



**THE LICENSING AND HEALTH AND SAFETY
ENFORCEMENT COMMITTEE**

TUESDAY 24 JULY 2012 AT 7.30 PM

COUNCIL CHAMBER, CIVIC CENTRE, HEMEL HEMPSTEAD

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Cllr Bhinder
Cllr G Chapman
Cllr Conway
Cllr Fantham

Cllr Link
Cllr Peter
Cllr Rance
Cllr Ryan

Cllr Mrs Green (Vice-Chairman)
Cllr R Hollinghurst
Cllr Lawson (Chairman)

Cllr Sutton
Cllr Taylor
Cllr Whitman

For further information, please contact Trudi Coston on Tel: 01442 228226, or Email: Trudi.coston@dacorum.gov.uk Information about the Council can be found on our website: www.dacorum.gov.uk

PART I

Item no.		Page
1.	Introductions	2
2.	Minutes	2
3.	Apologies for Absence	2
4.	Declarations of Interests	2
5.	Public Participation	2
6.	Gambling Act 2005 – Review of Statement of Principles	3
7.	Exclusion of the Public	7
Appendix 1	Minutes of the Licensing and Health & Safety Enforcement Committees held on 1 March 2012	8
Appendix 2	Minutes of the Licensing and Health & Safety Enforcement Committees held on 16 May 2012	13

*

*

*

1. INTRODUCTION

2. MINUTES

To confirm the minutes of the meeting held on 1 March and 16 May 2012
(Appendices 1 and 2)

3. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

4. DECLARATIONS OF INTEREST

To receive any declarations of interest

5. PUBLIC PARTICIPATION

An opportunity for members of the public to make statements and ask questions in
accordance with the rules on Public Participation

AGENDA ITEM:6

SUMMARY



Report for:	Licensing Health & Safety and Enforcement Committee
Date of meeting:	24 July 2012
PART:	1
If Part II, reason:	

Title of report:	Gambling Act 2005 – Review of Statement of Principles
Contact:	Ross Hill (Licensing Team Leader)
Purpose of report:	To outline proposed amendments to the Statement of Principles, and to seek approval to commence public consultation as required under the Act
Recommendations	To note the proposed amendments to the Statement of Principles, and instruct officers to commence public consultation as set out in this report.
Corporate objectives:	<p>Building Community Capacity</p> <ul style="list-style-type: none"> The Statement of Principles sets out the ways in which the licensing authority will seek to promote the licensing objective of 'protecting children and other vulnerable persons from being harmed or exploited by gambling' through the exercise of its licensing functions <p>Dacorum Delivers</p> <ul style="list-style-type: none"> The Statement of Principles is a statutory obligation, and failure to comply could lead to reputational damage for the Council and possible legal action.
Implications:	<u>Financial</u>
	None
'Value For Money Implications'	<u>Value for Money</u>
	None

Risk Implications	None
Equalities Implications	None
Health And Safety Implications	None
Consultees:	Should the Committee approve the proposed changes to the Statement of Principles, public consultation will be carried out in accordance with statutory requirements, as set out in Appendix B of the draft Statement.
Background papers:	Draft Statement of Principles 2013-2016 Gambling Act 2005 Gambling Commission Guidance to Licensing Authorities, 3 rd edition
Glossary of acronyms and any other abbreviations used in this report:	

BACKGROUND

- 1.1. Commercial gambling in the UK is regulated under the Gambling Act 2005, which provides a system of licences, notifications, permits and registrations for the authorisation of various gambling activities.
- 1.2. Dacorum Borough Council is a licensing authority under the 2005 Act, with responsibility for regulating premises-based, non-remote gambling through the issue of premises licences, gaming machine and prize gaming permits, temporary and occasional use notices, and the registration of non-commercial societies for the promotion of small society lotteries.
- 1.3. Section 349 of the Act requires every licensing authority to prepare and publish “a statement of the principles that they propose to apply in exercising their functions under this Act” for each successive three-year period. Regulations made under the Act set the first day of the first such period as the 31st January 2007.
- 1.4. It is now necessary to prepare and publish Dacorum’s Statement of Principles for the period running from the 31st January 2013 to the 30th January 2016. Officers have produced a draft Statement of Principles for this period, based upon the current version and updated to reflect legislative changes, and this document is attached as Appendix A.
- 1.5. At the time of writing, Dacorum has issued 23 premises licences under the 2005 Act, for high street betting shops [betting (other) licences] and amusement arcades [adult gaming centres]. All applications relating to these licences to date have been dealt with by officers under delegated

powers – no application has yet been considered by the Licensing of Alcohol and Gambling Sub-Committee.

2. NATURE OF REVISIONS

- 2.1. The format of the draft Statement of Principles has been revised since the last version, and paragraphs have been extensively rearranged and rewritten to help improve the readability of the document. Paragraph numbers have also been added to aid referencing.
- 2.2. Several changes have resulted from amended legislation, case law, and changes to the Gambling Commission's Guidance to Licensing Authorities, published since the last version was agreed. A small amount of content has also been removed from the Statement of Principles, in particular tables showing the stake/prize levels of gaming machine categories (which are set by Regulations, and which in future will be made available as a separate document to allow for easier updating), a glossary of terms (which are defined in primary legislation), and much of the detail about the populace of Dacorum (which is publicly available in alternate documents).
- 2.3. Reference is made throughout the Statement to the 3rd edition of the Gambling Commission's Guidance to Licensing Authorities, the legal document which the Commission are required to publish under section 25 of the Act. The Commission have recently consulted on the 4th edition of this Guidance, which is expected to be published later this year. Further changes may need to be made to the draft Statement of Principles after the Guidance is released, in order to correctly reflect any changes made.

3. CONSULTATION REQUIREMENTS

- 3.1. Consultation on a Statement of Principles (or revision thereof) must be carried out in accordance with section 349(3) of the Act, which requires that the authority consults the chief officer of police for the area, one or more persons representing the interests of gambling businesses in the area, and one or more persons representing the interest of other persons likely to be affected by the exercise of the authorities functions.
- 3.2. A list of proposed consultees, drawn up with regard to these requirements, is included on page 27 of the draft Statement of Principles.
- 3.3. Details of the proposed Statement will also be made publicly available on the Dacorum Council website, allowing any other person not in this list to view the proposals and make comments.
- 3.4. There are no statutory requirements on the manner of consultation, which is left to the discretion of the licensing authority, although it is advisable that any consultation is carried out insofar as is possible in accordance with the principles of the Government's Code of Practice of Consultation. It is therefore proposed to publish details of the draft Statement of Principles on the Dacorum website, and to send consultation information with a link to the website to the identified consultees. Hard copies of the consultation documents will also be made available upon request.

4. PROPOSED TIMELINE

4.1. Adoption of the Statement of Principles is a function of the full Council. In order to ensure that the Statement has been adopted in sufficient time so as to take effect from the prescribed date, the following timeline is proposed:

Date	Action
24 th July 2012	Presentation of draft Statement of Principles to Licensing and Health & Safety Enforcement Committee
31 st July 2012 (latest)	Publication of draft Statement of Principles, related documents and consultation details on www.dacorum.gov.uk Information sent to identified consultees with links to consultation details and documents Start of consultation
2 nd September 2012	Deadline for receipt of responses to consultation
18 th September 2012	Presentation to Licensing and Health & Safety Enforcement Committee of consultation responses and any resulting amendments to the draft Statement of Principles
23 rd October 2012	Cabinet meeting, presentation of draft Statement of Principles with request for endorsement
21 st November 2012	Full Council meeting, presentation of Statement of Principles with request for adoption
2 nd January 2013 (latest)	Publication of adopted Statement of Principles
31 st January 2013	Statement of Principles 2013-2016 to take effect

4.2. Regulations made under the Act require that the adopted Statement of Principles is published and made available for inspection, both on the authority's website and at their principal offices or public libraries, at least four weeks prior to coming into force.

5. RECOMMENDATIONS

5.1. That the Committee note the proposed amendments to the draft Statement of Principles for the period 31 January 2013 to 30 January 2016, and instruct officers to commence consultation as set out in this report.

APPENDIX A – DRAFT STATEMENT OF PRINCIPLES 2013-2016

Separate document enclosed

7. EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the item in Part II of the Agenda for the meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to:

DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE

1 MARCH 2012

Present –

MEMBERS:

Councillor Lawson (Chairman), Conway, Douris, Fantham, Hearn, R Hollinghurst, Peter, Ryan, Sutton and Whitman.

OFFICERS:

L Crowley	Solicitor
K Ashton	Team Leader, Environmental Health
R Mabbitt	Licensing Enforcement Officer
P Bowles	Member Support Officer, Democratic Services
T Coston	Member Support Officer, Democratic Services (Minutes)

Other Persons Present:

Mr J in Attendance for the Licensing and Health and Safety Enforcement Sub-Committee

Mr A in Attendance for the Licensing and Health and Safety Enforcement Sub-Committee

The meeting began at 7:30 pm

1. INTRODUCTIONS

The Chairman introduced himself and welcomed everyone to the meeting.

2. MINUTES

The minutes of the meeting held on 31 January 2012 were confirmed by the Members present and were then signed by the Chairman.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillor Bhinder, Mrs Green, Link, Mrs Rance and Taylor.

4. DECLARATIONS OF INTERESTS

No interests were declared

5. PUBLIC PARTICIPATION

None

6. TYPES OF VEHICLES TO BE LICENSED AS HACKNEY CARRIAGES

Kathryn Ashton, Team Leader of Environmental Health, introduced the report and explained how it outlined the decisions that were agreed at the meeting of 31 January 2012 with regards to wheelchair accessible vehicles and ensuring that vehicles are safely carrying wheelchair users.

Kathryn Ashton explained that in 2004, Dacorum Borough Council introduced a new policy which required all new vehicles that are licensed as Hackney Carriages to be wheelchair accessible and to carry passengers safely. The policy that was agreed on 31 January 2012 addressed and updated the requirements of the 2004 policy. However, the issue of grandfather rights, i.e. the ability of any saloon Hackney Carriage vehicle that was licensed prior to 2004 and continually since, to continue to be licensed as a saloon vehicle, therefore falling outside the wheelchair accessibility policy, had not yet been addressed. .

Kathryn Ashton referred to paragraphs 2.2.1 – 2.2.4 in the agenda, and went through these in more detail with the Committee:

Paragraph 2.2.1; This referred to those who had obtained a licence and had a saloon vehicle prior to the 2004 policy and have continued to license their vehicle whether it be the same vehicle or upgraded to a new saloon vehicle. This allows us to have a mixed fleet which is recommended by the Department of Transport.

Paragraph 2.2.2; This explained the situation when someone had continued to license their vehicle and then transferred their vehicle and plate to a third party possibly because they had retired or for medical reasons and/or for any other reason, had ceased driving.

Paragraphs 2.2.3 and 2.2.4; These paragraphs explain how currently people are selling on plates without vehicles or return them to the Council temporarily when they no longer use them.. The Licensing Department have been receiving applications requesting people to be added to a licence as a joint proprietor.. Within two weeks of that, the initial proprietor would request to come off the licence leaving a new owner/proprietor on the licence. These transactions have been known to be costing between 5-15k when often the value of the vehicle would not reflect the amount being paid. In addition to that, people have been continuing to renew plates but asking the licensing department to hold on to the plate; the office currently hold 12 plates. This is incorrect practice because the plate should be attached to a vehicle so the recommendations reflect this. There are genuine cases of grandfather rights and these should continue as an exception to the wheelchair accessible policy. What the Council want, is to stop the loophole that allows people to sell a plate on to somebody else without a vehicle and also holding plates that are attached to no vehicle.

Kathryn Ashton handed the Committee revised wording for the recommendation for approval by the Committee.

The Chairman asked the committee if they had any questions they would like to ask the officers

Councillor Fantham asked if the plates are worth thousands of pounds, should Dacorum Borough Council be getting a share of any profit made from selling the plates.

Kathryn Ashton explained that she is not aware of any way in which this could be done. There is an option to say the Council will not hold on to the plate once the driver has ceased to use their license, but potentially we could end up with a complete wheelchair accessible fleet rather than a mixed fleet.

Councillor Whitman said he was unaware that selling plates was allowed to happen and asked how long it had been going on for.

Kathryn Ashton replied that she was unable to confirm exactly how long it had been happening for but she has been informed that it could be prior to 2004 when that policy came into place.

Councillor Whitman responded that he felt it should be stopped immediately.

Councillor Sutton asked if this went against neighbouring authorities' policy or if they work in the same way as we do.

Kathryn Ashton replied that Dacorum isn't the only place this had been happening but the majority of other authorities' have addressed the issue. She explained that in 2011, the licensing department was hoping for some indication from the government for a percentage on what the fleet should be made up of, but it was decided that this depended on individual demand in the area. She added we have 309 Hackney Carriage Vehicles and 65 of them are wheelchair accessible so a decision needed to be made to whether we should have a 100% wheelchair accessible fleet or a mixed fleet as currently a high percentage of the fleet is saloon.

Councillor Lawson asked if it was just a small minority of people behaving in this way as we only hold 12 plates out of 309.

Kathryn Ashton replied that the 12 plates are the ones being held in the office without vehicles and these are the ones they are aware of. The current policy allows someone who holds a saloon vehicle licence to apply for someone else to become joint proprietor on the licence with them. They then have to wait up to 2 weeks before the licence can be transferred just to that other person. There is a huge amount of drivers now asking to add someone to the license and then removing themselves. This sale of a plate is now quite common in the area.

Councillor R Hollinghurst asked how much it initially costs to obtain a license.

Kathryn Ashton said it costs around £200 to obtain a plate but there are additional costs for an MOT and taking the appropriate tests. She added that it costs £100 each time if you wish to add or remove someone from a plate.

Councillor R Hollinghurst responded that she fails to see why people pay so much for a plate if it only costs a few hundred pounds to get their own.

Kathryn Ashton replied since 2004, if you wanted to become a new Hackney Carriage license holder, you have to have a wheelchair accessible vehicle which has to be correctly converted and conversion can cost around £15,000.

Councillor Douris referred to the wording in paragraph 2.2.2, and asked if any wording could be added to say once the vehicle and plate has been transferred to a third party, any subsequent purchase needs to be of a wheelchair accessible vehicle or had that been covered elsewhere.

Kathryn Ashton responded that currently every new Hackney Carriage vehicle plated in Dacorum has to be fully wheelchair accessible and converted to carry passengers safely. This does not apply to existing plates and this is why the Council want to stop the selling of plates as a commodity.

Following Councillor Douris' question, L Crowley said it's up to the Committee to decide what the recommendations are, and changes can be made accordingly.

Councillor Douris also asked L Crowley whether the rules on death of the license holder in paragraph 3 of the new recommendation would work. L Crowley advised

that a person having a will or the rules on intestacy could determine who the vehicle passes to on death.

Councillor Fantham said he did not wish to stop the trade of golden plates but wanted the Council to get a share of the sale. He asked why we are helping drivers by holding on to the plates for them. He feels it's an opportunity to ask officers to investigate and make recommendations to the committee to see how the Council could get benefit from these sales.

Councillor Douris suggested we put something into place to say a plate cannot be sold for more than face value as this could be a way of making sure plates don't get sold for so much money and asked if we could process that legally.

Kathryn Ashton replied it should not be for the individual to sell on the plate as it remains the property of the Council. If a plate is not attached to a vehicle and not being used, it should be surrendered.

The Chairman said that it had been proposed and seconded that officers be asked to investigate the possibility of financial return to the Council and he asked Kathryn Ashton if this could be done alongside the consultation process.

Kathryn Ashton said she wasn't sure the team would be able to deliver this as there is no way of investigating where people had bought the plates from and exactly how much they had paid.

Councillor Hearn asked if we could allow the existing users and to move to fully wheelchair accessible vehicles for the future. She felt this was the most sensible solution.

Councillor Lawson asked if it was the case that we should have a mixed fleet based on the recommendations.

Kathryn Ashton replied that this is the case in line with Government guidance. She said that if Members wanted to go down that particular route, then she would recommend continuing with the exception of 'grandfather rights' in genuine cases. There may come a time in several years where we will end up with a full wheelchair accessible fleet, however further guidance may be given by the government before that point.

Councillor Douris said he felt unable to support the proposal of getting a percentage of the sale, as the deals are private and if we tried to formalise the deals, they would go underground and we would not find out about them. He therefore supported the recommendations as presented.

The Chairman announced that a proposal was made by Councillor Fantham and seconded by Councillor Peter that the licensing officers be asked to investigate the possibility of a financial return to the council.

Voting:

4 for and 6 against;

whereupon the Chairman declared the proposal defeated.

The substantive recommendation, as set out in the addendum, was proposed by Councillor Hearn and seconded by Councillor Sutton.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That the following recommendations go out to consultation:

To revoke the 2004 policy in respect of Hackney Carriage Vehicles which required that all new vehicles licensed from 2004 shall be purpose built and fully wheelchair accessible, and to insert into the new policy as agreed on 31/01/2012, as outlined in paragraph 1.5 of the report on page 4 of the agenda, the following exemptions:

1. Those persons who have continued to license their saloon vehicles as a hackney carriage since 2004 and have continued to use their vehicle or upgraded to a new/newer saloon vehicle will continue to be able to license a saloon vehicle as a hackney carriage under 'grandfather rights'.

2. Those persons who have continued to license their saloon vehicle as a Hackney Carriage since 2004 will be able to transfer the plate and vehicle to a third party.

With regards to (2) above, the Licensing Authority will not approve any new joint ownership in respect of existing Hackney Carriage saloon vehicles.

The Licensing Authority will consider applications for transfer of the vehicle and plate to a third party.

3. Where a license holder becomes incapacitated or in the event of death, the vehicle and plate will become the property of the next of kin.

Kathryn Ashton clarified that the 2004 policy will not be revoked until such time as the revised policy is adopted following consultation. The Chairman confirmed that this was the basis upon which he had taken the proposal to have been made. The Committee agreed.

The meeting ended at 7:55 pm

DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE

16 MAY 2012

Present –

MEMBERS:

Councillor Lawson (Chairman), Councillors Bhinder, G Chapman, Conway, Fantham, Mrs Green, R Hollinghurst, Link, Peter, Mrs Rance, Ryan, Sutton and Taylor.

OFFICERS:

P Bowles (Member Support Officer)

The meeting began at 8:08pm

1. APOLOGY FOR ABSENCE

An apology for absence was received from Councillor Whitman.

2. APPOINTMENT OF LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE

Appointments of Members and Substitute Members to the Licensing Health and Safety Enforcement Sub-Committee were considered.

Resolved:

That the following be appointed until the Annual Meeting of the Council 2013.

Licensing and Health and Safety Enforcement Sub-Committee (7 Members = 6:1)

Conservative	Liberal Democrat
G Chapman	Cllr Link
Conway	
Fantham	
Mrs Green (Vice-Chairman)	
Lawson (Chairman)	
Sutton	
Substitutes	
Bhinder	Mrs Rance
Ryan	R Hollinghurst

The meeting ended at 8.10 pm