training/knowledge on the part of the driver/operator will not be accepted as a defence to the allegation.

### **Photographs**

23. One recent colour passport sized photograph (as required for passport photographs). The photograph must:
  - Be in sharp focus and clear;
  - Have a strong definition between the face and background;
  - Be printed professionally (Photographs printed at home are not likely to be of an acceptable quality);

- Show full head, without any head covering, unless it is worn for religious beliefs or medical reasons; and
- Show nothing covering the face.

### **Notes**

24. Photocopies of documents will not be accepted unless certified as a true copy of an original by an officer of the Council. The LA does not, however, accept responsibility where original documents are posted back. It is for this reason, wherever possible, the applicants are recommended to collect their documents in person at an agreed office of the Council.
25. The LA will only process DBS disclosure applications for new applicants as part of a valid application and not prior to submission of an application form.
26. Licences to driver Hackney Carriages and Private Hire Vehicles will normally be issued only to persons who are employed full time for that purpose. However, such licences may be issued to persons acting in a part time capacity, providing the applicant is not in full time employment as a driver in some other sphere of activity such as a bus or transport driver. Any licensed Hackney Carriage or Private Hire Vehicle driver must not accept employment in both capacities on the same day. (Any hours spent in employment, as a Hackney Carriage or Private Hire Vehicle Driver must not conflict with any statutory rest periods required by other transport legislation).

## **APPENDIX B**

### **DUAL DRIVERS CONDITIONS**

#### **Badge and Identification**

1. Drivers shall ensure they are familiar and comply with the requirements of this policy.
2. The open display of a drivers badge is important in terms of protecting both the public and the trade. The drivers shall at all times whilst working, wear the driver's badge above any outer clothing to ensure it is clearly visible to the public.
3. To avoid confusion, only the photographic identification card of the driver currently driving the vehicle shall be displayed.

#### **Conduct of Driver**

4. The driver shall at all times behave in a civil, polite and courteous manner. At no time shall a driver use any abusive language or gestures to the general public, pedestrians, other road users, an officer of MCC or the Licensing Authority or any other persons. Where there is a genuine cause for concern the LA will consider whether or not the driver is a fit and proper person to hold a licence.
5. The driver shall not engage in any sexual activity with customers or make any advance that could be construed to be an attempt to procure any special relationship with the customer.
6. The driver shall conduct themselves at all times in a manner that avoids offences, nuisance and any actions that may present a hazard to a member of the public.
7. The driver shall at all times be clean and respectable in his/her dress and person, and shall comply with all reasonable requirements of any person hiring or being conveyed in the vehicle.
8. The driver shall give all reasonable assistance with passengers' luggage loading and unloading and/or in removing it to or from the entrance of any building, station or place which he/she may pick up or set down the passengers.
9. The driver shall not drink or eat whilst carrying fare paying passengers in the vehicle or play any sound reproducing instrument or equipment in the vehicle which would constitute a nuisance to the passenger, other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
10. The driver shall not consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle.
11. The driver shall at all times respond to the LA's request for an interview where there are concerns or where officers wish to investigate a complaint.

### **Acceptable Standards of Dress**

12. MCC is committed to encouraging the professional image of licensed drivers and considers therefore that drivers must conform to a minimum standard of suitable clean clothing. It is expected that such standards will be maintained at all times. It is recognised that drivers may wish to wear hats but these must be of smart appearance and kept clean at all times. Any wording or motif upon clothing must not be of an offensive nature.

### **Medical Condition**

13. The licence holder shall notify the LA in writing without undue delay of any serious illness or accident or deterioration in health that may affect their ability to drive a licensed vehicle safely.
14. The driver shall at any time, or at such intervals as the LA may reasonably require, produce a certificate in the form prescribed by the LA signed by the applicant's registered medical practitioner to the effect that he/she is or continues to be physically fit to be a driver of a vehicle. Any fees will be borne by the driver.

### **Smoking**

15. The driver shall not at any time smoke tobacco, any other like substance in a licensed vehicle. In addition the driver shall not permit smoking by any other person whilst in the vehicle.
16. The driver shall not at any time use electronic cigarettes or similar devices in licensed vehicle as this can be mistaken for smoking or any other like substance. The LA considers that this does not promote the professional image expected of the licensed driver.

### **Vehicle**

17. The driver shall not drive a vehicle unless he/she understands how to operate the vehicle and any equipment fitted to make the vehicle accessible by disabled persons.
18. In accordance with Section 46(1)(b) of the LG(MP)A and Section 46 of the TPCA only licensed drivers are permitted to drive licensed vehicles even when not operating as a hackney carriage or private hire vehicle. No other drivers are permitted to drive this vehicle whilst a licence is in force except those required to carry out legally necessary test on the vehicle.
19. The driver shall at all times drop off passengers in a safe zone and shall not permit passengers, for example, to alight onto a road.
20. The driver shall not use a hand held microphone or telephone handset whilst the vehicle is moving. Drivers shall only speak into a fixed neck slung or clipped on microphone or other suitable hands-free or Bluetooth type system, so as not to distract their attention from the road. Drivers must not stop on the hard shoulder of a motorway to answer or make a call (unless it is to dial 999), however urgent.

It is a criminal offence to use a hand held mobile phone whilst driving and any such offence might impact upon the driver's fitness to hold a driver's licence.

21. The driver shall not drive a vehicle in such a manner so as to cause distress to a passenger or so as to be dangerous or potentially dangerous to passengers, pedestrians, other road users or the general public.
22. The driver shall at all times maintain his/her vehicle in a roadworthy and clean condition both internally and externally. The driver must carry out a spot check on the vehicle lights and condition of tyres in particular, before using the vehicle.
23. The driver shall ensure at all times that the appropriate insurance cover is in force covering him/her to drive such vehicle. Where an insurance cover note has effect the driver shall, on expiry of that cover note, provide evidence to the LA of the new period of cover. It is the responsibility of the driver to provide the LA with a current and valid copy of their insurance policy and/or cover note and to ensure they have the appropriate insurance cover in place. In accordance with Section 60 of the LG(MP)A failure to provide this insurance cover to the LA will result in a suspension notice being served. The suspension shall remain in place until such time as the LA receives documentary evidence of valid and adequate insurance.
24. The driver of a private hire vehicle shall not park on, drop off or pick up at any taxi rank for any reason during the operation times of such rank.
25. The driver of a private hire vehicle shall not ply for hire on any public or private road, or tout or solicit any person to hire or to be carried in his/her private hire vehicle. The driver shall not accept any offer of immediate hire whilst the driver or vehicle is on the road or in any other public place.
26. The driver shall ensure that the licence plate affixed to the front and rear of the vehicle does not become concealed from public view or be so damaged or defaced as to render it illegible.
27. The driver shall ensure that the licence plate is not removed from the vehicle at any time unless an authorisation of exemption has been granted.
28. The driver shall not convey or permit to be conveyed in a vehicle a greater number of persons than that prescribed in the licence for the vehicle.
29. The driver shall not without consent of the hirer of the vehicle convey or permit to be conveyed any other person in that vehicle.
30. The driver shall immediately after the termination of any hiring of a vehicle or as soon as is reasonably practicable thereafter, carefully search the vehicle for any property that may be accidentally been left there. Any lost property shall be handed in to your local police station, where it shall be recorded.
31. The driver of a vehicle shall if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that time and place, unless

delayed or prevented by sufficient cause. If the vehicle is to be delayed every effort should be made to contact the passenger and inform them of the reason for the delay. In addition, if the passenger is not immediately available the driver shall make all reasonable efforts to contact that passenger.

### **Fares**

32. The driver shall, if requested by the hirer of a vehicle, provide him/her with a written receipt for the fare paid.
33. The driver shall not demand from any hirer of a vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator, or if the vehicle is fitted with a taxi meter and there has been no previous agreement as to the fare, the fare shown on the taxi meter.
34. Where a vehicle being driven by a driver is fitted with a taximeter, the driver shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had reasonable opportunity of examining it and has paid the fare (unless credit is to be given).
35. The driver when hired to drive to any particular destination shall, subject to any directions or request made by the hirer, proceed to that destination by the shortest direct route.

### **Change of Details**

36. The driver shall notify the LA in writing within 7 days of any change of his/her address or telephone number whether of a temporary or permanent nature.
37. The driver shall notify the LA in writing within 7 days of any change of operator through whom he/she works.

### **Convictions**

38. The driver shall notify the LA as soon as is reasonably practicable, and in any event within 72 hours, of full details of any convictions, sentencing, fixed penalty fines, driving penalty points, cautions, warnings, binding over or reprimands imposed on him/her during the period of licence. In addition, the driver shall notify the LA of any sentences imposed on him.

### **The Carriage of Animals**

39. A driver must not carry in a hackney carriage or private hire vehicle any animal, which belongs to, or is being looked after by, himself or herself, the owner or operator of the vehicle whilst it is being used as a hackney carriage or private hire vehicle. Animals in the custody of passengers may be carried, at the driver's discretion, provided they are restrained in a safe manner and do not cause an obstruction to the driver.
40. A driver must, however carry assistance dogs as defined in the Disability Discrimination Act 1995 regulations.

41. Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. A certificate of exemption will be granted upon the production of suitable medical evidence. If the exemption is being applied for on the grounds of a chronic phobia of dogs, a psychiatrist or clinical psychologist must provide the report.

### **Equality Act 2010**

42. All drivers will be required to make themselves fully aware of their responsibilities and duties required of them under the Equalities Act to promote equality and opportunity for disabled people.

### **Accidents**

43. The driver shall report all accidents to the LA as soon as is reasonably practicable but in any event within 72 hours of the occurrence of any such accident that may have caused damage materially affecting the safety, performance or appearance of the vehicle or comfort or convenience of persons carried therein. Any driver reporting an accident will normally be required to present the vehicle for inspection at the Licensing Office upon request.
44. Where the damage materially affects the safety or performance of the vehicle and where the vehicle is not roadworthy, the driver shall before carrying fare paying passengers, arrange for the vehicle to be re-inspected at an approved garage of the LA. Where the vehicle is deemed to be unsafe for conveying fare paying passengers the vehicle will be suspended immediately. Following its repair, the vehicle shall be re-inspected by a Licensing Officer and a new vehicle test certificate produced prior to the suspension being lifted.

## **APPENDIX C**

### **HACKNEY CARRIAGE BYE LAWS**

#### **Interpretation**

1. Throughout these byelaws “the Council” means Monmouthshire County Council.

#### **Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed.**

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage , or on plates affixed thereto.  
  
(b) A proprietor or driver of a hackney carriage shall:
  - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire,
  - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

#### **Provisions regulating how hackney carriages are to be furnished or provided**

3. The proprietor of a hackney carriage shall:
  - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept water-tight;
  - (c) provide any necessary windows and means of opening and closing not less than one window on each side;
  - (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with proper carpet, mat, or other suitable covering;
  - (f) cause the fitting and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
  - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
  - (i) provide at least two doors for use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached, and maintained as to comply with the following requirements, that is to say:-
  - (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word “HIRED” to appear on the face of the taximeter;

- (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.**

5. The driver of a hackney carriage provided with a taximeter shall:-
  - (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
8. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

9. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
10. The driver of a hackney when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage, he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage,
  - (a) convey a reasonable quantity of luggage;
  - (b) afford reasonable assistance in loading and unloading.
  - (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.
14. Where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter.
15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by any byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
  - (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time which the carriage is plying or being used for hire.

**Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof**

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him,

- (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving a receipt for it.
- (b) be entitled to received from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

### **Penalties**

- 18. Every person shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefore.

### **Repeal of Byelaws**

- 19. The byelaws which were made by the Improvement Commissioners for the district of Abergavenny acting as the Urban Sanitary Authority on the third day of July 1889 and which were confirmed by the Local Government Board on the eighteenth day of September 1889 are hereby repealed.

|                      |                                |
|----------------------|--------------------------------|
| Council Resolution   | 16 <sup>th</sup> December 1986 |
| Date of Byelaws      | 3 <sup>rd</sup> February 1987  |
| Date of Confirmation | 10 <sup>th</sup> June 1987     |

The foregoing byelaws are hereby confirmed by the Secretary of State and shall come into operation on the 1<sup>st</sup> July 1987.

## APPENDIX D

### HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE SPECIFICATION & CONDITIONS

#### Testing of Vehicles

1. Vehicles will be tested in an appointed garage by the LA. Vehicles under the age of 1 year from the date of registration will not require test. Vehicles over 1 year from date of registration and under 5 years will be tested annually. Vehicles over 5 years from date of registration and under 10 years will require a test every 6 months. Vehicles over 10 years old from date of registration will require a test every 4 months.
2. The exemption from the requirement to obtain a M.O.T. Certificate will only apply following submission of the Certificate of Testing by an appointment garage authorised by MCC and the issue of the licence.
3. Certificates that are received after a period of 10 days from the date of issue, cannot be accepted, after that time a vehicle must be retested, paying a retest fee where necessary.

#### Type of Vehicle

4. Private Hire vehicle shall not resemble a London type hackney carriage.
5. All vehicles shall be of sufficient capacity to carry at least four but no more than eight passengers in addition to the driver. Babies and young children count in respect of seating capacity.
6. Before being licensed a vehicle must meet the technical standard of either;
  - (i) A European Whole Vehicle Type approval
  - (ii) A British National Type Approval or
  - (iii) A British Single Vehicle Approval pre May 2009
  - (iv) A British Individual Vehicle Approval post April 2009

Vehicles in category M1 or M2 (passenger carrying vehicles), will be licensed by MCC. Vehicles in category N1 or N2 (goods vehicles) that have been converted will not be licensed unless the vehicle has been issued with either a British Single Vehicle Approval or a British Individual Vehicle Approval from the Driver and Vehicle Standards Agency to ensure the vehicle is suitable to carry passengers. More information on vehicle categories can be found at [www.dft.gov.uk](http://www.dft.gov.uk)

7. The engine capacity of the vehicle shall not be not less than as recorded on the original registration document (V5), other than in cases approved by the Licensing and Regulatory Committee.

8. Tinted glass on the vehicle shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regs.

### **Vehicle Insurance**

9. A valid certificate or cover note must be produced before a vehicle licence is issued. The proprietor/operator shall ensure at all times that the appropriate insurance cover is in force for the vehicle. Where an insurance cover note has effect the proprietor/operator shall, on expiry of that cover note, provide evidence to the LA of the new period of cover. It is the responsibility of the proprietor/operator to provide the LA with a current and valid copy of their insurance policy and/or cover note and to ensure they have the appropriate insurance cover in place. In accordance with Section 60 of the LG(MP)A failure to provide this insurance cover to the LA will result in a suspension notice being served. The suspension shall remain in place until such time as the LA receives documentary evidence of valid and adequate insurance.
10. The certificate or cover note must be produced on demand to an authorised officer in accordance with Section 50 LG(MP)A.

### **Requirements for Vehicle**

11. It is essential that vehicles are easily accessible to members of the public. In addition, vehicles must comply with the following requirements:
  - a. Vehicles shall be right hand drive and have at least four doors. All windows must be sufficiently transparent so as not to compromise road safety or prevent clear vision into the vehicle.
  - b. Display a 'No-Smoking' sign in each compartment of the vehicle in which people can be carried. This sign must show the international 'No-Smoking' symbol at least 70mm in diameter.
  - c. Road wheels must be fitted with the manufacturer's recommended tyre type and size. All tyres must be either all cross ply or all radials and have a minimum tread depth of 1.6mm across 75% of the tyre (remould tyres are not acceptable unless they are clearly marked showing that they comply with British Standards and current legal requirements).
  - d. A spare tyre of the same type as fitted to the road wheels; a jack and wheel brace must be carried where originally fitted by the manufacturer except where a gas based tyre repair kit is supplied as standard by the manufacturer.

- e. Space-saver wheels specifically manufactured for use on that type of vehicle will be accepted for vehicles however the following conditions will apply:
- Drivers shall only use space-saver wheels strictly in accordance with the manufacturer's recommendations;
  - Drivers having to use the space-saver wheel must go directly to the nearest garage to have the puncture repaired, or a new tyre fitted; and
  - Once such a spare wheel is fitted, drivers must adhere to the authorised speed limit. Upon completion of a journey fare-paying passengers must not travel in the vehicle whilst any licensed vehicle has a space-saver wheel fitted.
12. A watertight permanent roof. A factory-fitted sunroof is permitted (e.g. sunroof fitted when new by the manufacturer).
13. Luggage storage must be provided for the number of passengers carried, the minimum space required shall be such as to allow a folded wheelchair to be carried. Luggage shall be stored separately from the passenger compartment without obstructing any emergency exits and must be safely secured to the satisfaction of the Licensing Authority. It is recognised that it may not always be possible to store luggage separately from the passenger compartment in some wheelchair accessible vehicles. Where this is the case, luggage must be safely secured to the satisfaction of the Licensing Authority.
14. Roof rack and boxes may only be used when excess luggage is to be carried, the weight carried must be within the manufacturer's specification.
15. Estate cars or a Multi-Purpose Vehicle must be fitted with a safety grill or cargo net or parcel shelf to prevent luggage entering the passenger compartment area via the top of the rear passenger seats. In the case of other vehicles, luggage shall not be stacked above the height of the rear seats unless the vehicle is specifically designed to safely permit this.
16. Rear seat belts (irrespective of age of vehicle). All seatbelts shall be fitted in accordance with manufacturer's technical requirements.
17. Nearside and offside exterior rear view mirrors.
18. (Hackney Carriages only) A sign mounted on the roof, or just above the windscreen so as to be clearly visible at all times when the vehicle is available for hire. The sign shall have the word "Taxis" facing toward the front of the vehicle and "Taxi" facing towards the rear of the vehicle and shall be illuminated when

plying for hire. The sign must be maintained and in good working order at all times irrespective of whether or not the vehicle is in use after dark.

19. (Private Hire Vehicles only) The vehicle shall not display any roof sign, advertising material (including internet), name plates or notices which consists of the word "Taksi", "Taxi" or "Cab" or similar wording.
20. Sufficient means by which a passenger can communicate with the driver.
21. In the instances of fire in a vehicle in all circumstances, stop the vehicle and escape, retiring to safe distance without straying onto the carriageway.
22. An approved first aid kit that must be placed in such a position so as to be readily available for immediate use in an emergency. The first aid kit shall contain adequate first aid provisions. It shall be noted that due to health and safety legislation, it is advisable not to include ointments or painkillers in the first aid kit. Where the LA has any concerns regarding the contents or state of the first aid kit, the driver may be asked to replace the kit with immediate effect. The registration number of the vehicle shall be marked upon the first aid kit at all times.
23. A clean and smart appearance, both externally and internally. All seats shall be comfortable, properly cushioned or covered and maintained in a good condition with no signs of wear and tear.
24. Proper carpet, mat or other suitable covering for the floor maintained in a good condition.
25. The rear door/boot lid supporting arms/gas struts shall be well maintained and easily capable of supporting the door/lid.

### **Seating Arrangements**

26. The maximum number of passenger seats (including any secured wheelchair) permitted is 8. In the interests of passenger safety and comfort, all passengers must be able to enter and exit the vehicle in safety. For 5-8 passenger vehicle check criteria please refer to Appendix G.
27. All licensed vehicles shall comply with the following minimum standards for seating and internal space:
  - a) All seats shall be designed to carry the weight of an average adult passenger.

- b) Seats shall have a minimum width of 400mm per passenger. With a bench seat for 3 passengers, the minimum of 1200mm shall be measured at the narrowest point e.g. between the armrests.
- c) There must be a minimum of 200mm legroom for all passenger seats measured from the front edge of the seat to the rear of any seat, dashboard or internal panel in front.
- d) There must be a minimum of 860mm headroom for all passenger seats measured from the rear of the seat cushion to the roof lining.
- e) Seats shall face forwards or rearwards to the direction of travel. They may not be sideways facing to the direction of travel.
- f) All seat belts shall be of good condition and in working order.

#### **Applications for vehicles that do not comply with the above conditions**

- 28. All applications for vehicles that do not comply with the standard criteria for hackney carriage and private hire vehicles will be determined by the LA's Licensing and Regulatory Committee who may place upon the licence (if granted) certain conditions to ensure the safety of the travelling public. Each case, however, will be considered on its own merit and public safety will be of prime importance.

#### **Alteration to the Vehicle**

- 29. No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the written approval of the LA at any time while the licence is in force. Alterations including (but not limited to) banners, flags, seasonal decorations etc. must have written approval of the LA. Alterations to the vehicle will not be permitted in or on a vehicle if it potentially compromises public safety and cause offence whilst also detracting from the primary function the vehicle is undertaking.
- 30. The Council does not specify the type of vehicle that can be licensed for carrying wheelchair bound passengers. However, the vehicles must be either purpose built or have the required safety certificates for any mechanical equipment or conversion, which includes a VOSA M1/2 approval.

### **Transfer of Ownership**

31. A request to transfer a vehicle to a person other than that specified on the licence, shall within fourteen days after transfer give notice in writing to the LA. The new owner must comply with this policy and vehicle conditions.

### **Taxi Ranks**

32. Only hackney carriage vehicles are permitted to wait on a Taxi rank/stand. No private hire vehicle shall park, wait, drop off or pick up at any taxi rank during the operating times of such ranks.

### **Wheelchair accessible vehicles**

33. Where a private hire vehicle or hackney carriage is licensed as wheelchair accessible it should only be driven by a licensed driver who has a knowledge of conveying wheelchair bound passengers. Drivers of wheelchair accessible vehicles are advised to attend a recognised training course to ensure that they comply with health and safety requirements for handling and securing wheelchairs.
34. Before any movement of the vehicle takes place the driver must ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied and the electric motor switched off. A separate, approved, occupant restraint system must also be used.
35. All drivers must ensure that:
  - a) Any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers or to anyone else, in accordance with Regulations. Section 100 of the Road Vehicles Construction and Use Regulations 1986.
  - b) They do not discriminate against any passenger who is disabled.
  - c) If their vehicle is not wheelchair accessible and they are approached or hailed by a passenger requiring to be carried seated in a wheelchair they must either:
    - Divert the passenger to a wheelchair accessible vehicle on the rank if one is available or,

- Where possible use their phone or radio to contact an operator of a wheelchair accessible vehicle to arrange to collect the passenger as soon as possible.
36. It is the driver's responsibility to ensure that disabled passengers are not left unattended during access or egress to or from the licensed vehicle.

## APPENDIX E

### APPROVED GARAGES FOR VEHICLE TESTS

**TEST APPOINTMENTS** must be made by the applicant through one of the Council's appointed test garages (listed below)

**CONDITION OF VEHICLE** The vehicle must be presented at the garage in a thoroughly clean condition inside and out.

**ALL** vehicles for all tests must be fitted with an approved Fire Extinguisher securely fixed within easy reach of the driver and a first aid box

In the case of **RENEWAL** of a licence, they must also: -

- (a) Be fitted with two Identification Plates, issued by the Council, in the correct place
- (b) Display the internal plate, issued by the Council
- (c) Display the Council's fare card (metered vehicles only)

If the applicant is **UNABLE TO ATTEND THE TEST** for any reason, at least 24 hours notice, (excluding Saturday, Sunday and public holidays) must be given to the garage proprietor whereupon a new time and date can be booked.

When a vehicle **PASSES THE TEST** a Certificate as to the Fitness of the Vehicle will be issued to you if the tester is satisfied as to the condition of the vehicle. This must then be forwarded to the Licensing Section. Arrangements will be made for it to be copied and returned to you. **The certificate on its own is of no legal significance. They are not substitute for an M.O.T certificate, the exemption only being available when a licence has been issued by the Council.**

When a vehicle **FAILS THE TEST** the driver will be informed of the reasons for the failure by the issue of a fail certificate listing the defects. Vehicles that fail the test are automatically suspended until such time as they are retested and a new certificate is issued. A subsequent retest will have to be carried out on the vehicle which will include a retest on all items not just those which failed, this must be arranged through the Garage proprietor.

**IMPORTANT** – Vehicles under 1 year old from the date of first registration do not require a test, vehicles over 1 year from first registration must be tested annually, vehicles over 5 years from first registration must be tested every 6 months, vehicles over 10 years from first registration must be tested every 4 months. You are responsible for making arrangements with the appropriate garage for the test to be undertaken. Prior to expiry.

#### APPOINTED TEST GARAGES

**AUTO SERVICE (PONTYPOOL) LTD**  
ROCKHILL ROAD  
PONTYPOOL  
TEL: (01495) 762166/757111  
£54.00 PLUS VAT

**ABERGAVENTNY AUTO SERVICES LTD**  
WALNUT TREE GARAGE  
MILL STREET  
ABERGAVENTNY  
TEL: 01873 857799  
£45.00

**W G AUTOSERVICES**  
UNIT 9  
PILL FARM INDUSTRIAL EST  
CALDICOT NP26 5XE  
1291 430075

TEL: 01291 430075  
£50.00

**AUTOCARE CENTRE**  
UNIT 6  
BULWARK BUSINESS PARK  
BULWARK, CHEPSTOW  
TEL: 01291 627137  
£45.00 PLUS VAT

**ABERGAVENTNY MOT CENTRE LTD**  
UNIT 2  
UNION ROAD INDUSTRIAL EST  
ABERGAVENTNY  
TEL: 01873 855832  
£40.00 PLUS VAT

**KEITH WATKINS**  
POOL GARAGE  
LLANDEVENNY  
MAGOR  
TEL: 01633 880410  
£40.00 PLUS VAT

**DEANS AUTO REPAIRS**  
UNIT 14  
BULWARK BUSINESS PARK  
BULWARK, CHEPSTOW  
TEL: 01291 629302  
£45.00

**AUTOSMART**  
LLANISHEN GARAGE  
CHEPSTOW  
MONMOUTHSHIRE  
TEL: 01600 860870  
£35.00

**R M HOCKEY & SON LTD**  
BRYN GARAGE  
PENPERGWYM  
ABERGAVENTNY  
TEL: (01873) 840170/840171  
£45.00 PLUS VAT

**MAGOR MOTORS**  
THE MILL  
MAGOR  
MONMOUTHSHIRE  
TEL: 01633 880335  
£37.00

**SEVERN GARAGE SERVICES**  
UNIT 24 BEACON BUSINESS PARK  
NORMAN WAY, SEVERN BRIDGE IND EST  
CALDICOT NP26 5PY  
TEL: 01291 431439  
£45.00

**G/TEC AUTOS LTD  
TREDILLION  
LLANTILIO PERTHOLEY  
ABERGAVENNY NP7 8BG  
TEL: 01873 854707 / 854820  
£35.00 PLUS VAT**

**APPOINTED TEST GARAGES – LIMOUSINES / SPECIALITY VEHICLES**

**AUTO SERVICE (PONTYPOOL) LTD  
ROCKHILL ROAD  
PONTYPOOL  
TEL: (01495) 762166/757111  
£54.00 PLUS VAT**

**R.E.R. TRANSPORT DEPARTMENT  
MONMOUTHSHIRE COUNTY COUNCIL  
RAGLAN DEPOT  
STATION ROAD, RAGLAN  
TEL: 01291 691315  
£54.85**

## **APPENDIX F**

### **HACKNEY CARRIAGE INTENDED USE POLICY**

#### **1. Introduction**

- 1.1 The purpose of this policy is to set out how the Council will deal with the licensing, renewal and transfer of hackney carriage vehicles following the High Court Judgement – Newcastle City Council v Berwick upon Tweed [2008] EWHC 2369 (Admin). The council when considering new applications for hackney carriage proprietors licences will determine those applications in accordance with the principles contained within the judgement of the above case. The policy was approved at a meeting of Monmouthshire County Council's Licensing and Regulatory Committee on 17<sup>th</sup> June 2014
- 1.2 The Council will determine each application on its merits, but will place public safety above all other considerations.

#### **2. Applications for the new grant of a hackney carriage licence**

- 2.1 Applicants for new licences will be expected to demonstrate a bona fide intention to operate predominantly within the County of Monmouthshire under the terms of the licence for which application is being made.
- 2.2 There will be a presumption that applicants who do not intend to predominantly operate within the County of Monmouthshire will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.
- 2.3 Even where the applicant intends to operate predominantly in the County of Monmouthshire, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

#### **3. Applications for the renewal of a hackney carriage licence**

- 3.1 Section 60 of Local Government Miscellaneous Provisions Act 1976 also gives the Council a broad discretion to refuse to renew a licence for any reasonable cause and this intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.

#### **4. Applications for the transfer of a hackney carriage licence**

- 4.1 Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Council whether he has a bona fide intention to use the vehicle to ply for hire within the

County of Monmouthshire. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation. Where there is a failure to provide the requested information; the Council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.

- 4.2 New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within the County of Monmouthshire under the terms of the licence in respect of the vehicle being transferred.
- 4.3 If the new proprietor of a licensed hackney carriage is found to have a bona fide intention to ply for hire entirely or predominately within the County of Monmouthshire and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from the County of Monmouthshire there will be a presumption that his licence will be revoked. Each case will be decided on its merits.

## **5. Applications for the replacement of a hackney carriage licence**

- 5.1 When a proprietor replaces a licensed vehicle, applicants seeking the grant of a hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominately within the County of Monmouthshire will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or predominantly in the County of Monmouthshire if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.
- 5.2 Where a licence has been granted under the terms that the applicant intends to ply for hire entirely or predominantly within the County of Monmouthshire but is subsequently found not to be plying for hire entirely or predominantly in the County of Monmouthshire and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation

and public safety will be compromised) there will be a presumption that the licence will be revoked.

- 5.3 Each application will be decided on its merits. However the presumptions that intended use is to ply for hire entirely or predominantly within the County of Monmouthshire will be rebuttable in exceptional circumstances. Whilst it is neither possible or prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

## **6. Reasons for Intended Use Policy**

- 6.1 The Council of Monmouthshire County Council wishes to ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment in the case of Newcastle City Council v Berwick upon Tweed Council [2008].
- 6.2 The Council is required to register the name of the new proprietor of a vehicle. It seems to the Council also to open up an obvious route to circumvent the decision of the High Court, unless precautionary steps are taken. It is intended to put the Council in a position to respond responsibly to the transfer of a Monmouthshire County Council hackney carriage into the name of someone who operates outside the County of Monmouthshire or remotely from it.
- 6.3 Unless there has been a change in the proprietor's intentions with regard to plying for hire within a zone of the administrative area of Monmouthshire County Council, there should be no reason why he/she should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained the first licence on the expressed intention of plying for hire entirely or predominantly within the administrative area of Monmouthshire County Council, and who on application to replace that vehicle with another discloses that he/she no longer so intends, effectively engages the presumption against grant that is mentioned earlier.

**Request for Information – Intended Usage of Hackney Carriage**

**Local Government (Miscellaneous Provisions) Act 1976, Section 57**

Surname of Applicant (BLOCK CAPITALS)(Mr/Mrs/Miss)

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Forename(s):

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Current Address:

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Email: \_\_\_\_\_ Tel No: \_\_\_\_\_

**PARTICULARS OF VEHICLE**

Make: \_\_\_\_\_ Model: \_\_\_\_\_

Registration No: \_\_\_\_\_ Licence No: HV \_\_\_\_\_

Address where the vehicle is to be stored when not in use if different from above:

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**DECLARATION OF INTENDED USE OF HACKNEY CARRIAGE**, if licensed

Please indicate your intended use of the hackney carriage, if licensed, by answering the following questions and / or by providing any other relevant information (please attach additional information if necessary).

1. Do you intend to use the above vehicle, if licensed as a Hackney Carriage, to ply for hire within the area of the Council? **YES / NO**
2. Do you intend to use the above vehicle, if licensed as a Hackney Carriage, entirely or predominantly for Private Hire remotely from the area of the Council? **YES / NO**
3. Do you intend to use the above vehicle, if licensed as a Hackney Carriage, to carry fare paying passengers otherwise than as described in (1) and (2) above? **YES / NO**

**OTHER RELEVANT INFORMATION**

If you have answered “NO” to question (1) and/or “YES” to questions (2) and/or (3) above, there is a presumption that your application will be refused, unless you satisfy the Council that it may grant you a hackney carriage proprietors licence without undermining the purpose of the legislation. If you wish to seek to persuade the Council that it should grant a licence in these circumstances, please explain why you believe that to be the case in the space overleaf (please if necessary, attach additional sheets):-

My reason(s) is / are:

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**Declaration**

- I declare that the contents of this form and any additional information are true.
- I know that if I have knowingly or recklessly made a false statement in connection with this application, I shall be liable to prosecution and/or any licence granted to me as a result of such a false statement may be suspended or revoked by the Council.

Signature: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**FOR COUNCIL USE ONLY**

Record of decision

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Officer: \_\_\_\_\_

Decision: Granted / Refused

My reason(s) for the above decision is/are:

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**APPENDIX G**

**5-8 PASSENGER VEHICLE CHECK CRITERIA**

**Name of Applicant:**.....

**Address of Applicant:**.....

**Vehicle Make:**..... **Vehicle Model:**.....

**Vehicle Colour:**.....**Registration Number:**.....

|  | <b>Pass</b>              | <b>Fail</b>              |
|--|--------------------------|--------------------------|
| 1. All vehicles must have at least 3 doors for passenger access/egress.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Clear signs indicate how to tilt the seat from the rear row pointing to the handle/lever/or other mechanism.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. All handles/ leavers or other mechanisms used to fold or tilt a seat are painted illuminous yellow or orange.   | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. In a row of seats without clear access to a door there must be windows on both sides of the vehicle and the proprietors must not laminate the glass with any extra window tinting over and above the design of the manufacturer.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. All door handles must be of the same type and easily accessible and have an interior door release handle and clearly marked.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. No access may be blocked by luggage.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. All seats are constructed to seat adults and do not have a weight limit   | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. All seats must be fitted with approved seat belts.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. All seats face forward or backwards to the direction of travel  | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. If the vehicle is an Estate Car or a Multi Purpose Vehicle as described on the Vehicle Registration Document (V5), it must be fitted with a grille or a similar device sufficient to prevent luggage carried in the rear compartment from coming into contact with persons in the rear seat: | <input type="checkbox"/> | <input type="checkbox"/> |

Officer name: .....

Signature:.....

Date: .....

## APPENDIX H

### METER CALIBRATION CENTRE

#### **Contact Radio Communications Ltd**

Unit 19  
Leeway Court  
Leeway Industrial Estate  
Newport  
Gwent  
NP9 OSJ

Tel : 01633 270005  
Fax : 01633 271305

## **APPENDIX I**

### **TRAILERS**

1. A driver who wishes to tow a trailer must ensure and satisfy the LA that the vehicle's insurance and the driver's driving licence cover this use.
2. The trailer shall at all times comply with all Road Traffic legislation requirements in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986.
3. Any proprietor who wishes to tow a trailer shall present the trailer for inspection at a garage appointed by the LA and documentary proof must be provided to the LA that this has been carried out. Prior to the inspection evidence of insurance to cover such use must have been provided.
4. The licence plate, giving the hackney carriage/private hire licence number, shall be clearly displayed on the rear of the trailer used in addition to the plate on the rear of the hackney carriage/private hire vehicle. The cost of this additional plate shall be borne by the licence holder.

## APPENDIX J

### HORSE DRAWN CARRIAGES

These conditions shall apply to use of hire or reward of any carriages and horses by the licensee. It shall also be the responsibility of the licensee to ensure as far as reasonably practicable that these conditions are complied with by any person employed by him/her to drive horses and carriages on his behalf. These conditions are in addition to the conditions laid out in this Policy.

#### Horse drawn carriages

1. The driver of a horse drawn vehicle and the proprietor of the vehicle licence shall ensure that they are aware of their duties and responsibilities in respect of the vehicle, driver and the LA. He/she shall comply with the provisions of the TPCA and the LG(MP)A, this Policy and any Byelaws and additional conditions in respect of the licensing of horse drawn vehicles.
2. Applicants for a Horse Drawn Carriage licence will be required to make application to the LA and present the following documentation:
  - a Certificate of public liability insurance which must provide cover to a minimum of £2,000,000;
  - a Certificate of insurance covering the carriage for Public Hire and Reward;
  - a veterinary inspector's report covering the fitness and suitability of the horses(s) and the condition of any harness and tack to be used. The certificate to specify how many passengers the carriage is suitable to carry;
  - a Road Driving Assessment Certificate or a valid certificate of driving competency issued by or on behalf of the British Driving Society or the Heavy Horse Training Committee (for assistance refer to <http://wales.britishdrivingsociety.co.uk/> and <https://www.gov.uk/horse-drawn-hackney-licence>); and
  - a copy of the health and safety risk assessment.
3. Any authorised officer of the LA or of the RSPCA shall be free to inspect the carriage; the harnessing, the horses or any accommodation used for stabling horses at any time, and may also advise whether or not the horse and carriage are appropriate to be used together. Where there are any concerns the LA may require a vet or a carriage driving expert to conduct an inspection, the cost to be borne by the licence holder.

#### Proprietor/Driver Conditions

4. The driver shall comply with all other conditions and Hackney Carriage Byelaws laid out earlier in this Policy.
5. In addition, the driver shall be required to undergo a Road Driving Assessment or valid Certificate of driving competency issued by or on behalf of the British Driving Society. This test is the recommended minimum competence for driving horses/ponies and vehicles carrying passengers on the public highway.

Applications for an assessment may be made either to the British Driving Society or the Heavy Horse Training Committee. Any fee for this assessment shall be borne by the applicant.

6. The proprietor/driver shall not allow passengers to be carried in the vehicle unless a driver is in attendance whilst the horse drawn carriage is in motion.
7. The proprietor/driver shall co-operate fully in the investigation of complaints by an authorised Officer and shall attend at the offices of the LA and produce any information reasonably requested during the course of the investigation.
8. The proprietor shall ensure the welfare of any animals and shall ensure that any driver is trained sufficiently to do so.
9. The proprietor/driver shall be responsible for containing or clearing away defecation of his horses in any public place as a result of his operation by virtue of this licence. This could be by way of a dung chute to be affixed to the rear of the horse.

### **Horse(s)**

10. The horse(s) to be used to draw the carriage must be identified to the LA for inclusion on the licence. No horse shall be used for pulling a horse drawn hackney carriage unless a veterinary certificate as to its fitness and suitability has been supplied by the LA and such a certificate shall be required with any new or renewal application. The cost associated with this certificate shall be borne by the applicant.
11. The LA will have regard to veterinary advice on the type of operation and working hours planned for the carriage and the number of horses available to draw the carriage. Only horse inspected and certified may be used to draw the carriage and details of approved horses will form part of any licence issued by the LA.
12. The horse shall be at least six years old; this must be supported by documentary evidence.
13. Any horse used in any one day as a horse drawn carriage horse shall not be used during that day for any other purpose.
14. Horses shall not be fed in any street unless the food is contained in a proper bag or receptacle or is delivered with the hand.
15. Excessive use of the whip is strictly prohibited and its use shall be restricted to controlling the horse.

### **Carriages**

16. The carriage shall be produced for examination and/or inspection by an authorised officer of the Council, at such times and at such places as may be reasonably be required.

17. The carriage shall be fitted with a suitable and sufficient drag chain and slipper or other sufficient brake and parking brake, which shall at all times be maintained in efficient working order.
18. The carriage, shall in all respects, be kept in good order and repair. The interior and exterior shall as far as is reasonably practicable, be kept clean.
19. The LA reserves the right, even after carriage has been passed, if it is found to reveal any defect which in the opinion of the LA renders it unsuitable for public service, to suspend the licence until the defect has been remedied to the satisfaction of the authorised officer of the LA.
20. The LA shall be notified if any alteration is proposed to be made to any part of the carriage, prior to the alteration being carried out.
21. Accidents materially affecting the carriage must be notified to the LA as soon as is reasonably practicable and in any case within 72 hours and drivers shall comply with conditions laid down earlier in this Policy.
22. All carriages submitted for licensing must be of a type suitable for hackney carriage work. They shall comply with the requirements relating to seating space, head and knee room and any other reasonable condition to the satisfaction of the LA,
23. A plate shall be affixed to the rear of the vehicle, designed and approved by the LA, displaying the number of passengers permitted to travel in the vehicle.
24. No advertising, fittings or signs, except such as have been approved by the LA, shall be attached to, or carried either upon the inside or outside of the carriage.
25. The carriage must be constructed and the doors open sufficiently wide as to allow easy access or egress and cause no inconvenience to passengers. The length of the seats measured in a straight line lengthwise on the front of the seat must in the opinion of the LA be adequate and comfortable to seat passengers.
26. The carriage shall have 4 spoked wheels and solid rubber tyres. The floor of the vehicle shall be covered with mats made of suitable material and the vehicle shall have watertight roof (retractable or otherwise). All fittings and furniture shall be kept clean and adequate for the convenience of persons conveyed therein.
27. The seats of the vehicle shall be properly cushioned or covered and kept clean for the conveyance of persons conveyed therein.
28. The vehicle shall be kept in good condition and if any damage or split to the tyres occurs, the vehicle will be removed from service. The number of passengers shall not exceed such numbers as authorised by the LA.
29. A notice shall be affixed to some part of the vehicle, where it is conspicuously visible to the passengers, detailing the fares that will be demanded for the conveyance of persons. It should be noted that hackney carriage fares, set by the LA, are a maximum and can be negotiated downwards by the hirer.

### **Harness, Equipment and Tack**

30. Every part of the harness of animals drawing the carriage shall be kept in good order and repair so that the animal is securely attached to the carriage and is under control. Adequate spares should be carried and lights fitted if driving after lighting up times.
31. The tack must fit the horse properly so as not to cause pain, distress or rubbing of the horse. The rest of the traces must also fit the horse and carriage. Harnesses and tack should be regularly checked for soundness and safety. Where there are any doubts as to the safety or suitability of equipment the Licensing Authority will consult with a vet or carriage expert, the cost to be borne by the applicant or licence holder.

### **Pedicabs, rickshaws and similar non-motorised vehicles**

32. These vehicles are considered to be hackney carriages and are therefore required to be licensed as hackney carriages and in accordance with this Policy.
33. As these vehicles however do not comply with the standard criteria set within this Policy all applications shall be determined by the LA's Licensing and Regulatory Committee. Each case, however, will be considered on its own merit and public safety will be of prime importance. Prior to application, applicants will be required to consult with the Highways Authority.

## **APPENDIX K**

### **HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE ADVERTISING**

1. A wheelchair accessible sign may be displayed on a wheelchair accessible vehicle without authorisation but must not exceed 300mm x 210mm in size.
2. The advertisement of the Hackney Carriage/Private Hire company name and details, which the licence refers to for that vehicle can be displayed without authorisation, providing they follow the basic principles below.
3. The basic principles for approval of all advertising on or within the vehicles are:
  - All advertising shall be uncluttered so as not to cause confusion.
  - Approval will not be given for advertising that may obstruct the windows of the vehicle.
  - There shall be no additional advertising on or within a vehicle such as an operator advertising for drivers.
4. In no circumstances, (other than those not requiring authorisation mentioned in items 1 and 2 above) shall advertising be placed on or within a vehicle without prior written approval from the LA.
5. Advertising approval is not transferable between vehicles and operators. Where a vehicle is changed new approval must be obtained and all decisions will be based on the criteria laid down in this Policy.
6. Advertising authorisations shall be kept in the vehicle at all times and available upon request by an authorised officer.
7. A screen displaying scrolling or moving advertisements may be securely fitted within the vehicle, provided that the screen shall not be within the vision of the driver of the vehicle, and the Council has previously approved in writing the content of any material shown. A notice must be fitted within view of the rear seat passengers stating that the screen will be switched off at the request of the passenger.
8. All advertisement must conform with the standards of the Advertising Standards Council in all matters relating to good taste, both in content and appearance and must not relate to matters concerning tobacco, alcohol or matters of a sexual nature.

## **APPENDIX L**

### **CONDITIONS OF THE USE OF CCTV IN HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES**

#### **GUIDELINES FOR CCTV SYSTEMS IN LICENSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

##### **Introduction**

These guidelines are set out to ensure that in-vehicle CCTV systems in licensed Monmouthshire vehicles are used to prevent and detect crime, reduce the fear of crime and enhance the health and safety of drivers and passengers alike.

Vehicle owners, who may also be the driver and/or operator, installing in-vehicle CCTV systems must fully comply with the requirements set out in these guidelines.

The purpose of the in-vehicle CCTV system shall be to provide a safer environment for the benefit of the drivers and passengers by:

- Deterring and preventing the occurrence of crime;
- Reducing the fear of crime;
- Assisting the Police in investigating incidents of crime.

##### **General Requirements**

Any in-vehicle CCTV system to be fitted must, as a minimum, meet the requirements set out in this document. Only in-vehicle CCTV systems meeting these requirements can be installed into licensed vehicles.

In-vehicle CCTV systems installed in vehicles will be inspected as part of vehicle inspections carried out by an authorised officer to ensure they do not pose a risk to the safety of the passengers or the driver and are fitted safely and securely.

The installation and operation of in-vehicle CCTV shall comply with the requirements of the Information Commissioner's CCTV Code of Practice, which is available via the following link:

[http://www.ico.gov.uk/upload/documents/library/data\\_protection/detailed\\_specialist\\_guides/ico\\_cctvfinal\\_2301.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/ico_cctvfinal_2301.pdf)

All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations.

All equipment must meet all requirements as regards safety, technical acceptability and operational/date integrity.

All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to passengers or driver, including impact with the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear.

### **Automotive Electromagnetic Compatibility Requirements (EMC)**

CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle.

Any electrical equipment such as in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and there must meet with requirements specified in that Directive.

CCTV equipment should be e-marked or CE-marked and be confirmed by the equipment manufacturer as being suitable for use in motor vehicles.

### **Camera Design Requirements**

The camera must be fitted safely and securely, should not adversely encroach the passenger area and must not impact on the safety of the driver, passenger or other road users.

The installed in-vehicle CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. The camera must be attached by means of a permanent method; i.e. screw fixings or a specifically designed permanent adhesive pad supplied by the CCTV system supplier (pads similar to those used by car manufacturers for the attachment of interior mirrors).

All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger area or impact on the luggage carrying capacity of the vehicle.

It is contrary to the Motor Vehicle (Construction and Use) Regulations, 1986, for equipment to obscure the view of the road through the windscreen.

Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems.

Viewing screens within the vehicle for the purposes of viewing captured images will not be permitted.

All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed.

All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

All system components requiring calibration in situ should be easily accessible.

### **Camera Activation Methods**

Activation of the equipment may be via a number and combination of options, such as – door switches, time delay and drivers' panic button. A direct wired link to the vehicles taximeter, in the case of a Taxi, will not be acceptable.

### **Audio Recording**

In-vehicle CCTV systems must not be used to record conversations between members of the public as this is highly intrusive.

### **Image Security**

Images captured must remain secure at all times.

The captured images must be protected using approved encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen. It is recommended by the Information Commissioner's Office (ICO) that "data controllers" ensure any encryption software used meets or exceeds the current FIPS 140-2 standard or equivalent. System protection access codes will also be required to ensure permanent security.

### **Retention of CCTV images**

The in-vehicle CCTV equipment selected for installation must have the capacity of retaining images either:-

- Within its own hard drive;
- Using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card;
- Or where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS (GSM telephone) signalling to a secure server within the service provider's monitoring centre

Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle.

In-vehicle CCTV equipment selected for installation must include an automatic overwriting function, so that images are only retained within the installed system storage device for a maximum period of 31 days from the date of capture. Where a service provider is used to store images on a secure server, the specified retention period must also only be for a maximum period of 31 days from the date of capture.

### **Notification to the Information Commissioner's Office**

The Information Commissioner's Office (ICO) is the official regulator for all matters relating to the use of personal data.

The ICO defines a "data controller" as the body which has legal responsibility under the Data Protection Act (DPA) 1998 for all matters concerning the use of personal data. For the purpose of the installation and operation of in-vehicle CCTV, the "data controller" is the specified company, organisation or individual which has decided to have in-vehicle CCTV installed. The data controller has the final decision on how the images are stored and used and determines in what circumstances the images should be disclosed.

Notification is the process by which a data controller informs the ICO of certain details about their processing of personal information. These details are used to make an entry in the public register of data controllers.

This means that any specified company, organisation or individual vehicle owner who has a CCTV system installed in a licensed vehicle must register with the ICO (Notification) and obtain documented evidence of that registration. This documentary evidence may be required to be presented to an authorised officer at any time during the term of the vehicle licence.

The Notification requires renewal on an annual basis, and payment of the appropriate fee.

### **Using a third party service provider (data processor)**

Where a service provider is used for the remote storage of CCTV data they will act as a "data processor".

A data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor.

There must be a formal written contract between the data controller and data processor (service provider). The contract must contain provisions covering security arrangements, retention/deletion instructions, access requests and termination arrangements.

Documentary evidence of the contractual arrangements may be required to be presented to an authorised officer at any time during the term of the vehicle licence.

### **Use of information recorded using in-vehicle CCTV**

The data controller is responsible for complying with all relevant data protection legislation. The data controller is legally responsible for the use of all images including breaches of legislation.

Any images should only be used for the purposes described earlier in these guidelines.

Requests may be made by the Police or other law enforcement agencies, an authorised officer or exceptionally other appropriate bodies to the “data controller” to view captured images. The data controller is responsible for responding to these requests. Police or other law enforcement agencies should produce a standard template request form, setting out the reasons why the disclosure is required. Alternately a signed statement may be accepted.

All requests should only be accepted where they are in writing, specifying the reasons why the disclosure is required.

Under the DPA, members of the public may make a request for the disclosure of images, but only where they have been the subject of a recording. This is known as a ‘subject access request’. Such requests must only be accepted where they are in writing and include sufficient proofs of identity (which may include a photograph to confirm they are in fact the person in the recording). Data controllers are also entitled to charge a fee for a subject access request (currently a maximum of £10) as published in the ICO CCTV Code of Practice.

### **Signage**

All licensed vehicles with in-vehicle CCTV must display clear and prominent signs advertising the use of in-vehicle CCTV. The driver may also verbally bring to the attention of the passengers that in-vehicle CCTV equipment is in operation within the vehicle, if it is felt appropriate.

The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle.

Signs should:-

- Be clearly visible and readable
- Contain details of the organisation/company/individual operating the system, the purpose for using CCTV and who to contact about the scheme
- Be an appropriate size depending on context

To assist individual drivers, owners or companies who are considering installing an in-vehicle CCTV system please use the summary checklist below to ensure all of the approval requirements/standards have been complied with.

- Notification submitted to the Information Commissioner's Office (ICO)  
Telephone Number: 08456 306060 or 01625545745
- Have the ICO provided you with the documentation to evidence notification of the "data controller" associated with your system?
- Do you have documentary evidence regarding contractual arrangements with any data processor or service provider associated with the CCTV system?
- Does the installed in-vehicle CCTV system meet the installation standards as set out above?
- Do you have satisfactory signage and appropriate contact details displayed?

**Note**

Reference to 'Data Controller', 'Data Processor' and 'Encryption Software' information made in this guideline comply with the current Information Commissioner's Office (ICO0 CCTV Code of Practice 2008).

## **APPENDIX M**

### **NON-STANDARD VEHICLES – STRETCHED LIMOUSINES, EXECUTIVE AND OTHER VEHICLES**

#### **Executive Vehicles**

1. The following conditions apply to these vehicles:

##### **Limitations of Use**

2. The vehicle shall only be used for special occasions and executive business contracts. Vehicles licensed within this category shall not be used for everyday private hire use. The vehicle would be licensed as a Private Hire Vehicle only.
3. All other criteria set down within this Policy shall be complied with.

##### **Dress Code**

4. The driver of the vehicle shall be required to observe a formal dress code.
5. Drivers shall comply with all other criteria set down within this Policy.

##### **Appearance and Mechanical considerations**

6. The vehicle shall be maintained to an excellent visual standard. This shall include the quality of paintwork, physical condition including doors, wings, bumpers and interior floor area, all of which shall be in a good condition, free from rust, holes, broken metal and any other visible damage.
7. The interior of the vehicle shall be in an excellent condition, clean and free from any tears, damage, grease or any contamination.
8. An assessment shall be made on the anniversary of the grant of the licence to determine the above criteria has been satisfactorily met. As each annual renewal application will be required to be determined by the LA all renewal applications for this vehicle must be submitted a minimum of two months prior to the licence expiry date.
9. A licence may be suspended, revoked or renewal refused if a vehicle is no longer considered, in the opinion of an authorised officer, to comply with these requirements and all other criteria set down within this Policy.

## **Stretched Limousines**

10. With regard to stretched limousines, these vehicles do not fall within the set criteria for this Policy and many are imported into the UK after they are deemed unfit to be licensed in other countries, primarily the USA. As a result these vehicles are normally only licensed in the USA for 5 years for the following reasons:
  - Safety concerns
  - The operational lifespan of these vehicles is generally 5 years
  - With the substantial weight (over 3 tons), steering, braking and suspension parts tend to wear out much faster than normal and therefore 5 years is the optimum maximum age in the USA.
  - Some insurance companies in the USA will not licence limousines over 5 years old due to concerns regarding reliability and safety
  - The vehicles become too old and unpopular with the travelling public.
11. It is for the above reasons that the LA shall pay special attention to the licensing of such vehicles and conditions shall be attached to the licence to ensure the safety of the travelling public. In particular the LA shall place upon such vehicles the following conditions:

### **Limitations of Use**

12. The vehicle shall only be used for special occasions and executive business contracts. Vehicles licensed within this category shall not be used for everyday private hire use. The vehicle would be licensed as a Private Hire Vehicle only.
13. All other criteria set down within this Policy shall be complied with.

### **Dress Code**

14. The driver of the vehicle shall be required to observe a formal dress code.
15. Drivers shall comply with all other criteria set down within this Policy.

### **Vehicle Design**

16. Stretch limousines shall only be considered for licensing if the applicant can prove that the “stretch” was performed by the manufacturer or by a coachbuilder approved by the vehicle manufacturer. American limousines must have been built by an approved coachbuilder under the QVM programme for Ford vehicles or the CMC programme for Cadillac vehicles.

17. The maximum length of the “stretch” conversion (measured between the rear edge of the front door and the front edge of the rear door) shall not exceed 3048mm (120”)
18. The vehicle shall have at least two doors for use of persons conveyed in the limousine and a separate means of ingress and egress for the driver.
19. For the purpose of calculating the seating capacity of a vehicle the minimum width of passenger seat is 400mm. In the case of an ‘L’ shaped seat, sufficient space must be made available in the corner to prevent the passenger on one side of the corner encroaching on the passenger on the other side.

### **Transport of Passengers**

20. As these vehicles are regularly used to carry young persons, for the safety of the passengers and driver, passengers shall not be carried in the front of the vehicle.
21. The transport of children under the age of 16 must be accompanied by at least one responsible adult.
22. All passengers shall remain seated whilst the vehicle is in motion and in accordance with Construction and Use Regulations, where seat belts are fitted they must be worn.

### **Additional Documentation required**

23. The following documentation in original form shall be produced (where available) upon application and prior to licensing:
  - Completed importation documentation where applicable and single vehicle approval (SVA) certificate (pre 31<sup>st</sup> December 2009) or a British Individual Vehicle Approval (BIV) certificate (from 1<sup>st</sup> January 2010). Please Note: a Minister’s Approval Certificate is not acceptable.
  - A Cadillac Master Coachbuilder Qualification (CMC) or a Qualified Vehicle Modifier Certificate (QVM). These are issued by the coachbuilder.
  - DVLA Registration Document (V5)
  - Insurance covering Hire and Reward and Public Liability.
  - Where applicable, an installation certificate from a Liquefied Petroleum Gas Association (LPGA) Approved UK Vehicle Conversion Company, in the case of vehicles converted to run on LPG.
24. The LA recognises that an applicant may not always be in possession of a SVA, BIV or CMC/QVM. However, every effort shall be made to locate these

documents to satisfy the LA that the “stretch” was performed by the manufacturer or by a coachbuilder approved by the vehicle manufacturer and that the vehicle is safe and roadworthy. Failure to produce any of the above documentation may affect any application made.

### **Appearance and Mechanical considerations**

25. Tinted glass shall conform to the legal requirement of the current Road Vehicle (Construction and Use) Regulations.
26. There shall be adequate internal light to enable passengers to enter and exit the vehicle.
27. The vehicle shall be maintained in a sound mechanical and structural condition at all times.
28. The vehicle shall be maintained to an excellent standard. This shall include the quality of paintwork, physical condition including doors, wings, bumpers and interior floor area, all of which shall be in a good condition, free from rust, holes, broken metal and any other visible damage.
29. The interior of the vehicle shall be in a good condition, clean and free from any tears, obstruction, damage, grease or contamination.
30. The vehicle shall be equipped with a minimum of four road wheels and one full sized spare wheel. The tyres shall be of an approved rating as specified by the manufacturer.
31. An assessment shall be made on the anniversary of the grant of licence to determine the above criteria have been satisfactorily met. As each annual renewal application will be required to be determined by the LA all renewal applications for this vehicle must be submitted a minimum of two months prior to the licence expiry date.
32. A licence may be suspended, revoked or renewal refused if a vehicle is no longer considered, in the opinion of an authorised officer, to comply with these requirements and all other criteria set down within this Policy.

### **Fire Engines and Novelty Vehicles**

33. With regard to fire engines and other novelty vehicles, such as ambulances, hearses and army trucks, these vehicles do not fall within the set criteria of this Policy, as a result the following conditions apply:

### **Limitations of Use**

34. The vehicle shall only be used for special occasions and executive business contracts. Vehicles licensed within this category shall not be used for everyday private hire use. The vehicle would be licensed as a Private Hire Vehicle only.
35. All other criteria set down within this Policy shall be complied with.

### **Dress Code**

36. The driver of the vehicle shall be required to observe a formal dress code.
37. No driver shall wear a uniform or helmet that may lead a member of the public to believe that the person is a member of the Fire and Rescue Service or other Emergency Services.
38. Drivers shall comply with all other criteria set down within this Policy.

### **Vehicle Design**

39. The vehicle shall have at least two doors for use of persons conveyed in the vehicle and a separate means of ingress and egress for the driver.
40. For the purpose of calculating the seating capacity of a vehicle the minimum width of passenger seat is 400mm. In the case of an 'L' shaped seat, sufficient space must be made available in the corner to prevent the passenger on one side of the corner encroaching on the passenger on the other side.
41. Where the seating arrangements have been changed from the original specification then those seats shall be securely anchored to the floor of the vehicle.
42. The vehicle will have a speed limiter fitted to restrict its maximum speed to 56 m.p.h.
43. All external "lockers" of the vehicle shall be secured to prevent access by passengers or members of the public.
44. All "blue" lights, siren, flashing lights, reflective tape, ladders and lettering which may give the public the impression that the vehicle is a fire engine or emergency vehicle are to be permanently removed.

45. An audible alarm system (where applicable) shall be fitted to the rear passenger compartment doors and shall be in a working condition whenever the vehicle is carrying passengers.

### **Transport of Passengers**

46. As these vehicles are regularly used to carry young persons, for the safety of the passengers and driver, passengers shall not be carried in the front of the vehicle.
47. The transport of children under the age of 16 must be accompanied by at least one responsible adult.
48. All passengers shall remain seated whilst the vehicle is in motion and in accordance with Construction and Use Regulations, where seat belts are fitted they must be worn.
49. Additional foot-steps shall be carried and used on the vehicle to facilitate access and egress from the passenger compartment of the vehicle.
50. Passengers shall be advised at the time of booking and again on the day of hire that they must not embark or disembark from the vehicle without assistance from the operator/crew.

### **Additional Documentation required**

51. The following documentation in original form shall be produced (where available) upon application and prior to licensing:
  - A single vehicle approval (SVA) certificate (pre 31<sup>st</sup> December 2009) or a British Individual Vehicle Approval (BIV) certificate (from 1<sup>st</sup> January 2010). Please Note: a Minister's Approval Certificate is not acceptable.
  - DVLA Registration Document (V5)
  - Insurance covering Hire and Reward and Public Liability.
  - Where applicable, an installation certificate from a Liquefied Petroleum Gas Association (LPGA) Approved UK Vehicle Conversion Company, in the case of vehicles converted to run on LPG.
52. The LA recognises that an applicant may not always be in possession of a SVA or BIV. However, every effort shall be made to locate these documents to satisfy the LA that the vehicle is safe and roadworthy. Failure to produce any of the above documentation may affect any application made.

## **Appearance and Mechanical considerations**

53. Tinted glass shall conform to the legal requirement of the current Road Vehicle (Construction and Use) Regulations.
54. There shall be adequate internal light to enable passengers to enter and exit the vehicle.
55. The vehicle shall be maintained in a sound mechanical and structural condition at all times.
56. The vehicle shall be maintained to an excellent standard. This shall include the quality of paintwork, physical condition including doors, wings, bumpers and interior floor area, all of which shall be in a good condition, free from rust, holes, broken metal and any other visible damage.
57. The interior of the vehicle shall be in a good condition, clean and free from any tears, obstruction, damage, grease or contamination.
58. The vehicle shall be equipped with a minimum of four road wheels. The tyres shall be of an approved rating as specified by the manufacturer.
59. An assessment shall be made on the anniversary of the grant of licence to determine the above criteria have been satisfactorily met. As each annual renewal application will be required to be determined by the LA all renewal applications for this vehicle must be submitted a minimum of two months prior to the licence expiry date.
60. A licence may be suspended, revoked or renewal refused if a vehicle is no longer considered, in the opinion of an authorised officer, to comply with these requirements and all other criteria set down within this Policy.

## **General (applicable to Executive, Stretched Limousines, Fire Engines and Novelty Vehicles)**

61. The driver of the vehicle shall not play or knowingly permit to be played, any video, DVD or other recorded image that is unsuitable, having regard to the age of the passengers being carried. In deciding what is suitable regard shall be had to the classification of the video, DVD etc. by the British Board of Film Classification or the Video Standards Council.
62. The following activities are prohibited:
  - Striptease

- Lap Dancing
  - Pole Dancing
  - Any other activity or performance of a sexual nature.
63. Any “glass” drinking-ware in the vehicle shall be made of either toughened glass or plastic. No alcohol drinks shall be sold or included in the price of the booking in line with the Licensing Act 2003 unless a Premises Licence is in force. If this is the case all sales must take place from the premises that is licensed rather than the vehicle.
64. Operators must note that alcohol sold within the price of the hiring/booking fee is considered to be a sale under the Licensing Act 2003 and therefore a Premises Licence for the company offices where the sale is technically taking place and a Personal Licence would be required. Section 156 of the Licensing Act 2003 prevents the sale of alcohol in a moving vehicle, once the drinks are on board, no payment may be taken from any passengers and all alcohol must be paid for in advance at the licensed premises. For further advice on licensing laws related to the sale of alcohol on such vehicles the operator should contact the LA.
65. As these vehicles however do not comply with the standard criteria set within this Policy all applications will be determined by the LA’s Licensing and Regulatory Committee. Each case, however, will be considered on its own merit and public safety will be of prime importance.

## APPENDIX N

### CONDITIONS OF OPERATOR'S LICENCE

#### Operator Base

1. A licence will only be issued by MCC if the Operator base is within the County of Monmouthshire.
2. Where an Operator uses a second 'satellite' base as an Operator's office (whether it is business or residential address) within the same controlled district they shall inform the LA so that the addresses may be stated on the Licence. The LA reserves the right to charge for every additional office.
3. The Operator shall ensure that all his premises have (where planning legislation requires it), a valid planning permission authorising the carrying out of his/her business from the premises.

#### Requirements

##### **Disclosure and Barring Service (DBS) Basic Check**

4. This check assists the LA in determining whether or not the applicant is a fit and proper person to hold a licence. DBS disclosure applications must be completed through MCC's LA and disclosures must be less than 3 months old at the time of application. With regard to the disclosure results or information contained in disclosures, The Rehabilitation of Offenders Act 1974 for Operators apply. Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service. The individual person acting as an Operator will be required to conduct the Basic Disclosure (if a limited company together with its directors and secretary, or all members of the partnership).

##### **Immigration Checks Policy**

5. LA's must check on an applicant's eligibility/right to work before granting a Private Hire Operator licence to an individual person. MCC will only grant a Private Hire Operator's licence to those who have the right to work within the UK. Operators will be required to provide evidence to the Authority regarding their immigration status. Those Operators who have a right to work within the UK but have lost evidence of this will be required to obtain written approval from the Home Office. (Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY Tel: 020 8196 3011).

6. If an applicant applies for a licence and does not have the right to work within the United Kingdom, their details will be passed to the Border and Immigration Agency. Private Hire Operators must also take responsibility to make sure drivers they employ have the right to work within the United Kingdom. Further details can be found on [www.bia.homeoffice.gov.uk/employingmigrants](http://www.bia.homeoffice.gov.uk/employingmigrants)

### **Drivers**

7. The operator shall not operate a private hire vehicle without the driver holding an appropriate licence from the LA. The operator must ensure that the driver's licences of all drivers working from them are valid and shall retain in his/her possession the licence of any driver engaged by him/her.
8. The operator shall bring to the attention of all drivers their legal obligations regarding the use of seatbelts both by adults and children.
9. The operator shall be fully conversant and shall ensure that all drivers remain fully conversant with the conditions stated within this Policy.

### **Vehicles**

10. The operator shall not operate a private hire vehicle without the vehicle being licensed by the LA.
11. The operator must examine the vehicle licences to ensure their validity and that they are compliant with the criteria set within this Policy.
12. There shall be sufficient off-street parking made available for the number of vehicles to which the application relates. The operator shall provide details upon request of the location of all such off-street parking. At no time shall an operator allow vehicles to park illegally at or near the base whilst working as a private hire vehicle.
13. The operator must ensure that all vehicles operated by him/her which are fitted with a taximeter have meters which have been sealed and have used the approved Meter Calibration Centres approved by the LA.

### **Advertising of Business**

14. Any advertising of the operator's business, no matter in what form, shall include the operator's name and/or trade name as approved by the LA in accordance with the name entered on the operator's licence issued by the LA.
15. The operator shall not trade under any name for private hire purposes unless such trade name has been approved by the LA and has accordingly been entered on the private hire operator's licence issued by the LA.

### **Change of Details**

16. Each operator's licence shall show the licensed private hire vehicles to be operated under the terms of the licence. The operator therefore must inform the LA of any change of vehicle details that is different to those stated on the current operator's licence. He/she shall not operate such vehicles without prior written amendment to the licence by the LA.
17. The operator must inform the LA in writing of any change of drivers within 48 hours.
18. The operator shall notify the LA in writing within 7 days of any change of home address whether permanent or temporary.
19. The LA must be informed in writing of any intended change of business premises and approval obtained before any such change.

### **Roadworthiness**

20. The operator shall satisfy themselves of the general condition and roadworthiness of the licensed vehicle, however the driver of the vehicle is responsible at all times. Any operator who knowingly operates a defective vehicle shall be liable for enforcement action.

### **Accidents**

21. Where the operator of the vehicle is also the proprietor they shall report all accidents to the LA as is reasonably practicable but in any event within 72 hours of occurrence of any such accident they may have caused damage materially affecting the safety, performance or appearance of the vehicle or comfort or convenience of persons carried there in. Any driver reporting an accident will present the vehicle for inspection at the Licensing Offices upon request.
22. Where the damage materially affects the safety or performance of the vehicle and where the vehicle is not roadworthy, the proprietor shall before carrying fare passengers, arrange for the vehicle to be re-inspected at an approved garage by the LA. Where the vehicle is deemed to be unsafe for conveying fare paying passengers the vehicle will be suspended immediately. Following its repair and if deemed necessary by an authorised officer, the vehicle shall be re-inspected by a Licensing Officer and a new Certificate of Testing produced prior to the suspension being lifted.

### **Insurance**

23. The operator shall ensure that Public and Employer Liability Insurance are in force throughout the validity of the Licence for each operating base open to the public. This Certificate must be available for inspection upon request.
24. The operator shall ensure that all the vehicles named on the operator's licence are covered by appropriate insurance. Where an insurance cover note is in place, the operator must ensure that the driver on expiry of that cover note advises the LA of the new period of cover. It is the responsibility of both the

operator and driver to ensure that they have the correct insurance cover in place to cover the number of passengers that they are entitled to carry. The operator must therefore monitor insurance on a regular basis and personally examine the insurance certificate to satisfy themselves as to their validity.

### **Bookings**

25. The operator shall maintain records of all bookings in such a manner, whether written or on computer, which enables them to be examined or audited. These records shall be available for inspection by authorised officers upon request.
26. The operator shall record the following:
  - The place at which the booking was received.
  - Whether the booking was made by telephone, in person or other means (to be stated).
  - The name of the hirer.
  - The date of the journey.
  - The address or other place from which it is to commence.
  - The address or place of destination.
  - The requested time, if any, from the hirer's address or other place.
  - The plate number of the vehicle.
  - The driver call sign.
  - The badge number of the driver undertaking the hiring.
  - If the booking was one accepted by another operator, the name and address of that operator
  - The agreed fare, if not calculated by means of a taximeter in the allocated vehicle.
  - Remarks (if any)
27. All records shall be kept by the operator for a minimum of 12 months following the date of the last entry. If the operator uses a computerised record system, hard copies of all records must be maintained in the same way as written records and made available for inspection by authorised officers upon request.
28. The operator shall also keep records of all private hire vehicles and shall record the following:
  - Owners and drivers of vehicles
  - Registration and Plate Number of Vehicles
  - Insurance Certificate/Cover Note
  - Road Fund Expiry date
  - Radio Call sign
  - Remarks (if any)
29. Every contract for hire of a licensed private hire vehicle is deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle.

30. All drivers and operators (including existing licence holders) will be required to attend a training session on safeguarding children and vulnerable persons. New applicants will be required to conduct the training at their own expense prior to submitting an application. All drivers and Operators will be required to conduct refresher training, at their own expense, and submit the required certificate as confirmation the training has been conducted prior to submitting a renewal application.
31. Operators are expected to take their duties with regard to safer recruitment of drivers and the safeguarding of the public seriously. To aid in this duty, an operator shall record any customer complaint or concerns raised by other drivers they receive regarding the attitude or behaviour of a driver. The operator is expected to make such records available to an authorised officer or Police officer upon request. These records should:
  - Be kept securely and remain confidential for a minimum period of 3 years and confidentially destroyed thereafter;
  - Include the name, address and contact number of the complainant;
  - Record the details of the complaint;
  - Record details of the driver to which the complaint relates;
  - Record the action the operator has taken.
32. Where 3 or more substantiated complaints are received regarding a particular driver in a rolling 12 month period, the operator shall be expected to notify the LA without delay. If any complaints/concerns are received regarding sexual or inappropriate words/behaviour by drivers, these complaints must be reported to the LA without delay, regardless of the number of previous complaints.

### **Standard of Service**

33. The operator shall provide a prompt, efficient and reliable service to members of the public at all times.
34. The operator shall ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall (unless delayed or prevented by sufficient cause) punctually attend at the appointed time and place. Where possible the operator shall contact the customer to inform of any potential delays.
35. The operator shall keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access whether for the purposes of booking or waiting.
36. The operator shall ensure that the premises is not overcrowded at any time and shall manage queues so as to avoid nuisance and/or crime and disorder. In addition, the operator shall ensure that there are sufficient seating facilities.
37. The operator shall ensure the operation of the business does not cause a nuisance to nearby properties.

38. The operator shall ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
39. The operator shall monitor the dress code of all drivers to ensure compliance with the dress code condition in this Policy.

### **Notices**

40. The operator shall affix a properly printed Notice issued by the LA in a prominent place inside the business premises so as to be easily read by any person seeking to hire a private hire vehicle, stating that any complaints regarding a hiring relating to his/her business should be addressed to:

The Principal Licensing Officer  
Licensing Section  
Monmouthshire County Council  
Abergavenny Community Education Centre  
Old Hereford Road  
Abergavenny  
NP7 6EL  
E-Mail [licensing@monmouthshire.gov.uk](mailto:licensing@monmouthshire.gov.uk)  
Tel: 01873 735420

41. Such notice shall also state that the LA does not control the fares for private hire vehicles and that, in the absence of any fare scales published by the operator; the fare should be agreed before the journey commences. Any fare scale in operation must be on prominent display and be an accurate reflection of the charge, including any specific additions, i.e. Bank Holidays, waiting times etc. which the customer may be expected to pay.
42. The operator's licence must be displayed in a prominent position at the premises so as to be on view to members of the public.

### **Convictions**

43. The operator shall notify the LA in writing within 7 days of any convictions, binding over, cautions, fixed penalty notices, penalty points, warnings or reprimands imposed on him/her during the period of the licence.

### **Lost/Found Property**

44. The operator shall ensure that any property left by a customer at the premises, or in any vehicle used for hiring and placed in the operator's safekeeping by the driver is handed in to the LA as soon as is reasonably practicable.

## APPENDIX O

### CRITERIA FOR REVOCATION

#### **Policy To Accept a New Application for A Hackney Carriage / Private Hire Drivers Licence Following Revocation**

This policy will not cover every possible scenario and each case will be considered upon its individual merit.

Revocations will be considered by the Licensing and Regulatory Committee or, where considered a matter of urgency by the Head of Regulatory Service in consultation with the Chair or Vice Chair of the Licensing and Regulatory Committee.

The Head of Regulatory Service will determine, on receipt of a report from the Principal Licensing Officer, (in consultation with the Chair or Vice Chair) whether to allow an applicant to re-apply for a licence following revocation under the terms of this policy. Either officer may refer the matter to the Licensing and Regulatory Committee.

FEE : No fee will be charged for a new application to re-instate a licence following revocation, providing the re-instatement is conducted in what would have been the licensing period if the licence was not revoked and the re-instated licence do not exceed the original licensing period.

The following guidance will be taken into account when determining whether an application should be considered following revocation:-

#### Nature of the grounds for revocation

Revocation is carried out if it is felt the Hackney Carriage / Private Hire driver is no longer 'fit and proper' in accordance with Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

Consideration of a new application following revocation will only be considered if the applicant fulfils the criteria as a 'fit and proper' person and the original reasons for revocation have been diminished.

The applicant must ensure they fulfil these criteria in addition to the reason for revocation being diminished prior to any consideration being given by the Principal Licensing Officer. The responsibility to meet this criteria will be that of the applicant and may require in some circumstances the applicant to submit new checks to the Disclosure & Barring Service (previously Criminal Records Bureau) and details from the DVLA depending on the nature of revocation. This will be at the discretion of the Principal Licensing Officer.

### Time period that has elapsed since the revocation was imposed

Consideration will not be given to any applicants whose licence has been revoked for a period of six months or longer. In these circumstances, the applicant will be required to undertake the full application process.

### Revocation on Medical Grounds

If the revocation was instigated for medical reasons, the applicant must provide proof that the matter is no longer a concern and details from the applicant's specialist and / or General Practitioner stating that the applicant is fully compliant with the Group II medicals as specified by the DVLA prior to consideration by the Principal Licensing Officer.

### Revocation on Criminal Grounds

The applicant may be requested to provide information to demonstrate they are fit and proper and may be required to undertake further checks at the request of the Principal Licensing Officer. The authority may seek confirmation from Heddlu Gwent Police regarding the applicant's suitability as a 'fit and proper' person to drive a Hackney Carriage / Private Hire. Any concerns from Heddlu Gwent Police would necessitate a hearing with the Licensing and Regulatory Committee.

### Right of Appeal

The applicant has right of appeal to the Magistrates Court within 21 days when any decision to suspend or revoke a licence is made.

## APPENDIX P

### PENALTY POINTS

Date of Issue: \_\_\_/\_\_\_/\_\_\_

Time: \_\_\_\_\_

Location: \_\_\_\_\_

HV / PH: \_\_\_\_\_

Reg No: \_\_\_\_\_

Firm: \_\_\_\_\_

Driver: \_\_\_\_\_

Badge No: \_\_\_\_\_

- 
- |   |                          |                                    |                          |
|---|--------------------------|------------------------------------|--------------------------|
| Failing to wear Driver's Badge (2)  | <input type="checkbox"/> | Driving with illegal tyres (4)     | <input type="checkbox"/> |
| No First Aid Kit (1)  | <input type="checkbox"/> | Licence Plates not displayed (4)   | <input type="checkbox"/> |
| Failing to produce Insurance (3)  | <input type="checkbox"/> | Failing to produce test cert (3)   | <input type="checkbox"/> |
| Failing to produce driving licence (3)  | <input type="checkbox"/> | Failing to keep proper records (4) | <input type="checkbox"/> |
| Officer refused access to records (6)   | <input type="checkbox"/> | Excess Passengers (6)              | <input type="checkbox"/> |
| Failing to notify of change of address (1)                                    | <input type="checkbox"/> | No spare wheel/Repair Kit (1)      | <input type="checkbox"/> |
| Using a mobile phone whilst driving (without the use of a hands free kit) (3) | <input type="checkbox"/> |                                    |                          |

Total Number of Points issued \_\_\_\_\_

When 12 or more points are issued to a Driver/ Proprietor / Operator within any 12 month period, a report will be submitted to the Licensing and Regulatory Committee with a view to the suspension, revocation or refusal to renew such a licence.

Notes following inspection: \_\_\_\_\_

Signature of Authorised Officer: \_\_\_\_\_

Signature of Driver/Proprietor/Operator: \_\_\_\_\_

Date: \_\_\_/\_\_\_/\_\_\_

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monmouthshire  
sir fynwy

## Future Generations Evaluation (includes Equalities and Sustainability Impact Assessments)

|  |   |
|--|---|
| <p><b>Name of the Officer</b> completing the evaluation</p> <p>David H Jones</p> <p><b>Phone no:</b> 01633 644100</p> <p><b>E-mail:</b> davidhjones@monmouthshire.gov.uk</p> | <p><b>Please give a brief description of the aims of the proposal</b></p> <p>To consider the Monmouthshire County Council's Taxi and Private Hire Policy and Conditions 2018.</p> |
| <p><b>Name of Service</b></p> <p>Licensing Section</p>   | <p><b>Date Future Generations Evaluation form completed</b></p> <p>04/06/2018</p>   |

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***NB. Key strategies and documents that may help you identify your contribution to the wellbeing goals and sustainable development principles include: Single Integrated Plan, Continuance Agreement, Improvement Plan, Local Development Plan, People Strategy, Asset Management Plan, Green Infrastructure SPG, Welsh Language Standards, etc***

1. **Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.

| Well Being Goal  | Does the proposal contribute to this goal?<br>Describe the positive and negative impacts.                                       | What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?   |
|--|---|---|
| <p><b>A prosperous Wales</b><br/>Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p> | <p>To provide a policy document with conditions that shape the image and style of passenger transport within Monmouthshire.</p> | <p>The new nationally approved guidelines for considering suitable drivers, vehicles and operators. Equal guidelines for all Authorities will result in better consistency when dealing with applicants or licensees. Update to include the right to work guidelines set by the Immigration Act 2016.</p> |

| <b>Well Being Goal</b>  | <b>Does the proposal contribute to this goal?<br/>Describe the positive and negative impacts.</b>  | <b>What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?</b>   |
|---|--|--|
| <b>A resilient Wales</b><br>Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)                                      | To enable proprietors to purchase and drivers to use a wider range of 5-8 passenger licensed vehicles, modern vehicles are likely to have lower emissions for environmental purposes.                                    | Engagement sessions, discussion and consultation with the currently licensed taxi trade to discuss difficulties with our current policy.   |
| <b>A healthier Wales</b><br>People's physical and mental wellbeing is maximized and health impacts are understood   | To enable proprietors to purchase and drivers to use a wider range of larger licensed vehicles.  |  |
| <b>A Wales of cohesive communities</b><br>Communities are attractive, viable, safe and well connected   | Monmouthshire has an ageing licensed fleet of vehicles with proprietors reluctant to purchase newer vehicles and lose a passenger seat. If approved it is predicted proprietors will licence newer vehicles.             | If approved a wider range of vehicles will be acceptable to licence with Monmouthshire County Council.   |
| <b>A globally responsible Wales</b><br>Taking account of impact on global well-being when considering local social, economic and environmental wellbeing                                | If approved amending the 5-8 passenger conditions will result it Monmouthshire taxi firms having more scope of vehicles available to be licensed and bidding for contracts. Requested by high numbers of the Taxi Trade. | Taxi firms in Monmouthshire are worried they will not be able to compete with external firms who have less restrictions on 5-8 passenger vehicles. Overall concerned employees will be made redundant without the contracts available. |
| <b>A Wales of vibrant culture and thriving Welsh language</b><br>Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation | The Taxi Policy will be available in English and Welsh as required by the applicant/ licensee  | Application forms ask the applicant if they would like future correspondence in English or Welsh. Every licence issued is bilingual.   |
| <b>A more equal Wales</b><br>People can fulfil their potential no matter what their background or circumstances   | Personal backgrounds or circumstances are not considered for applicants suitability to hold a licence  |  |

**2. How has your proposal embedded and prioritised the sustainable governance principles in its development?**

| Sustainable Development Principle   | Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.   | Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts? |
|---|---|---|
|  <p><b>Long Term</b></p> <p>Balancing short term need with long term and planning for the future</p> | <p>The Taxi Policy will ensure Monmouthshire has clear guidelines for taxi firms to consider the long term impact on their business.</p>  |   |
|  <p><b>Collaboration</b></p> <p>Working together with other partners to deliver objectives</p>       | <p>IOL, DVSA, ROSPA, Transport Review and PTU have all been contacted to form the views of the report.</p>  | <p>National guidelines and guidance from experts obtained.</p>  |
|  <p><b>Involvement</b></p> <p>Involving those with an interest and seeking their views</p>         | <p>IOL has consulted with the trade and legal experts to form the national guidelines for considering the suitability of drivers, vehicles and operators. Through the Transport Review all operators were invited to comment via email.</p> | <p>Discussions, Engagement sessions and consultation</p>  |

| Sustainable Development Principle   | Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.   | Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts? |
|---|---|---|
|  <p><b>Prevention</b></p> <p>Putting resources into preventing problems occurring or getting worse</p>   | <p>Identify potential problems identified by the Transport Review and Taxi companies. To act appropriately considering the requests from the IOL and taxi companies for change.</p> | <p>Continue to support, listen and work with the IOL and Taxi trade of Monmouthshire.</p>                               |
|  <p><b>Integration</b></p> <p>Considering impact on all wellbeing goals together and on other bodies</p> | <p>Adopting national guidelines for considering applications will provide consistency for bodies and individuals who work with licensing or apply for a licence.</p>                |   |

**3. Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below. For more detailed information on the protected characteristics, the Equality Act 2010 and the Welsh Language Standards that apply to Monmouthshire Council please follow this link: <http://hub/corporatedocs/Equalities/Forms/AllItems.aspx> or contact Alan Burkitt on 01633 644010 or [alanburkitt@monmouthshire.gov.uk](mailto:alanburkitt@monmouthshire.gov.uk).

| Protected Characteristics | Describe any positive impacts your proposal has on the protected characteristic | Describe any negative impacts your proposal has on the protected characteristic | What has been/will be done to mitigate any negative impacts or better contribute to positive impacts? |
|---------------------------|---|---|---|
|                           |   |   |   |

| Protected Characteristics     | Describe any positive impacts your proposal has on the protected characteristic   | Describe any negative impacts your proposal has on the protected characteristic | What has been/will be done to mitigate any negative impacts or better contribute to positive impacts? |
|-------------------------------|---|---|---|
| Age                           | Amendments to the policy may enable more vehicles with modern isofix seats to be licensed by Monmouthshire improving the crash safety of licensed vehicles. This will benefit children traveling in Monmouthshire minibuses.  |   |   |
| Disability                    | The taxi policy will retain its requirements for drivers to support people with disabilities when transport is required.  |   |   |
| Gender Reassignment           | <i>Consider the provision of inclusive services for Transgender people and groups. Also consider what issues there are for employment and training.</i>   |   |   |
| Marriage or civil partnership | <i>Same-sex couples who register as civil partners have the same rights as married couples in employment and must be provided with the same benefits available to married couples, such as survivor pensions, flexible working, maternity/paternity pay and healthcare insurance</i>  |   |   |
| Pregnancy or maternity        | <i>In employment a woman is protected from discrimination during the period of her pregnancy and during any period of compulsory or additional maternity leave. In the provision of services, goods and facilities, recreational or training facilities, a woman is protected from discrimination during the period of her pregnancy and the period of 26 weeks beginning with the day on which she gives birth</i> |   |   |

| Protected Characteristics | Describe any positive impacts your proposal has on the protected characteristic   | Describe any negative impacts your proposal has on the protected characteristic | What has been/will be done to mitigate any negative impacts or better contribute to positive impacts? |
|---------------------------|---|---|---|
| Race                      | <i>Think about what the proposal will do to promote race equality with the aim of: eliminating unlawful discrimination, promoting equality of opportunity and promoting good relations between persons of different racial groups. Also think about the potential to affect racial groups differently. Issues to look at include providing translation/interpreting services, cultural issues and customs, access to services, issues relating to Asylum Seeker, Refugee, Gypsy &amp; Traveller, migrant communities and recording of racist incidents etc.</i> |   |   |
| Religion or Belief        | <i>What the likely impact is e.g. dietary issues, religious holidays or days associated with religious observance, cultural issues and customs. Also consider what issues there are for employment and training.</i>  |   |   |
| Sex                       | <i>Consider what issues there are for men and women e.g. equal pay, responsibilities for dependents, issues for carers, access to training, employment issues. Will this impact disproportionately on one group more than another</i>   |   |   |
| Sexual Orientation        | <i>Consider the provision of inclusive services for e.g. older and younger people from the Lesbian, Gay and Bi-sexual communities. Also consider what issues there are for employment and training.</i>   |   |   |

| Protected Characteristics | Describe any positive impacts your proposal has on the protected characteristic               | Describe any negative impacts your proposal has on the protected characteristic | What has been/will be done to mitigate any negative impacts or better contribute to positive impacts? |
|---------------------------|---|---|---|
| Welsh Language            | The Taxi Policy will be available in English and Welsh as required by the applicant/ licensee |   | The Taxi Policy will be available in English and Welsh as required by the applicant/ licensee         |

4. Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities? For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

|                     | Describe any positive impacts your proposal has on safeguarding and corporate parenting  | Describe any negative impacts your proposal has on safeguarding and corporate parenting   | What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts? |
|---------------------|--|---|--|
| Safeguarding        | The safeguarding requirements of the Policy will remain.   | <i>Safeguarding is about ensuring that everything is in place to promote the well-being of children and vulnerable adults, preventing them from being harmed and protecting those who are at risk of abuse and neglect.</i> |  |
| Corporate Parenting | <i>This relates to those children who are 'looked after' by the local authority either through a voluntary arrangement with their parents or through a court order. The council has a corporate duty to consider looked after children especially and promote their welfare (in a way, as though those children were their own).</i> |   |  |

5. What evidence and data has informed the development of your proposal?

Data gathered from expert bodies as follows Institute of Licensing (IoL), The Royal Society for the Prevention of Accidents (ROSPA), Driver and Vehicle Standards Agency (DVSA), Neighboring Authorities, Licensed Monmouthshire County Council Hackney Carriage/ Private Hire drivers.

**6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

To have a more uniform Taxi Policy and Conditions document to aid our drivers, proprietors and operators before they make decisions on their business. We will continue to monitor our conditions and assess as and when changes are required to improve the document.

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**7. ACTIONS: As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable.**

| <b>What are you going to do</b>   | <b>When are you going to do it?</b> | <b>Who is responsible</b>   | <b>Progress</b> |
|---|-------------------------------------|-----------------------------|-----------------|
| Inform our currently licensed drivers, proprietors and operators of the amendments.   | Following the committee decision    | Principal Licensing Officer |                 |
| Inform the Transport Review including the Passenger Transport Unit of the decision that will have financial implication for them.   | Following the committee decision    | Principal Licensing Officer |                 |
| To provide a copy of the finalised policy and conditions to Torfaen Training who provide the knowledge test for all new applicants. | Following the committee decision    | Principal Licensing Officer |                 |

**8. MONITORING:** The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.

|  |                            |
|--|----------------------------|
| The impacts of this proposal will be evaluated on: | 12 <sup>th</sup> June 2018 |
|--|----------------------------|

**9. VERSION CONTROL:** The Future Generations Evaluation should be used at the earliest stages of decision making, and then honed and refined throughout the decision making process. It is important to keep a record of this process so that we can demonstrate how we have considered and built in sustainable development wherever possible.

| Version No. | Decision making stage | Date considered | Brief description of any amendments made following consideration   |
|-------------|-----------------------|-----------------|--|
|             |                       |                 | <i>This will demonstrate how we have considered and built in sustainable development throughout the evolution of a proposal.</i> |
|             |                       |                 |  |
|             |                       |                 |  |

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