
Isle of Wight Council

GAMBLING ACT 2005 POLICY STATEMENT 2022 – 2025

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1. Definitions

The following definitions will provide clarification for the purposes of this policy.

- 1.1 **The Act**
This means the Gambling Act 2005.
- 1.2 **The Policy**
This refers to the Isle of Wight Council’s Gambling Act 2005 Policy Statement.
- 1.3 **The Council or Licensing Authority**
This means the Isle of Wight Council.
- 1.4 **The Guidance**
Means the Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005.

2. Introduction

- 2.1 This policy will become effective on XXX.
- 2.2 Section 349 of the Gambling Act 2005 (“the Act”) requires licensing authorities to prepare and publish a statement setting out the principles it will apply in regulating gambling activities locally and, considering the local risks, clarify the authority’s expectations of gambling operators.
- 2.3 The Isle of Wight Council are the licensing authority that cover the whole of the Isle of Wight (as shown below). The island is 23 miles from east to west and 13 miles from north to south and is 147 square miles in area. The major towns are Newport, Cowes and East Cowes, Ryde, Sandown, Shanklin and Ventnor, with Newport being the capital and centrally situated. The remaining areas are rural comprising of a number of small villages. The ONS mid-2020 population estimates indicate that there are 142,296 people living on the Isle of Wight.



- 2.4 This policy is relevant to the following authorisations and functions which the Isle of Wight Council are responsible for administering under the Act:
- a) Premises Licences and Provisional Statements (Betting Shops, Bingo, Adult Gaming Centres, Family Entertainment Centres, Casinos)
 - b) Unlicensed Family Entertainment Centre Permits
 - c) Licensed Premises Gaming Machine Permits to allow alcohol licensed premises to provide more than two machines
 - d) Notifications from alcohol licensed premises for the provision of two or less gaming machines
 - e) Club Gaming Permits and Club Machine Permits
 - f) Prize Gaming Permits
 - g) Small Society Lottery registrations
 - h) Occasional Use Notices for track betting
 - i) Temporary Use Notices
 - j) Maintaining registers of the licences and permits that are issued
 - k) Providing information to the Gambling Commission regarding details of licences, permits and other permissions issued (see the section on Exchange of Information)
 - l) Inspection of licensed premises and enforcement action
- 2.5 The licensing authority has delegated their powers and responsibilities under the Act as detailed at Appendix 1 – Schedule of Delegations.
- 2.6 The licensing of remote gambling and the issuing of other authorisations such as Operator Licences is the responsibility of the Gambling Commission and therefore will not be covered in this policy.
- 2.7 In producing this policy statement, the licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission under the Act, any responses from those consulted on the policy statement as well as the Regulators' Code.
- 2.8 Any departure from this policy must be justified in writing and approved by a member of the Regulatory Services' Management Team.

Local Area Profile

- 2.9 The Guidance suggests that licensing authorities create a Local Area Profile to assess the risks in their region and use this to inform their policy and work with operators to reduce any potential negative impact from gambling activities in the area.
- 2.10 Gambling has not been highlighted as an area of particular concern by the Community Safety Partnership on the island at this time. There is little data available to indicate that gambling is contributing to problems on the island.
- 2.11 The licensing authority will endeavour to develop a local area profile which will also assist operators in carrying out their risk assessments as required by conditions of their licences (see section 6).
- 2.12 Various locality profiles which include data regarding demographics, health and deprivation are available via the Joint Strategic Needs Assessment webpages on the Council's website at www.iwight.com.

3. Consultation, Publication and Review of this Policy

- 3.1 The Act requires that the policy be reviewed every three years and specifies who must be consulted as part of such review. Any legislative updates may be made automatically without consultation.
- 3.2 The licensing authority will consult the statutory consultees and any other persons as may be appropriate for any subsequent revision of the policy. A list of consultees is at Appendix 2.
- 3.3 Appropriate weight will be given to the views of all consultees. In determining how much weight to give a particular representation, the factors that may be taken into account by the licensing authority include:
 - a) Who is making the representation (including their expertise or interest)
 - b) The relevance to the Licensing Objectives
 - c) The number of people who have expressed the same or similar views, and
 - d) How far the representations relate to matters that the licensing authority should include in its statement of principles.
- 3.4 Further consultation may be required if changes are made to the policy; any further consultation will only relate to the amendments made.
- 3.5 The licensing authority will always give reasons for the decisions it has made following consultation and the current statement of policy will be published on the Isle of Wight Council website (www.iwight.com) and is available by contacting the Licensing Department.
- 3.6 The licensing authority recognises its responsibility under equality legislation and the impact of proposed changes are assessed upon review of this policy.

4. Integration of Strategies and other legislation

- 4.1 The Licensing authority will seek to avoid duplication with other statutory or regulatory systems where possible.
- 4.2 Licensing applications will be viewed independently of planning applications; whilst the licensing authority may permit gambling activities, the responsibility lies with the applicant to ensure that any other necessary consents are obtained.
- 4.3 If other legislation does not cover unique situations that may arise, then additional controls such as conditions, may be imposed to secure the licensing objectives.
- 4.4 The licensing authority may have regard to other strategies and policies where relevant in exercising its functions under the Act.

5. General Principles and the Licensing Objectives

- 5.1 Each application will be considered and determined on its individual merits.
- 5.2 Nothing in this policy prevents the right of any person making an application or making representations regarding an application or applying to review a licence as each is considered on its individual merits and against the requirements of the Act.
- 5.3 Whilst the Guidance encourages licensing authorities to aim to permit gambling activities, the licensing authority will balance the legitimate business desires of applicants against what is ultimately in the public interest in the relevant area.

- 5.4 In some instances, the licensing authority does not have to have regard to the licensing objectives; however, this licensing authority will refer to the licensing objectives when making decisions as they underpin the intention of the overall legislation. When dealing with all gambling licensing matters the licensing authority will promote and have regard to the three licensing objectives set out in the Act.
- 5.5 The Gambling Commission take a lead role in achieving these objectives, primarily through the issuing of Operator and Personal Licences as well as the Licence Conditions and Codes of Practice (LCCP) which all businesses providing gambling activities must comply with. These requirements ensure that rules are transparent and players know what to expect in gambling activities.
- 5.6 The role of licensing authorities is to consider whether the objectives could be or are being compromised by the provision of gambling activities at specific premises in the area covered by the authority. The licensing authority will also assess whether operators are compliant with the Licence Conditions and Codes of Practice and notify the Gambling Commission of non-compliance.
- 5.7 The following will be areas of consideration when determining all applications under the Act.

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

- 5.8 The level of crime and disorder in a location along with any control measures in place may be taken into account when determining applications as well as whether reviews of premises licences should be instigated.
- 5.9 It should be noted that there are differences between disorder, antisocial behaviour and nuisance. To make the distinction, when incidents of this nature occur, the licensing authority will consider factors such as whether police assistance was required and/or how threatening behaviour was to those who could see or hear it. Separate legislation is in place to address issues of antisocial behaviour and nuisance.

Ensuring gambling is conducted in a fair and open way

- 5.10 The role of the licensing authority regarding this objective is to assess whether operators have suitable measures in place at the premises to conduct gambling activities in a fair and open way and are cooperative and transparent with authorities.
- 5.11 With regard to tracks, the role of the licensing authority may be more significant as Operator Licences from the Gambling Commission are not always necessary. In such instances, the licensing authority will need to be satisfied that the procedures implemented by the operator are adequate to uphold this objective.

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

- 5.12 The Gambling Commission does not seek to define “vulnerable persons”, but guidance does state:
“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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs”.

- 5.13 Under the Act, children are prevented from having access to certain premises, or some gambling facilities within premises, as part of achieving this objective. Whilst the Guidance states that it is not intended to prohibit vulnerable groups in the same manner as children and young persons, with regard to vulnerable people, the licensing authority will consider whether or not any measures have been taken to protect such a group. Any such considerations will be balanced against the licensing authority's aim to permit the use of premises for gambling and each application will be treated on its own merit.
- 5.14 This Licensing Objective intends to prevent children and young persons from taking part in, or being in close proximity to, gambling. Restrictions are therefore necessary when advertising gambling products that are aimed at children or are advertised in such a way that makes them attractive to children.

Expectations of Gambling Operators

- 5.15 Although a risk assessment is not always required, the licensing authority would expect all operators to consider the risks their gambling activities pose and the control measures that are proportionate and suitable to implement at their premises.
- 5.16 The following may also be areas of consideration along with the licensing objectives when determining any applications under the Act.

Local Area

- a) Local demographics as this may influence the levels interest in gambling and also increase the risk of children or vulnerable persons in the vicinity
- b) Crime rates for the area
- c) Unemployment rates for the area and/or is it an area of deprivation
- d) Antisocial behaviour in the area such as drug dealing, street drinking, graffiti or vandalism
- e) General footfall of the area
- f) Surrounding businesses such as post offices, banks and cashpoints as money is often obtained from these.
- g) The proximity of any alcohol licensed premises or other relevant night time economy contributing factors that need to be considered
- h) The proximity of other premises that may be relevant such as hostels, pawn brokers and job centres
- i) Whether the area is residential or a significant number of residents are nearby and how this may impact on the objectives
- j) Nearby premises or attractions that may appeal to children or they may regularly attend e.g., youth clubs, parks, beaches, playgrounds, cinemas, bowling alleys, schools, bus stations/stops, shopping centres
- k) 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
- l) Areas nearby where alcohol or drug dependent people or children may congregate or where antisocial behaviour regularly occurs

General

- a) Gambling activities provided and who they may attract
- b) Policies and procedures in place in conducting gambling activities
- c) Information held and/or shared from other businesses regarding incidences of underage gambling and self-exclusions
- d) Arrangements in place for sharing information between businesses and the local authority or other relevant stakeholders

Security and Safety

- a) Opening and operating hours
- b) Supervision of entrances/exits and gambling areas
- c) CCTV provision
- d) Appropriate levels of staffing
- e) Door supervisors (in some instances they may not be required to be licensed by the Security Industry Authority (SIA) but this would be always be advisable) –
 - i number of supervisors
 - ii days/hours and location of deployment
- f) Display of relevant notices/signage
- g) Seasonal changes that could impact on the risks, e.g., during school holidays when children may be more likely to access the premises during the day when they would not usually
- h) Operator carries out regular DBS checks for staff and any door supervisors

Layout, lighting and fittings in the premises of the premises

- a) Does the layout enable staff to monitor activities effectively?
- b) Does the positioning of fittings enhance the security at the premises, e.g., the position of CCTV, serving counters, location of gaming machines, cash machines etc.
- c) Physical separation of premises and/or specific areas to prevent unauthorised access or prevent children being harmed or exploited by gambling
- d) Does the lighting enable transparency in gambling activities and clear monitoring by staff?
- e) Is the number of Self-Service Betting Terminals appropriate for the size of the premises?

Staff training

- a) Awareness of gambling law and the restrictions relevant to the activities at the premises
- b) Policies and procedures specific to the premises
- c) Identifying children and vulnerable people including proof of age schemes and age verification procedures
- d) Identifying when customers may be showing signs of excessive gambling
- e) Awareness of safeguarding against Child Sexual Exploitation (CSE)
- f) Equipping staff to deal with difficult situations and useful strategies to intervene when necessary

Social Responsibility

- a) Local demographics and particularly how this may increase the risk of children or vulnerable persons being harmed
- b) Awareness of key seasons and times that may affect gambling trends – e.g., pay day
- c) Measures in place to prevent children having access to certain premises or areas or machines they are not permitted to use
- d) Promotional/advertising material is not attractive to children
- e) Notices and leaflets including regarding support available for problem gambling
- f) Self-exclusion scheme
- g) Participation in 'Betwatch' or similar local scheme where relevant

5.17 The licensing authority recognises that the responsibility for an individual's gambling is their own. The responsibility to exercise a duty of care is that of the Site Operator.

5.18 The licensing authority recommends that gambling operators implement the following in respect of their premises and its management:

- Code of Social Responsibility
- Self-Exclusion Policy

- Policy relating to age and entry
- 5.19 Resources are available via the British Amusement Catering Trade Association (BACTA) as well as Safer Gambling Standard managed by GamCare.
- 5.20 Contacting the Licensing Department prior to submitting any application to the licensing authority is highly recommended.

6. Premises Licences

- 6.1 Gambling activities are authorised by several different kinds of Premises Licences which must be the primary gambling activity taking place at the relevant premises:
- a) Casino premises
 - b) Bingo premises
 - c) Betting premises, including tracks and premises used by betting intermediaries
 - d) Adult Gaming Centre (AGC) premises (for category C and D machines)
 - e) Family Entertainment Centre (FEC) premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue family entertainment centre gaming machine permits, which authorise the use of category D machines only).
- 6.2 Information regarding the category and number of machines permitted and any limits on stakes and prizes can be obtained from the Licensing Department or the Gambling Commission.
- 6.3 In relation to Casinos, there is no resolution not to issue a Casino Licence under Section 166 of the Act even though the licensing authority has the power to do so. Any application received will therefore be considered on its individual merits.

Applicants

- 6.4 Applicants must have the relevant Operator Licence from the Gambling Commission (except Tracks where the occupier is not the person offering gambling) and the right to occupy the relevant premises before they can submit an application for a Premises Licence. Applicants for Provisional Statements do not need to meet these requirements.
- 6.5 The regulations prescribe the application requirements and the process that must be followed once an application is submitted to the licensing authority.

Premises

- 6.6 Premises are defined in the Act as “any place”. Premises Licences cannot be issued to vehicles but may be issued to a vessel.
- 6.7 In considering applications for part of a building where it has been divided into different premises the licensing authority should be satisfied that proposals are compatible with the regulations regarding Mandatory and Default which set out restrictions on access between licensed premises. These provisions prevent customers from being able to enter the premises directly from other licensed premises (“direct access”) and are intended to ensure premises are clear, identifiable and people cannot simply ‘drift’ into gambling areas.
- 6.8 The Guidance gives a list of considerations which the licensing authority should be aware of regarding such scenarios:
- Do the premises have a separate registration for business rates?
 - Are the 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?

- 6.9 Before granting such applications, the licensing authority will consider any current Guidance from the Gambling Commission, whether children can gain access to the premises, compatibility of the two establishments and the overall ability to comply with the requirements of the Act in such circumstances. The licensing authority will seek to avoid permitting an arrangement that otherwise would, or should, be prohibited under the Act.

Local Risk Assessments

- 6.10 In 2016, the social responsibility code within the Licence Conditions and Codes of Practice (LCCP), introduced a requirement for licence holders (except in some instances relating to Betting licences for Tracks) to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to implement policies, procedures, and control measures to mitigate those risks. This requirement is intended to encourage local authorities, the Commission and the industry to work in partnership to address local issues and provide an evidence based and transparent approach to reducing the risks associated with gambling.
- 6.11 This risk assessment should therefore be documented and carried out:
- when applying for a new Premises Licence
 - when applying for a variation to a Premises Licence
 - when changes occur at the premises or locally that could impact on the existing risk assessment
 - and it should be regularly reviewed
- 6.12 Operators will therefore need to submit their risk assessment with applications and ensure it is available to licensing authorities at other times as it may be requested during inspection or when investigating complaints.
- 6.13 The licensing authority will expect the local risk assessment to take into account this policy including the factors listed in the General Principles section.
- 6.14 The licensing authority would advise the operator to identify the key points about the local area, premises and any current procedures in place and consider how these could impact the licensing objectives – they will then be able to formulate control measures that could reduce the likelihood of such issues occurring and create an action plan to implement these measures.

Representations from Responsible Authorities and Interested Parties

- 6.15 Only 'Responsible Authorities' and 'Interested Parties' as defined in the Act may make representations regarding Premises Licence applications and may apply to review existing licences.
- 6.16 The licensing authority has designated the Isle of Wight Council's Children's Services Department as the appropriate body it considers competent to advise on the protection of children from harm.
- 6.17 A full list of Responsible Authorities and their respective contact details is available on request from the Licensing Department and on the Council's website.
- 6.18 An 'interested party' is defined under the Act as a person 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 who satisfy paragraph (a) or (b).

- 6.19 In relation to point c (whether 'a person is representing those' in category a or b), the following are capable of representing interested parties:
- Isle of Wight Council Elected Councillors
 - Town and Parish Councils
 - Member of Parliament (MP)
 - Residents' and tenants' associations
 - Trade Associations
 - Trade Unions
 - Charities
 - Faith groups
 - Medical practices
- 6.20 No specific evidence of being asked to represent an interested person will be required if the councillor/town or parish council represents the ward likely to be affected.
- 6.21 In determining if a person lives or has business interests sufficiently close to the premises that are likely to be affected by proposed or authorised activities, the licensing authority will consider each case on its merits and take the following factors into account:
- The size of the premises
 - The nature of the activities taking place/proposed to take place at the premises
 - The distance of the premises from the location of the business interest or the person making the representation
 - The potential impact of the premises (such as the number of customers and routes likely to be taken by those visiting the establishment)
 - The circumstances of the person and the nature of their interest, which may be relevant to the distance from the premises
- 6.22 Representations will not be considered or the application may be determined without a hearing if they:
- relate to demand or competition or planning/building law as these matters cannot be taken into account when determining an application,
 - are considered to be frivolous or vexatious, or
 - will certainly not influence the authority's determination of the application
- 6.23 Before a decision is made the licensing authority will consider the following:
- Who is making the representation, and whether there is a history of making representations that are not relevant.
 - Whether the representation raises a relevant issue, or
 - Whether the representation raises issues specifically to do with the premises that are subject of the application.
- 6.24 The licensing authority strongly recommends that representations are submitted at the earliest opportunity prior to the end of the prescribed consultation period to allow the maximum time to negotiate an appropriate solution.

Determination of Premises Licence Applications

- 6.25 The Act requires that a hearing be held to determine an application for a Premises Licence where representations must be considered and/or if the authority propose to attach a condition or exclude a condition that would otherwise be attached to the licence. Separate regulations prescribe how this process is to be carried out.

In determining Premises Licence applications, as well as those outlined in the General Principles section, the following will apply:

- 6.26 Gambling is a legitimate regulated activity that is enjoyed by many people. Section 153 of the Act directs that licensing authorities shall aim to permit the use of premises for gambling in so far as it thinks it:
- In accordance with any relevant code of practice issued by the Gambling Commission
 - 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 (particularly referring to the General Principles section)
- 6.27 Under section 210 of the Act the licensing authority shall not have regard to whether a proposal by the applicant is likely to be permitted in accordance with planning or building law.
- 6.28 In determining whether to grant a Premises Licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.
- 6.29 The Guidance states that licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences and that decisions cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area. The licensing authority will therefore not have regard to such matters in determining applications.

Conditions

- 6.30 Premises Licences are subject to Mandatory and Default conditions set by regulations and Operators must comply with the Codes of Practice.
- 6.31 If any additional conditions are imposed by the licensing authority, they will be tailored to the individual characteristics of the premises and the activities concerned. Additional conditions will only be attached in cases where specific risks or problems are associated with a particular locality or premises and the matters outlined in the General Principles section of this policy will be taken into account.
- 6.32 The licensing authority will not refuse an application for a premises licence where relevant objections can be dealt with by use of appropriate conditions.
- 6.33 Any conditions attached to premises 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.
- 6.34 It is noted that the licensing authority cannot attach conditions to premises licences that:
- makes it impossible to comply with an Operating Licence condition
 - relate to gaming machine categories, numbers or method of operation
 - provide that membership of a club or body be required
 - relate to stakes, fees or winning of prizes

Reviews

- 6.35 The Act provides the ability for a responsible authority or interested party to apply for a review of a Premises Licence whereby it is reassessed by the Licensing Committee with the possibility that the licence may be revoked, suspended or that the conditions may be modified.

- 6.36 Following receipt of an application, it is for the licensing authority to decide whether the review is to be carried out. In accordance with section 198 of the Act, applications for reviews will be rejected if they:
- a) do not raise an issue relevant to –
 - i the code of practice or guidance issued by the Gambling Commission
 - ii this policy or
 - iii the licensing objectives
 - b) are considered frivolous or vexatious
 - c) will certainly not cause the authority to wish to alter/revoke/suspend the licence
 - d) are substantially the same representations previously raised
- 6.37 The council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.
- 6.38 The areas of consideration set out in the General Principles section of this policy will be relevant to determining applications for Review of a Premises Licence.

7. Notices

Temporary Use Notices (TUNs)

- 7.1 Temporary Use Notices (TUNs) allow gambling operators to use premises without licences for gambling facilities on up to 21 days in any 12 month period (such as in hotels, conference centres and sporting venues). Under regulations, TUNs can currently only be used to permit equal chance gaming and where the tournament is intended to produce an overall winner (e.g., poker). TUNs must be submitted to the licensing authority copied to the Gambling Commission, Police, HM Commissioners for Revenue and Customs (HMRC) at least three months and one day before activities are proposed to commence.
- 7.2 The Act refers to “set of premises” in respect of TUNs to prevent one large premises having separate parts authorised for activities in excess of the 21 day limit. It falls to the licensing authority to decide what constitutes a “set of premises”. It is the licensing authority who decides what meets this definition who will assess the ownership/occupation and control of the premises as well as any other relevant factors in determining whether proposed buildings or sites would fall under this definition. The licensing authority will consider objecting to a notice where it appears that its effect would be to permit regular gambling in a place that could be described as one set of premises.
- 7.3 The licensing authority has the ability to object to TUNs and will take into account the following factors when assessing whether an objection notice is required:
- a) the suitability of the premises for the proposed activities
 - b) the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises
 - c) the CCTV coverage within the premises
 - d) the ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period
 - e) whether the premises or the holder of the operating licence have given the licensing authority any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Commission, the relevant code of practice or this policy statement.
- 7.4 Where the statutory limit of 21 days is exceeded, the licensing authority is obliged to serve a counter notice preventing the activities from being authorised.

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- 7.5 Where objections are received from the licensing authority or the agencies the TUN must be copied to, then a hearing will be held as outlined in regulations unless all parties agree this is not necessary.

Occasional Use Notices (OUNs) for Tracks

- 7.6 Betting can be permitted at tracks on up to 8 days in a calendar year using Occasional Use Notices (OUNs), rather than a full Premises Licence.
- 7.7 Due to the temporary and infrequent nature of activities, the licensing authority has little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. If notices are given for a single track proposing that betting will occur for more than 8 days in the year, the licensing authority has an obligation to issue a counter notice preventing activities being authorised to take place.
- 7.8 The licensing authority will need to consider the definition of a 'track'; It should be noted that the definition of track in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. They also must be satisfied that the applicant is entitled to benefit from this provision under the Act as only a person who is responsible for the administration of events on the track, or an occupier of the track may submit such notices.

8. Permits

Alcohol Licensed Premises Gaming Machine Permit

- 8.1 Providing the licensing authority are notified, there is an automatic entitlement to make up to 2 Category C or D machines available at premises licensed to sell alcohol; if licence holders wish to provide more than 2 machines, they must obtain a permit.
- 8.2 Applications for a permit must be accompanied by:
- A plan of the premises including indication of where machines will be located
 - Any other additional information as requested by the licensing authority
- 8.3 When determining an application, the licensing authority must have regard to the licensing objectives and the guidance issued by the Gambling Commission and may also take account of any other matters considered relevant to the application.
- 8.4 The licensing authority cannot attach additional conditions to the permit but may grant it for a different number or category of machines.
- 8.5 The licensing authority may consult with Police when deemed appropriate and will take the following into account when determining the permit application:
- That the applicant understands the specific risks at the proposed premises and has proportionate measures in place to mitigate these and ensure crime and disorder is prevented and children and vulnerable persons are protected from harm
 - That the applicant understands the requirements of the Codes of Practice and other relevant regulations and guidance
 - Whether the number of machines proposed is proportionate to the size of the premises
- 8.6 If the licensing authority intend to refuse an application, we will notify the applicant and include the reasons for this, and they will have a period of up to 28 days to submit oral and/or written representations for consideration prior to a final decision and a hearing will be held to determine the application unless agreed by all parties this is not necessary.

Club Gaming Permits and Club Machine Permits

- 8.7 Club Gaming and Club Machine Permits authorise the provision of equal chance gaming (such as bingo or poker and permits allow higher stakes), and a maximum of three gaming machines as prescribed in regulations. Both permits have effect for 10 years with an annual fee.
- 8.8 The licensing authority must be satisfied that applicants meet the definition of a club under the Act and that the majority of members are over 18 years old. Members' Clubs and Miners' Welfare Institutes may apply for either permit but Commercial Clubs (those that operate for profit) may apply for a Club Machine Permit only. Those that have a Club Premises Certificate issued under the Licensing Act 2003 may apply for a permit using the 'fast track' procedure.
- 8.9 Applications for a permit must be accompanied by:
- A plan of the premises including indication of where machines will be located
 - Any other additional information as requested by the licensing authority
- 8.10 The licensing authority may only refuse an application on the one or more of the following grounds:
- 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 they have applied
 - the applicant's premises are used wholly or mainly by children and/or young people,
 - an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
 - a permit held by the applicant has been cancelled in the previous ten years
 - an objection has been lodged by the Commission or the police
- 8.11 Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the licensing authority can refuse a permit is reduced. The grounds on which an application may be refused are:
- that the club is established primarily for gaming
 - that in addition to the prescribed gaming, the applicant provides facilities for other gaming
 - that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

UFEC and Prize Gaming Permit Applications

Unlicensed Family Entertainment Centre (UFEC) Permit

- 8.12 Premises used wholly or mainly for making Category D gaming machines available may be authorised by a Permit rather than a Premises Licence (where Category C machines can also be provided).

Prize Gaming Permit

- 8.13 Prize gaming is where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming – usually prizes are determined by the operator before play commences (e.g., bingo that has a non-cash prize). Prize Gaming Permits are usually used to authorise these activities at premises that are not already licensed.

Applications

- 8.14 Applicants must be at least 18 years old and occupying or planning to occupy the relevant premises and their application must be accompanied by:
- A Basic Criminal Record Disclosure Certificate from the Disclosure and Barring Service (DBS) that is not more than 1 calendar month old for the applicant and any person(s) that will be assisting on a regular basis.
 - A plan of the premises including indication of where machines will be located.
 - Any other additional information as requested by the licensing authority.
- 8.15 In determining applications for permits the licensing authority need not (but may) have regard to the licensing objectives but must have regard to guidance issued by the Gambling Commission.
- 8.16 As prize gaming and Category D machines will particularly appeal to children and young persons, the licensing authority will give particular weight to child protection issues.
- 8.17 The licensing authority will consult with Police and when deemed appropriate, the Isle of Wight Council's Children's Services Department, and will take the following into account when determining the suitability of the applicant to hold the permit:
- Whether the applicant has any convictions for relevant offences listed under Schedule 7 of the Act and/or other offences related to the harm of children
 - That they understand the specific risks at the proposed premises and have proportionate measures in place to mitigate these and ensure crime and disorder is prevented and children and vulnerable persons are protected from harm
 - That they understand the limits on stakes and prizes that are set out in regulations and staff are trained in these also
 - In respect of Prize Gaming: that the gaming offered is within the law
- 8.18 The licensing authority can only grant or refuse a permit application; conditions cannot be attached that are additional to those that would automatically be included on the permit (which include participation and prize value limits for Prize Gaming Permits).
- 8.19 If the licensing authority intend to refuse an application, we will notify the applicant and include the reasons for this, and they will have a period of up to 28 days to submit oral and/or written representations for consideration prior to a final decision and a hearing will be held to determine the application unless agreed by all parties this is not necessary.

Travelling Fairs

- 8.20 Travelling fairs may provide an unlimited number of category D gaming machines and/or equal chance prize gaming without the need for a permit as long as the gambling amounts to no more than an ancillary amusement at the fair and machines are operated in compliance with legal requirements. Land may only be used for such a fair on up to 27 days in a calendar year regardless of whether it is different travelling fairs occupying the land.
- 8.21 The licensing authority will determine whether Travelling Fairs meeting the definition under the Act and therefore benefit from this provision.

9. Lotteries

- 9.1 The Act provides several exemptions for lottery ('raffle') activities, such as 'incidental non-commercial lotteries', 'customer lotteries' and 'private lotteries' – these are not regulated providing they meet the requirements to qualify as exempt.

- 9.2 Lotteries conducted by a “non-commercial society” as defined by the Act where the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less must register as a Small Society Lottery. Lotteries that exceed these limits are regulated by the Gambling Commission.

Small Society Lottery Registrations

- 9.3 Applicants for lottery registrations must apply to the licensing authority in the area where society’s principal office is located. Where the licensing authority believes that the society’s principal office is situated in another area it will inform the society as soon as possible and where possible, inform the other licensing authority.
- 9.4 Participation in a lottery is a form of gambling, and as such the licensing authority is aware that the societies it registers are required to conduct their lotteries in a socially responsible manner and in accordance with the Act.
- 9.5 The licensing authority will ensure that an applicant is a society as defined in Section 19 of the Act, and may refuse an application for registration if in their opinion:
- a) The applicant is not a non-commercial society
 - b) A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence or
 - c) Information provided in or with the application for registration is false or misleading.

10. Appeals

- 10.1 If an application is refused the applicant will be given written confirmation detailing the reasons for refusal, along with any right of appeal. Provisions to appeal against decisions made by the licensing authority are contained in the Act.

11. Enforcement

- 11.1 The licensing authority will seek to ensure compliance with the authorisations it has granted as well as the Act in general in accordance with the following principles.
- 11.2 The licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible and will have regard to the Human Rights Act 1998, guidance issued by the Gambling Commission along with any other relevant guidance.
- 11.3 All enforcement activities including inspection of premises and criminal proceedings instigated by the licensing authority under the powers contained in Section 346 of the Act will be carried out in accordance with the Neighbourhoods’ Enforcement Policy.
- 11.4 The licensing authority may establish protocols with the local Police and liaise with the Gambling Commission on enforcement issues.
- 11.5 Inspections of licensed premises will be carried out as necessary based on the level of risk to the licensing objectives. In determining the level of risk, the licensing authority will take into account complaints regarding premises from the Gambling Commission, Responsible Authorities and Interested Parties.
- 11.6 Enforcement matters regarding gaming machines or Personal Licences and Operating Licences will be dealt with by the Gambling Commission.

12. Exchange of Information

- 12.1 Regulations require that licensing authorities retain certain data and registers and provide information to the Gambling Commission as part of exercising their functions under the Act. Section 350 of the Act also enables the exchange of information between various parties in exercising their functions.
- 12.2 As well as fulfilling its duty to comply with a range of legislation which regulates the management of information (such as Data Protection, Freedom of Information), the licensing authority will have regard to guidance issued by the Gambling Commission to local authorities on this matter as well as any other relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 12.3 The Isle of Wight Council is the data controller in relation to all personal information submitted to the licensing authority in exercising its functions under the Act. Information will be received and retained in accordance with Data Protection law and the Council's retention schedule and information can be accessed via contacting the Data Controller or submitting a request under the Freedom of Information Act (FOI). Further information is available on the Council's website at www.iwight.com.
- 12.4 Information will be shared with other council departments and external bodies such as those listed in Schedule 6 of the Act for the purposes of processing applications or notifications as well as the prevention of crime and disorder when appropriate. Such exchanges of information may not be prescriptive as they will be on a case-by-case basis; they would generally be in writing to provide an accurate record of the information exchange including to whom data was provided and when. The licensing authority may create protocols regarding information sharing as and when deemed necessary.
- 12.5 Interested Parties who have made representations will not generally be permitted to be anonymous unless there are legitimate reasons for this. Their full addresses would not usually be made public although the street name/area will be disclosed as part of determining that the person is an interested party and considering the representations they have made. There may also be occasions where it would be impossible for an individual's address to remain confidential due to the nature of the area and layout of premises.

13. Fees

- 13.1 Premises Licence fees are charged to facilitate cost recovery and are set in accordance with the maximum levels prescribed in the Gambling (Premises Licence) Fees (England and Wales) Regulations 2007. Fees for permits and other services are set by the Secretary of State.
- 13.2 The licensing authority will ensure that information regarding the fees to be charged in relation to the Act are made available to the public via the Council's website or directly from the Licensing Department.
- 13.3 In accordance with section 193 of the Gambling Act 2005, where a premises licence holder fails to pay an annual fee, the licence will automatically lapse. With regard to permits, the same principle applies; the licensing authority will exercise its powers under Schedule 13 paragraph 17 of the Gambling Act and cancel the permit. Each case will however be treated on its own merits and consideration may be given to mitigating circumstances.
- 13.4 Non-payment of annual licence and permit fees may be reported to the Gambling Commission who may wish to check their own records on the applicant accordingly.

Appendix 1 – Schedule of Delegations

Matter to be dealt with	Full Council	Sub Committee of Licensing Committee	Officers
Three-year licensing policy	✓		
Policy not to permit casinos	✓		
Fee Setting (when appropriate)	✓		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Review of a premises licence		✓	
Application for club gaming / club machine permits			✓
Cancellation of club gaming / club machine permits			✓
Applications for other permits			✓
Cancellation of licensed premises gaming machine permits			✓

Appendix 2 – List of Policy Consultees

Local Government

Isle of Wight Member of Parliament
Isle of Wight Council Elected Councillors
Isle of Wight Parish and Town Councils

Responsible Authorities

Hampshire Constabulary
Isle of Wight Council Childrens' Services
HM Revenue and Customs
Gambling Commission
Isle of Wight Fire and Rescue Service
Isle of Wight Council Environmental Health Department
Isle of Wight Council Planning Department

Relevant Associations

Association of British Bookmakers
British Beer and Pub Association
British Casino Association
British Holiday and Home Parks Association
Casino Operators Association of UK
Gamblers Anonymous (UK)
GamCare
Responsibility in Gambling Trust
British Amusement & Catering Trade Association

All Gambling Act 2005 Licence and Permit holders on the Isle of Wight

Miscellaneous

Isle of Wight Council Public Health
Isle of Wight Council Adult Social Care
Isle of Wight Council Housing Services
Isle of Wight Council Community Safety
Isle of Wight Council Trading Standards
Chamber of Commerce
Pubwatch
Business Associations

Isle of Wight Council

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2021

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1. Introduction

- 1.1 This policy will become effective on **XXX**.
- 1.2 This policy has been written after considering the provisions of the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA), which provides Isle of Wight Council (the “Council”) with the powers to carry out licensing functions in respect of Hackney Carriage and Private Hire vehicles, drivers and operators.
- 1.3 It also takes account of the Statutory Taxi and Private Hire Vehicle Standards (“the Standards”) issued under the Policing and Crime Act 2017 that were published in July 2020. Whilst the focus of the standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it.
- 1.4 There is a consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector, and the recommendations in the standards are the result of detailed discussion with the trade, regulators and safety campaign groups.
- 1.5 The Department of Transport expects the recommendations contained in the standards to be implemented unless there is a compelling local reason not to. On this basis regard will now be had to the standards across all areas of the taxi and private hire licensing regime.
- 1.6 In setting out its policy, the Council seeks to promote the following objectives:
- The protection of public health and safety,
 - The maintenance of a professional and respected hackney carriage and private hire trade, and
 - Access to an efficient and effective transport service.
- 1.7 The aim of this policy is to ensure there is consistency in the application processes and the enforcement of licences relating to:
- Hackney Carriage Vehicles (including pedicabs and horse drawn vehicles)
 - Private Hire Vehicles
 - Replacement Hackney Carriage or Private Hire Vehicles
 - Drivers of licensed vehicles
 - Private Hire Operators
- 1.8 The council does not limit the number of Hackney Carriage, Private Hire Vehicle or Driver Licences. The Council believes that public demand will dictate the number required to serve the island’s community.
- 2.2 Any departure from this Policy must be justified in writing and approved by a member of the Regulatory Services’ Management Team.
- 1.9 This policy will be reviewed every five years. All legislative amendments will be made automatically. All other changes will be subject to a twenty-eight-day public consultation period. Any representations will be considered and determined by the Executive and if none are received, the Policy will automatically be updated.

2. Definitions

The following definitions will provide clarification for the purposes of this policy:

- 2.1 **The Policy** refers to the Isle of Wight Council’s Hackney Carriage and Private Hire Licensing Policy.

- 2.2 **The Council or Licensing Authority** means the Isle of Wight Council.
- 2.3 **Driver** means a person who has been granted a licence by the Council to drive a Taxi or a Private Hire Vehicle under Section 46, Town Police Clauses Act 1847 or Section 51, Local Government (Miscellaneous Provisions) Act 1976 respectively.
- 2.4 **Licence** means an authorisation that is granted by the Council to give permission for a person to carry out activities under the Town Police Clauses Act 1847 and/or Local Government (Miscellaneous Provisions) Act 1976.
- 2.5 **Operator** is the holder of a Private Hire Operator Licence granted by the Council under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.6 **Private Hire Vehicle** is as defined in Section 80(1) of the Local Government (Miscellaneous Provisions) Act 1976 as a car which must be pre-booked with a private hire operator. This type of vehicle cannot stand on a rank or ply for hire.
- 2.7 **Taxi** means a hackney carriage (HC) as defined in the Town Police Clauses Act 1847. A vehicle that can carry passengers for hire and reward can be hailed by a prospective passenger and can park on a rank to await the approach of passengers, a car available for public hire. Pedicabs and horse drawn vehicles may also be licensed as Hackney Carriage Vehicles.
- 2.8 **Taxi Proprietor** means the holder of a Hackney Carriage Proprietor Licence granted by the Council under Section 37, Town Police Clauses Act 1847.
- 2.9 **Licensed Vehicle** means either a Hackney Carriage Vehicle (taxi) or a Private Hire Vehicle.
- 2.10 **Non- Motorised Vehicle** means a vehicle which is required to be licensed as a Hackney Carriage Vehicle but is not mechanically powered; these include horse drawn vehicles and pedicabs.
- 2.11 **DFT** means Department for Transport.
- 2.12 **DBS** means Disclosure and Barring Service.
- 2.13 **Appeal** is the means by which a decision made by the Licensing Authority can be reconsidered by the Magistrates' or the Crown Court.

3. Applications

- 3.1 Applications for licences must meet the criteria outlined in the relevant section in this policy.
- 3.2 It is recommended that applicants contact the Licensing Department prior to making their application to ensure they understand the requirements.
- 3.3 In respect of renewal applications, failure to submit the application form and fee within 7 days after the renewal date will mean that any future application will be treated as a new application.

4. Fit and Proper Test

- 4.1 Safeguarding the public is paramount and licensing authorities have a duty under the Standards to ensure that Drivers, Operators and Proprietors of vehicles are 'fit and proper'

before a licence is granted or renewed. It may be helpful to think of this term as also meaning 'safe and suitable'.

- 4.2 In assessing if an individual is fit and proper, their criminal record is taken into account in line with the Council's Relevance of Convictions Policy. Motoring and criminal convictions must be disclosed in the application forms and criminal record disclosures from DBS are also required to be provided as part of the application processes (Enhanced disclosure for Drivers and Basic for Operators and Proprietors of vehicles).
- 4.3 Applicants who have had periods living or working outside of the UK (after reaching the age of 18), may be asked to produce criminal record information or a 'Certificate of Good Character' from overseas. Further information on obtaining this information from other countries can be found here: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>
- 4.4 Licence holders are also required under the conditions of their licence to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- 4.5 Applicants must disclose in their application if they have had a licence refused, suspended or revoked by another licensing authority.
- 4.6 In relation to drivers, the licensing authority will also take into account their medical fitness to ensure they are safe to fulfil the duties of the role (please see the medical test requirements in the Hackney Carriage and Private Hire Driver Licence section of this policy). Such considerations may include mental health and drivers may be requested to attend an assessment in this regard if deemed necessary to ensure that they and the public are safe. Drivers may also be requested to attend random drug testing appointments at the licensing authority's request.
- 4.7 If an applicant withholds information or provides false or misleading information at any time, this may also bring into question whether they are fit and proper.
- 4.8 In determining whether an individual is fit and proper, the licensing authority can consider the conduct of an individual when they are not in their licensee role or that has not resulted in a criminal conviction. Such conduct may become known to the authority due to complaints or information received from other agencies such as police or another authority. A single incident or an accumulation of material may indicate characteristics, attitudes or temperaments or a pattern of behaviour that raise doubts over a person's suitability to hold a licence.
- 4.9 As the licensing authority are continually assessing if licensees are fit and proper, this could lead to enforcement action being taken, such as suspension or revocation of a licence, which would be taken in accordance with the Neighbourhoods' Enforcement Policy.
- 4.10 Each case will be considered on its merits and all decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt).
- 4.11 It is suggested that it may be helpful for licensing authorities to consider the following question in determining their assessment overall:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 4.12 If, on the balance of probability the answer to this question is 'no', the Standards require licensing authorities to refuse a licence.
- 4.13 The licensing authority may engage with the police to ensure that, when they believe a licensee presents a risk to the travelling public, they use their Common Law Police Disclosure powers to share information.
- 4.14 Information may also be shared with other internal departments such as School Transport or Adult Social Care as well as other licensing authorities in the interests of ensuring public safety.

5. All Hackney Carriage and Private Hire Vehicles

New Applications

- 5.1 New applications and Renewals for vehicle licences must be submitted to the Council's Licensing Department using the prescribed form and accompanied by the following:
- The relevant fee
 - The vehicle's registration document (V5/'Log Book')
 - A valid certificate of insurance
 - A Certificate of Compliance inspection sheet dated no more than seven days prior to the application date (if the vehicle is more than one year old)
 - any other information deemed necessary to assist with the determination of an application
- 5.2 Where a vehicle registration document cannot be provided at the time of application, it must be provided within one month of the vehicle licence being granted.
- 5.3 Anyone who is the owner or involved with the keeping, employing, or letting to hire of the vehicle must be included as an applicant.
- 5.4 The number of passengers that the vehicle will be licensed to carry will be determined by the licensing authority taking into account the amount of general space, luggage space and the proposed use of the vehicle along with any other factors that may be relevant. This number may therefore be less than the number of seats it has.

Renewals

- 5.5 All vehicle licences must be renewed annually.
- 5.6 If the vehicle licence is not renewed within 7 days after the expiry date, any subsequent renewal application will be treated as a new vehicle application.
- 5.7 From 1 January 2025, no vehicle licence will be renewed once it reaches ten years of age from its first registration (the only exceptions being vintage vehicles licensed for Private Hire as referred to below).

Vehicle Requirements

- 5.8 Vehicles must comply with the following requirements as well as the criteria outlined in the relevant vehicle specific section of the policy when presented to be licensed on application,

renewal and during the period of any licences issued (some items may not be applicable to vintage Private Hire vehicles and/or Non-Motorised vehicles with prior agreement):

- a) The vehicle must be less than 3 years old.
- b) The vehicle has at least 4 side opening doors, which may be opened from the inside and the outside. Minibuses and people carrier type vehicles must have at least 3 doors not including any tailgate or rear doors.
- c) CCTV may only be installed with the written permission of the licensing authority and in accordance with data control requirements.
- d) No smoking signs must be fitted in a prominent position in full view of all passengers.
- e) Signage must also be displayed in a prominent position informing the passenger how to raise a concern or make a complaint to the licensing authority.
- f) The vehicle must have sufficient means for any passenger to communicate with the driver.
- g) A suitable amount of storage for passenger luggage must be provided, and, ideally, separated from the passenger compartment. Estate type vehicles must have a guard fitted between the passenger and the luggage compartments.
- h) Written approval must be obtained in writing from the Licensing Authority before any advertisements, signs, notices, illuminations or other marks appear on a vehicle.
- i) All vehicles during the licence period and on presentation for renewal must have fixed to the outside rear of the vehicle, in full view of the driver of a vehicle behind, the licence plate provided by the Isle of Wight Council.

- 5.9 Failure to comply with the standards set for vehicle in this section and the relevant specific section of the policy for the vehicle may result in a licence being refused or suspended until such time as compliance is achieved.
- 5.10 Proprietors may be requested to present their vehicles for an inspection or Compliance Test at any time during the licence period and if issues are identified, the licence may be suspended until these are resolved.
- 5.11 Applications for non-motorised vehicles will be determined individually – please refer to the relevant section in this policy for further details.

6. Hackney Carriage Proprietor Licence (Hackney Carriage Vehicles)

- 6.1 Hackney Carriage vehicles must also meet the following criteria on application, renewal and whilst the vehicle is licensed:
- a) The vehicle must be wheelchair accessible
 - b) The bodywork of all vehicles must be silver in colour
 - c) The vehicle has an electronic taximeter of a type approved by the Council which is securely fixed in the hackney carriage in a position which is satisfactory to the Council. The taximeter must be set to charge in accordance with the most up to date approved Table of Fares.
 - d) The vehicle must have a roof light or another method approved by the Council to indicate to the public that the vehicle is available for hire
 - e) The vehicle must be designed to carry at least four passengers
 - f) The vehicle must be right hand drive
 - g) A copy of the most up to date Table of Fares must be fixed in a prominent position in full view of all passengers.

7. Private Hire Vehicle Licence

- 7.1 In some cases, the licensing department will consider licensing a vehicle which is more than 3 years old or is silver in colour, i.e., vintage and luxury vehicles. In these cases, additional information and tests may be required to determine its suitability as a private hire vehicle.
- 7.2 Private Hire vehicles must also meet the following criteria on application, renewal and whilst the vehicle is licensed:
- a) All vehicles must have fixed to each front door of the vehicle private hire door stickers provided by the Isle of Wight Council.
 - b) If a taximeter is fitted it must be an accurate electronic type approved by the Council and must be fixed in the vehicle in a safe manner and in a position which is satisfactory to the Council. It must be set to charge in accordance with the most up to date approved Table of Fares.
- 7.3 The applicant may apply to the Licensing Authority for exemption from the requirement to display the Council's standard Private Hire plate on the vehicle. Such an exemption will only be granted for vehicles that are deemed 'executive' by virtue of the work they undertake, such as, but not exclusively, contracts with businesses where unmarked vehicles are required for transporting VIPs and dignitaries. In such circumstances a less conspicuous plate will be issued along with an exemption from displaying the Council's door stickers. The Council may require additional information from the applicant in order to grant such an exemption.
- 7.4 Where the Council has granted an exemption from displaying the Council's standard Private Hire plate and door stickers, the applicant for renewal must submit a request for this exemption to continue. The Council may require additional information from the applicant to continue applying such an exemption.

8. Tuk Tuks and Non-Motorised Vehicles

- 8.1 Nothing in these requirements shall detract from the Council's duty to consider each case on its merits and the conditions shall be applied accordingly.
- 8.2 In addition to the standard documentation required for a Hackney Carriage Proprietor or Private Hire Vehicle licence application, the applicant must provide the following with their application:
- a) Public Liability Insurance (minimum £5,000,000)
 - b) Risk Assessment for the operation (template available to assist with this)
 - c) An operating plan with details of the proposed business including:
 - i the areas and routes that the vehicle(s) will be operating,
 - ii written approval from the Isle of Wight Highways Authority for any routes and pick-up and drop-off points that are proposed
 - iii the proposed fares to be charged
 - d) any other information deemed necessary to assist with the determination of an application

Additional requirements for Tuk Tuk/Pedicab/Rickshaw vehicles

- 8.3 All vehicles must have either Individual Vehicle Approval or European Certificate of Conformity.
- 8.4 All vehicles must comply with all current statutory requirements for road vehicles and any other legislation that affects the construction and use of Tuk Tuk or pedal cycle style vehicles.

- 8.5 A vehicle proposed to be licensed will be subject to a mechanical examination by inspectors appointed by the Council.
- 8.6 Vehicles must also meet the following criteria on application, renewal and whilst the vehicle is licensed:
- a) The bodywork of the vehicle is in good condition and the paint work is clean and well maintained.
 - b) Any roof covering is watertight.
 - c) The condition, fixing and routing or positioning of electric cables and fittings, if any, are such that there is no risk of electrical fire or other incident.
 - d) The vehicle is provided with an audible warning device such as a bell or a horn,
 - e) Any door hinges, locks and handrails and any grab handles fitted to the vehicle are secure and sound, and not liable to injure any passengers or damage or soil their clothing or luggage.
 - f) A suitable spare wheel and tyre is provided and readily available for use or an alternative temporary repair system is provided, together with the tools and equipment required to carry out any emergency replacement or repairs required to the vehicle.
 - g) The vehicle is fitted with seatbelts to each seat. The seat belts shall be readily accessible for use by all passengers.
 - h) The fittings and furniture of the vehicle are clean, well maintained and, in every way, fit and safe for public use.
 - i) Any internal linings of the vehicle are sound, clean and not liable to damage or soil passengers clothing or luggage, and the floor is provided with a carpet, mat or other suitable, non-slip floor covering which is sound and clean.
 - j) The seats are properly cushioned and covered by a water-resistant material and covers are in a sound and clean condition, which may be easily cleaned and dried.
 - k) Any entry and exit steps are made of or fitted with non-slip material.
 - l) The vehicle must be fitted with retractable rain coverings that cover both sides and the rear of the vehicle and are secured to ensure the vehicle remains watertight. The covers must be transparent to allow the driver unrestricted views out of the vehicle.

Additional requirements for Horse and Carriage Omnibus Hackney Carriage

- 8.7 All vehicles must comply with all current statutory requirements for road vehicles and any other legislation that affects the construction and use of carriage style vehicles.
- 8.8 Any horse proposed to be used in connection with the service must:
- be at least 6 years of age
 - be free from lameness
 - not be employed whilst under any veterinary treatment
 - be regularly and competently shod; their shoes must be properly fitted by a registered farrier
- 8.9 Any proposed carriage should also have:
- a) Fixed seating with a carrying capacity of 16 inches (40 cm) per person conveyed, measured along the front edge of the seat, excluding wheel arch or similar restrictions,
 - b) Sufficient harnesses and tack to ensure that the driver at all times is able to effectively control the horse and steer the carriage as required,
 - c) Sufficient access steps, doors and sides, designed so as to ensure safe access for and carriage of, the passengers to be conveyed in the vehicle,
 - d) Sufficient means of securing the carriage against adverse weather conditions to ensure the comfort of passengers conveyed therein in inclement weather,
 - e) An independent, efficient and effective braking system. In the case of a horse and carriage omnibus, this shall be fitted with a sufficient drag-chain and slipper, or other

sufficient brake and the braking machinery shall at all times be maintained in an efficient condition.

- f) Sufficient working front and rear obligatory lamps and reflectors so as to warn other road users of the presence of the omnibus and horse in conditions of poor lighting and restricted visibility.
- g) The seats of the vehicle must be properly cushioned or covered, fittings and furniture must be kept clean and adequate for the convenience of persons traveling in the vehicle.

8.10 Any proposed horse and carriage service must provide the following with their application:

- a) Details of their Harness Horse Groom and confirmation of their competence (they must hold a Level 2 Diploma from British Driving Society or equivalent)
- b) Inspection report from British Driving Society to verify that the carriage to be used is safe and fit for purpose
- c) Inspection report from a registered equine veterinary surgeon to verify that the horse(s) are fit to be used for the proposed activity including:
 - i) horse passport and microchip details
 - ii) proposed working schedule for each horse and confirmation from the surgeon that this is appropriate for the relevant horse (in any case a working period must not exceed 6 hours in a day with no more than 3 consecutive hours spent working without the horse being allowed at least 1 hour's rest, which will include the provision of food and water)
 - iii) photographs (from each side and head on) of each horse. The surgeon must certify the photographs as being true representations of the horse that is the subject of each certificate of fitness

8.11 Any proposed drivers of a horse and carriage must hold the Code of Practice Assessment qualification from the British Driving Society.

9. Replacement Vehicles

9.1 Owners of licensed Hackney Carriage and Private Hire Vehicles can request to replace their existing licensed vehicles at any time.

9.2 An application will need to be submitted to the Council's Licensing Department using the prescribed form along with the relevant fee.

9.3 A replacement vehicle will only be considered if it is:

- A substantial improvement on the existing licensed vehicle and
- Available for a full inspection by the Licensing Department.

9.4 The replacement vehicle must comply with all relevant standards and criteria detailed within this policy.

9.5 If the existing licensed vehicle has been licensed as a wheelchair accessible vehicle the replacement vehicle must also be wheelchair accessible.

9.6 If the vehicle is approved as a suitable replacement the Licensing Department will provide provisional approval. The vehicle will then only be licensed when the following documents are supplied:

- a) A valid insurance certificate
- b) A valid Certificate of Compliance inspection sheet dated no more than seven days prior to the application date
- c) Any other relevant documentation as detailed in the previous sections

- 9.7 From January 2025, no vehicle more than 10 years old will be licensed as a replacement vehicle (the only exceptions being vintage vehicles licensed for Private Hire as referred to above).

10. Private Hire Operator Licence

New Applications

- 10.1 An application for a Private Hire Operator licence must be submitted to the Council's Licensing Department using the prescribed form and accompanied by:
- the relevant fee
 - A Basic criminal record disclosure certificate from DBS (dated within the previous 28 days of the application submission) unless the individual is a driver licensed with the Council
 - Any other information the Licensing Department may require on request
- 10.2 A Private Hire Operator's licence will be issued for a period of five years, although applicants may if they wish apply for any whole year period between one and five years.
- 10.3 Separate fees will be published for a one, two, three, four and five year licences in the event the Council agrees to issue a Private Hire Operator's licence for a shorter period. The total fee for each licence period must be submitted with the application.
- 10.4 Licensing authorities will assess whether an applicant for a Private Hire Operator licence or the existing holder of a Private Hire Operator licence meets the 'fit and proper' test.
- 10.5 Private Hire Operators who at the time of their application are also licensed drivers will not be required to submit a basic DBS certificate as part of their application for an operator's licence. If the individual ceases to hold a driver licence, then a basic certificate will be required immediately.
- 10.6 In the case of an application being made for a Private Hire Operator licence by a company or partnership; the licensing authority will apply the 'fit and proper' test to each of the directors or partners in that company or partnership. A basic DBS certificate will be required from each individual.
- 10.7 If, during the licence period, the directors or partners of the company or partnership change, the licence holder must notify the licensing authority as additional DBS disclosures may be required.

Renewals

- 10.8 Operators must renew their licence by completing the prescribed application form which must be accompanied by the following:
- The relevant fee
 - A Basic criminal record disclosure certificate from DBS (dated within the previous 28 days of the application submission) unless the individual is a driver licensed with the Council
 - A copy of the last three months' booking records
 - Any other information the Licensing Department may require on request

Operator Requirements

- 10.9 All licensed operators must comply with the following criteria on application, renewal and whilst they are licensed:

- a) A register must be maintained of all booking and dispatch staff who have contact with the public, and/or oversee the dispatching of vehicles.
- b) A policy must be in force regarding employment of ex-offenders in roles that would require them to be on the register and this policy must be produced on request to the licensing authority.
- c) Operators must be able to evidence that they have had sight of a Basic DBS certificate (dated less than 28 days prior to viewing) on all individuals listed on their register of booking and dispatch staff and ensure that Basic DBS checks are conducted on any individuals added to the register. Such checks and employment must be compatible with their policy on employing ex-offenders.
- d) It must be a condition of employment for any booking and dispatch staff to advise the operator of any convictions while they are employed in this role.

11. Hackney Carriage and Private Hire Driver Licence

New Applications

- 11.1 The Council will only issue joint Hackney Carriage and Private Hire Driver licences (unless the vehicle to be driven is not motorised).
- 11.2 A Hackney Carriage and Private Hire Driver's licence will be issued for a period of three years. Applicants may apply for a one or two year licence if they wish and separate fees will be published for a one, two, and three year licence. The total fee for each licence period must be submitted with the application.
- 11.3 Applicants must have held a full driving licence for at least one year before an application will be accepted.
- 11.4 An application for a Hackney Carriage/Private Hire Driver Licence must be submitted to the Council's Licensing Department using the prescribed form and must be accompanied by the following:
 - The relevant application fee
 - Evidence confirming the applicant's right to live and work in the UK (where applicable)
 - If applicable, a request for an exemption certificate under section 166 of the Equality Act 2010 (see below)
 - Any other information the Licensing Department may require on request
- 11.5 Applications for drivers of non-motorised vehicles may be required to submit alternative or additional documents depending on the vehicle they will be operating.
- 11.6 A DVLA D796 Driving Entitlement Consent form must be signed. The consent provides the Licensing Department with authority to check the applicant's driving licence at any time during the licence period.
- 11.7 All applicants who have lived in the UK for less than five years must provide documentary evidence confirming their right to live and work in the UK. The provision of a National Insurance number in isolation is not sufficient for the purposes of establishing the right to live and work in the UK.
- 11.8 Drivers who are not able to assist passengers as required under section 165 of the Equality Act 2010 due to an illness or disability must request an exemption certificate from these duties. Any request under this legislation must be supported by a letter from a doctor stating that the driver is not fit to assist passengers due to:
 - Medical grounds, or

- The person's physical condition which makes it impossible or unreasonably difficult for the person to comply with those duties.
- 11.9 An application for an exemption certificate under section 166 of the Equality Act 2010 can be made at any time, but the driver must provide a new letter on renewal of their licence.
- 11.10 Once an application is submitted to the Licensing Department, the following will also be required as part of the application process:
- Enhanced DBS criminal record disclosure
 - Group 2 Medical check
 - Safeguarding training
 - An oral and written knowledge and topography test
- 11.11 An Enhanced disclosure from DBS must be provided as part of the application and renewal process. DBS offer an Update Service allowing applicants to give their consent for the licensing authority to check the status of a certificate online at any time. Subscription to this service removes the need for new certificates to be requested during the licence period and on renewal which lessens potential delays in relicensing.
- 11.12 All applicants must pass a test to confirm they have the knowledge required to fulfil the duties of being a licensed driver. If the applicant fails this test, they can retake the test up to a maximum of five times until the pass mark is obtained. Each additional knowledge and topography test will be at the applicant's expense. If the applicant fails five tests, a licence will not be granted.
- 11.13 All applicants must also be able to demonstrate oral and written English language skills as part of the knowledge test. A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation.

Renewals

- 11.14 An application for a renewal of Hackney Carriage/Private Hire Driver Licence must be submitted to the Council's Licensing Department using the prescribed form and along with the following:
- The relevant application fee
 - If applicable, a request for an exemption certificate under section 166 of the Equality Act 2010
 - Enhanced DBS criminal record disclosure
 - Safeguarding training
 - Any other information the Licensing Department may require on request
- 11.15 Renewal applications for non-motorised drivers will be required to submit updated documents of the type requested at the time of their original licence application.

Driver Requirements

- 11.16 All licensed drivers must comply with the following criteria on application, renewal and whilst they are licensed:
- a) Group 2 medical examination must be carried out every five years up to age 65 years unless restricted to a shorter period for medical reasons.
 - b) From the age of 65 years, drivers must have a Group 2 medical examination annually.
- 11.17 The Licensing Authority may request a driver at any reasonable time to have a Group 2 medical check. The Licensing authority will explain to the driver why the medical check is

required. If the medical examination is not completed the driver's licence may be suspended or revoked in line with the Neighbourhoods' Enforcement Policy.

- 11.18 The licensing authority may at any time request that a driver retake the knowledge and/or topography test at their discretion. If the driver fails the test, they can retake it up to a maximum of five times until a pass mark is obtained. The new licence will not be granted until the required pass mark has been obtained. If the applicant fails five tests a licence will not be granted or the licence will be revoked.
- 11.19 Failure to comply with the standards set for Hackney Carriage/Private Hire Drivers in this policy may result in the driver not being licensed or their licence being suspended until such time as compliance is achieved.

12. Transfer of Interest (New Owners of Licensed Vehicles)

- 12.1 If the owner of a licensed vehicle changes during the licence period, the owner must notify the Licensing Department that they no longer have an interest in the vehicle and the new owner must submit a new licence application for the vehicle.

13. Determination of Applications and Appeals

- 13.1 In normal circumstances the Licensing Department will determine each application taking into account this policy along with the documentation supplied by the applicant including the results of the DBS check and the Council's Policy Relating to the Relevance of Convictions.
- 13.2 The licensing authority will usually aim to process and determine applications within the following timescales:
- Vehicle licence applications – within 14 days
 - Replacement vehicle applications – within 14 days
 - Private Hire Operator Licence – 14 days
 - New driver applications – within 28 days (DBS returns may cause a delay)
 - Renewal driver applications – within 14 days
- 13.3 In some circumstances officers may refer an application to a panel of senior officers or to the Licensing Committee for a decision, in which case, the above timescales will be not be applicable as the determination period will be longer.
- 13.4 The applicant will be informed in writing that their application has been referred and at least 10 working days' notice will be given to the applicant of such a hearing or panel meeting.
- 13.5 In this instance, the applicant and the licensing authority may invite any persons who support their case to attend the hearing and these persons will be given the opportunity to address the panel or committee during the meeting.
- 13.6 Hackney Carriage and Private Hire related licences will normally be issued for one year. However, the licensing authority may issue a licence for a shorter period.
- 13.7 If a licence application is refused the applicant will be given written confirmation detailing the reasons for refusal, along with any right of appeal. Provisions to appeal against licence application decisions are contained in the relevant legislation.

14. Fees

- 14.1 A list of fees relating to Hackney Carriage and Private Hire licensing is available from the Licensing Department or from the Council's website.
- 14.2 Applications submitted without the appropriate fee will be deemed invalid until the fee has been received.
- 14.3 The Council will not return any part of the fee if the licence is not granted or if the applicant withdraws their application.

15. Conditions

- 15.1 The Licensing Authority may attach licence conditions to any licence relating to Hackney Carriage or Private Hire activities that are considered reasonably necessary.
- 15.2 Additional conditions may be applicable to non-motorised vehicles.

16. Enforcement

- 16.1 Where offences occur, conditions are breached or a complaint has been received, the Council will investigate and take appropriate action in accordance with the Neighbourhoods' Enforcement Policy.
- 16.2 Failure of a driver or operator to comply with the conditions of a licence may give rise to suspension or revocation of the licence and/or to the prosecution of a licence holder.
- 16.3 The Council can suspend or revoke a licence at any time that it is in the interest of public safety to do so. Any action taken will be in accordance with the Neighbourhoods' Enforcement Policy.
- 16.4 The licensing authority has a duty (outlined in section 4 of the standards) to refer an individual to the DBS if that person has harmed or poses a risk of harm to a child or vulnerable adult or received a caution or conviction for a relevant offence. Where a decision is made to refuse or revoke a licence, the licensing authority may also make a referral to the DBS. The DBS may then consider it appropriate for the person to be added to a Barred List preventing them from undertaking various paid or voluntary roles in future.

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Isle of Wight Council

STREET TRADING POLICY 2021

Document Information

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Contents

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1. Introduction

- 1.1 This policy will become effective on XXX.
- 1.2 On 7 April 2014, the Isle of Wight Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 which enables licensing authorities to regulate street trading activities.
- 1.3 On 30 June 2014 the Council's Licensing Committee resolved that all current and future:
 - Roads,
 - Streets,
 - Footways,
 - Beaches,
 - Service areas (as defined by section 329 of the Highways Act 1980), and
 - All other land to which the public have access without payment on the Isle of Wight are to be designated as "consent streets" for the purposes of Street Trading as defined by schedule 4 of the Local Government (Miscellaneous Provision) Act 1982.
- 1.4 This policy will therefore outline how consent can be obtained and the processes that will be followed.
- 1.5 Any departure from this policy must be justified in writing and approved by a member of the Regulatory Services' Management Team.
- 1.6 This policy will be reviewed every five years.
- 1.7 All legislative amendments will be made automatically; all other changes will be subject to a twenty-eight-day consultation period. Any representations will be determined by the Licensing Committee.
- 1.8 Street trading consent does not provide an outright permission for a trader to operate; they must still obtain permission from the relevant landowner and must still comply with all other relevant legislation.

2. Definitions

- 2.1 The following definitions will provide clarification for the purposes of this policy.
- 2.2 **The Act**
This refers to the Local Government (Miscellaneous Provisions) Act 1982.
- 2.3 **Policy**
This refers to the Isle of Wight Council's Street Trading Policy.
- 2.4 **The Council**
This means the Isle of Wight Council.
- 2.5 **Street Trading**
As defined in the Act, street trading refers to the selling or exposing or offering any article (including a living thing) for sale in a street.

2.6 Street

For the purposes of street trading a Street includes:

- a) any road, footway, beach or other area to which the public have access without payment; and
- b) a service area as defined in section 329 of the Highways Act 1980.

2.7 Prohibited Street

Means a street in which street trading is prohibited.

2.8 Consent Street

As defined in the Act, a consent street is a street in which street trading is prohibited without the consent of the Council.

2.9 Consent

A written document issued by the council, granting permission for street trading activities, which may be subject to conditions.

3. Exempt Trading Activities

3.1 The Act provides the following exemptions:

- a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871
- b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order
- c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
- d) trading as a news vendor (as defined in paragraph 1(3) of the Schedule)
- e) trading which is carried on at premises used as a petrol filling station or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop
- f) selling things, or offering or exposing them for sale, as a roundsman
- g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway
- h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980
- i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

3.2 The Act includes that a street is "land to which the public have access without payment", therefore, if an entrance fee is charged, street trading consent would not be required.

3.3 The licensing authority has also determined that consent will not be required for the following activities on the Isle of Wight:

a) Car boot sales

(A group of individuals who sell their own unwanted or used belongings from their own vehicle. Consent will not be required to carry on such an activity unless the trader is trading as a commercial business. The Car Boot sale organiser will have overall responsibility to ensure that no commercial stalls trade at their car boot sale.)

b) Articles being sold from within the curtilage of residential premises, e.g., private garage/house sales.

c) Articles being sold from within a car park intended for the customers of the business and only where the sale of goods takes place from within the curtilage of that premises, where the landowner has the right and ability to prohibit public access.

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- 3.4 In these circumstances street trading consent is not required, however permission must be obtained prior to trading from the landowner, which includes if the land is highway or any land owned by the council.
 - 3.5 Permission may also be required for placing items on the highway (see the relevant street furniture/pavement licensing policies) and items may be removed by the Highways Authority if an obstruction is caused.
 - 3.6 Consent also cannot be issued for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.

4. Council Owned Land

- 4.1 There are areas where the council will not normally give permission for street trading. A full list is available from the licensing department. These areas include:
 - a) Council owned car parks
 - b) Council owned beaches and slipways
 - c) Council controlled Esplanades other than predetermined locations
 - d) Designated 'on street' parking spaces, unless a temporary road closure order and parking suspension order has been issued.

5. Types of Street Trading

- 5.1 The licensing authority will issue three different kinds of consent for street trading activities.
- 5.2 A Market

Three or more traders operating in the same location at the same time (including as part of an event). The person who organises the market and has overall control of who trades there will be the Market Organiser who would apply for consent and would request the maximum number of stalls they wish to propose. Each market trader will provide the relevant details to the organiser as part of the application process, which would be provided to the Council at least two weeks before the market is due to commence. If, when it comes to issuing consent there are less than the number of stalls originally proposed, the applicant will only need to pay the fees for the number required.
- 5.3 For these types of events the council will accept one application from the person organising the event. The application will list full details of each trader (for each trader a separate form will need to be completed) attending the event and the consent will be issued to the organiser of the event with each individual stall holder listed. The event organiser is responsible to ensure all traders are aware of all conditions attached to the consent and that these are being complied with.
- 5.4 Static Trader

A trader who trades from one predefined location. Static trader applications can specify up to seven locations they wish to trade from; the application must be accompanied by a schedule of the trading pattern. Traders holding a static trading consent will only be permitted to trade on the sites applied for and at the times specified in their application.
- 5.5 Mobile Trader

This refers to a trader who moves from street to street stopping for customers where necessary and where trading in any location, which would not normally exceed 60 minutes. Traders will not normally be permitted to return to the same location within two hours from the departure time.

6. Car Sales

- 6.1 This refers to vehicles located on the highway and advertised for sale (this includes signs displayed that name an individual or business or any other notice designed to indicate the vehicle is for sale).
- 6.2 The licensing authority will not normally grant street trading consent to sell cars, however any application for consent submitted will be assessed on its individual merits.
- 6.3 If anyone sells, offers, or exposes a vehicle(s) for sale on the public highway and street trading consent has not been given, enforcement action may be taken against them under the Act and/or under the Highways Act 1980 as well as the Clean Neighborhoods and Environment Act 2005. For the purposes of this part of the policy, public highway includes footpaths and adjacent verges and public open land as well as the road itself; it does not include private driveways ~~land~~. Where any vehicle is offered for sale on the highway that is not taxed or insured, it may also be referred to the DVLA Enforcement Team.

7. New Applications

- 7.1 Under the Act, consent cannot be granted to anyone under 17 years old.
- 7.2 The licensing authority will not issue consent for another trader to trade in the exact same position at a time where consent has already been issued. More than one trader may be permitted in the same area.
- 7.3 The Council has not set a limit on the number of street traders of a particular kind.
- 7.4 Applications must be received by the licensing authority at least 2 months and not more than 6 months prior to the date on which the trader wishes to commence trading.
- 7.5 Completed application forms must be submitted to the licensing authority and accompanied by the following:
 - a) At least 25% of the application fee
 - b) Plan(s)/maps, drawn to scale and showing the exact location and the proximity to nearby retail premises and/or other street traders. If a map is not supplied, an inspection of the site may be carried out by the Highways Authority and the cost of which shall be paid by the applicant.
 - c) Photographs showing the front and side elevation of any trading vehicle/stall including all signage. In cases where the applicant has not yet purchased the vehicle/stall, sketches or pictures and the dimensions of the proposed vehicle, unit or stall will be sufficient.
 - d) A list/menu of items proposed to be sold.
 - e) Details of any equipment which will be used in the proposed activity e.g., fryers, generators etc.
 - f) Confirmation from the Council's Development Control Department detailing whether planning permission is required or not.
 - g) Written permission from the landowner.
- 7.6 Applicants must also:
 - a) Publish a notice in a local newspaper within ten working days of the street trading application being submitted to the licensing authority
 - b) Display an A4 notice at (or as near as possible to) the proposed street trading location(s) from the day after submission of the application to the licensing authority, which must remain in place for the duration of the consultation period [so far as is reasonably practicable]
(item b is not applicable to Mobile Traders)

- 7.7 The notice referred to above must contain the following information:
- A title – New Street Trading Consent Application
 - Name of the Trader
 - Exact proposed trading location(s) or indication that the trader is proposing to be Mobile
 - The dates or days and times of the proposed street trading
 - Items proposed to be sold
 - Start and end date of the consultation period
 - Details of where any representations should be sent
 - A template for the notice is available from the Licensing Department or a fee will be charged for producing the notice.
- 7.8 The notice to be displayed at the proposed trading locations must be printed on pale green coloured paper with text of at least font size 16.
- 7.9 The following must also be submitted to the licensing authority before an application can be determined and consent issued:
- Public liability insurance certificate covering the trading activities for a minimum amount of £5 million (in relation to markets, this will be provided by individual traders via the market organiser unless there is a policy in place covering the whole market).
 - A Basic Criminal Record Disclosure Certificate from the Disclosure and Barring Service (DBS) that is not more than 1 calendar month old for the applicant and any person/s that will be assisting on a regular basis.
- 7.10 Failure to comply fully with the application requirements in this section may render the application invalid.

8. Renewal Applications

- 8.1 A renewal application must be submitted to the licensing authority at least 7 days prior to the renewal date.
- 8.2 The application must be accompanied by:
- At least 25% of the application fee
 - Public liability insurance certificate covering the trading activities for a minimum amount of £5 million (in relation to markets, this will be provided by individual traders via the market organiser unless there is a policy in place covering the whole market).
 - Written permission from the landowner.
- 8.3 Additional Requirements at Renewal Every 3 Years:
- A Basic Criminal Record Disclosure for the consent holder and any persons that assist on a regular basis from the Disclosure and Barring Service that is not more than 1 calendar month old.
 - Up to date photograph of the trading unit. (Not required for Market Consents)
- 8.4 Failure to comply fully with the application requirements in this section may render the application invalid.

9. Consultation

- 9.1 Applications will be subject to a period of consultation regarding the proposed trading activities. The consultation period will be 21 days for a new application and 7 days for a renewal application. In some special circumstances the duration of the consultation period may be varied with the authorisation from a member of the Regulatory Services' Management Team.

- 9.2 All applications will usually be made available to view online at the Council's website for the duration of the consultation period.
- 9.3 The following organisations will be notified of applications and will be able to provide representations:
- Local Elected Member
 - The relevant Parish or Town Council
 - Fire Authority
 - Hampshire Constabulary
 - Planning Authority
 - Environmental Health
 - Licensing Authority
 - Highways and Parking Services
 - Isle of Wight Council Commercial Activities Department/Parks and Esplanades
 - Local Business Association (where known)
- 9.4 The licensing authority will also accept relevant representations from any other party, which will be considered.
- 9.5 Representations must be made in writing and must include all of the following:
- a) The name, address and contact information of the person or organisation making the representations
 - b) The name of the premises and/or application reference number to which the representations relate
 - c) The likely impact of the proposed trading activities on the areas of consideration listed below
- 9.6 To be accepted as relevant and therefore taken into account as part of determining an application, representations must relate to at least one of the following areas of consideration:
- a) Public Safety
 - b) Prevention of Crime and Disorder
 - c) Prevention of Public Nuisance
 - d) Protection of Children from Harm
 - e) The Visual Impact
- 9.7 The licensing authority will not consider representations that are believed to be frivolous, vexatious, or which relate to moral grounds.
- 9.8 A frivolous representation is generally taken to be one that is lacking in seriousness.
- 9.9 A vexatious representation is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice.

10. Determination

- 10.1 Street trading consent will be granted for a maximum period of 12 months and may be revoked at any time.
- 10.2 If there are no relevant representations received during the consultation period, the application will be granted without the need for a hearing once the fee has been paid in full or arrangements made with the licensing authority to ensure payment is made.

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- 10.3 Where relevant representations are received during the consultation period, applications will usually be determined within 20 working days following the last working day of the consultation period unless a longer period is agreed by all parties.
- 10.4 All relevant representations will be considered. The licensing authority will decide how much weight to give to each representation taking into account the evidence supplied along with any professional knowledge and/or experience of the person or organisation making the representation.
- 10.5 If relevant representations are received during the consultation period and cannot be resolved by an officer between the applicant and the person making the representation, the application will be determined by the Licensing Sub-Committee at a hearing.
- 10.6 The licensing authority has the discretion to consider any relevant representations received after the consultation period for applications where a hearing has been arranged.
- 10.7 The applicant and any persons who made representations may attend the hearing and will have the opportunity to address the Sub-Committee during the hearing.
- 10.8 In determining an application for the grant or renewal of street trading consent the licensing authority will consider the following:
- a) Public Safety
 - b) Prevention of Crime and Disorder
 - c) Prevention of Public Nuisance
 - d) Protection of Children from Harm
 - e) The Visual Impact

Areas for Consideration

- 10.9 Public Safety
Whether the street trading activity represents, or is likely to present:
- a) a substantial risk to the public from obstructing the highway or any other right of way
 - b) a conflict with traffic and pedestrian movements
 - c) a fire hazard
 - d) unhygienic conditions
 - e) a danger when a trader is accessing the site
 - f) any other matter presenting a risk to the public, nearby businesses, property or residential premises.
- 10.10 Prevention of Crime and Disorder
Whether the street trading activity represents, or is likely to present, an increased risk of crime order and disorder.
- 10.11 The Prevention of Nuisance
Whether the street trading activity represents, or is likely to present, a substantial risk of nuisance to the public from litter, noise or odour, particularly in residential areas.
- 10.12 Protection of Children from Harm
Whether the street trading activity represents, or is likely to present, a substantial risk to children. The results of a Criminal Record disclosure will also be relevant to this area of consideration.
- 10.13 The Visual Impact
Consideration will be given to design and livery of the proposed vehicle or stall as to whether it is in-keeping with the amenity and character of the area.

- 10.14 When determining a renewal application, the licensing authority may also consider:
- Any adverse impact that has arisen from the trading activities and
 - Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.
- 10.15 When determining an application for the grant or renewal of street trading consent the licensing authority will also consider the suitability of the applicant taking into account:
- Whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.
 - Refusal or neglect in paying fees relating to street trading consent.
- 10.16 Where the criminal record disclosure certificate provided by the applicant shows current offences (i.e., those that are unspent under the Rehabilitation of Offenders Act 1974, the licensing authority will consider the following:
- whether the conviction is relevant.
 - the seriousness of the offence.
 - the length of time since the offence occurred.
 - whether there is a pattern of offending behaviour.
 - whether that person's circumstances have changed since the offence occurred.
 - the circumstances surrounding the offence and the explanation offered by that person.
- 10.17 Criminal Record disclosures will be considered in accordance with the licensing authority's policy relating to convictions.
- 10.18 Each application for consent will be determined on its individual merits.
- 10.19 Where the licensing authority refuse to grant or renew consent, a statement of the reasons for its decision will be provided in writing within 7 days of the hearing.

11. Conditions

- 11.1 The Council is permitted to attach conditions and restrictions on the consent that they consider reasonably necessary; these may also be changed at any time.
- 11.2 The standard conditions that would be attached to consent are available from the Licensing Department; additional conditions may be attached as and when deemed necessary.

12. Variation of Consent

- 12.1 Any proposed changes to the stall/vehicle, location, items to be sold, trading schedule or modification of conditions may be considered under the new application process.

13. Transfer of Consent

- 13.1 Street trading consents are generally non-transferable but if someone takes over an existing business and the vehicle to be used, trading schedule and locations are to remain the same, the licensing authority may permit the new operator to apply for consent using the renewal process. In this instance, the proposed new operator must submit their application within 5 working days after the current consent holder surrenders their consent.

14. Surrender of consent

- 14.1 The holder of the consent must confirm in writing to the licensing authority that they wish to surrender the consent and return the consent (and plate where relevant) to the Licensing Department.
- 14.2 In normal circumstances, fees will not be refunded if consent is surrendered.

15. Enforcement

- 15.1 Failure of a consent holder to trade within the terms of the consent or trading activities taking place without consent will be investigated and enforcement action taken in accordance with the Neighbourhoods' Enforcement Policy. This could include modification of the trading schedule or conditions or even revocation of the consent as well as the prosecution of the holder and/or any individuals trading under their consent.

16. Appeals

- 16.1 The regulations do not provide right of appeal against decisions to refuse the grant or renewal of consent, the revocation of consent, or against any restrictions or conditions imposed on consent.

17. Fees

- 17.1 Under section 9 of the Act, the Council has set fees for different street trading activities. A full set of fees is available from the Licensing Department.
- 17.2 Applications will not be deemed as valid and will therefore not be processed until the fee has been received.
- 17.3 A minimum of 25% of the appropriate fee must be paid on application. If the application is not granted, 25% of the overall fee will be retained to cover the costs of the consultation process. The remaining balance of the fee must be paid in full before consent is issued.
- 17.4 The Council may agree to the balance of the fee being paid by instalments.