



Uttlesford District Council

Chief Executive: Dawn French

Licensing and Environmental Health

Date: Wednesday, 12 April 2017
Time: 19:30
Venue: Committee Room
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: Councillors R Chambers (Chairman), A Anjum, G Barker, J Davey, T Goddard, J Gordon, E Hicks, S Morris, J Parry

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days before the meeting.

AGENDA PART 1

Open to Public and Press

- | | | |
|-----|-------------------------------------------------------|---------|
| 1 | Apologies for absence and declarations of interest | |
| 2.1 | Minutes of the meeting on 23 January 2017 | 5 - 14 |
| 2.2 | Minutes of the meeting on 25 January 2017 | 15 - 20 |
| 2.3 | Minutes of the Meeting on 2 February 2017 (to follow) | |
| 2.4 | Minutes of the meeting on 24 March 2017 | 21 - 28 |
| 3 | Review of Gambling Act Policy | 29 - 60 |
| 4 | Enforcement | 61 - 64 |

5 Any other items which the Chairman considers to be urgent

MEETINGS AND THE PUBLIC

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 23 JANUARY 2017**

Present: Councillor R Chambers (Chairman)
Councillors G Barker and E Hicks.

Officers in attendance: M Chamberlain (Enforcement Officer), T Cobden
(Principal Environmental Health Officer – Head of Licensing), R
Dobson (Principal Democratic and Electoral Services Officer), J
Jones (Licensing Officer), E Smith (Solicitor) and M Watts
(Principal Environmental Health Officer).

LIC42 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

LIC43 **EXCLUSION OF THE PUBLIC**

RESOLVED that under section 100I of the Local Government Act 1972
the public be excluded for the following item of business on the grounds
that it involved the likely disclosure of exempt information as defined in
paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

LIC44 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE
DRIVER'S LICENCE**

Members considered a report in relation to agenda item 2.

The Chairman welcomed the Driver and her mother, who was attending as her
daughter's representative. The Chairman introduced all Members and officers
and then explained the process.

The Licensing Officer presented a report asking Members to consider an
application for a private hire/hackney carriage driver's licence. The report gave
details of the applicant's responses to a question on the application form asking
applicants to list all convictions, including motoring offences, both spent and
unspent, and any police cautions. The applicant had attached to her application
an old Disclosure and Barring Service (DBS) certificate showing 13 convictions
between January 2006 and February 2010. The Council had as part of the
licensing process obtained an enhanced DBS certificate for the applicant, dated
15 November 2016, showing no additional convictions and giving the details of
the offences stated in her application.

The report set out details of the circumstances of the convictions. The
Licensing Officer said that in her interview under caution the Driver had
explained that many of the incidents during that period of her life which had
resulted in these convictions arose from difficulties she had had in her

relationship with her mother, in particular regarding failures to comply with curfews. The Licensing Officer said the Driver had then had a child of her own, and had explained that she had turned her life around. She had had a regular job for three years and had now received an offer of employment as a Driver.

The Chairman thanked the Licensing Officer and invited the Driver and her mother to ask any questions they might have. Upon there being no questions, the Chairman invited the Driver's mother as her representative to make a statement.

The Driver's mother said the events which had led to the convictions had all happened a long time ago. Her daughter had after moving house found it difficult to adjust, having missed her friends and her grandparents. She had been through a difficult time, but she now had a child and a job, and had turned her life around. She was very proud of her.

The Driver said when she had been forced to move house at that time in her life, she had become rebellious. Since having her own child she was trying to do her best to better herself and provide a good future for her child.

Councillor Hicks said clearly the Driver had had a chequered past as a teenager. He asked how old she was now.

The Driver said she was 25 years old.

Councillor Hicks asked how the Driver thought she had changed.

The Driver said she was a Mum, she had responsibilities, and that she had to be a role model. She was no longer angry, but was happy now. She and her mother had sorted out their differences. There was no excuse for what she did, though, and she was very sorry about it.

The Committee withdrew at 10.15am to determine the application.

At 10.20am the Committee returned to give its decision.

DECISION

The Driver's application dated 24th June 2016 is for a Private Hire/Hackney Carriage Driver's licence. If successful, she has an offer of employment from Happicabs working shifts around her office based role in a tanning salon, which she has held for three years.

However, an enhanced DBS check dated 15th November 2016, confirmatory of one produced by the Driver at the time of her application, revealed that The

Driver does not meet Point 5 of the Council's Licensing Standards, which state that a driver must have:-

"No criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed."

The Driver's Enhanced DBS Check revealed the following matters:-

1. 3.1.06 – Criminal Damage – Mid South Essex Juvenile Court – 24 hours Attendance Centre
2. 20.6.06 – Police Assault x2, failure to surrender to custody – Mid South Essex Juvenile Court – 3 months Detention and Training
3. 11.7.06 – Public Order and Criminal Damage offences - Basildon Youth Court – No separate penalty
4. 3.11.06 – Theft x 2, failure to surrender to custody – South West Essex Magistrates –9 months Supervision Order.
5. 3.11.06 –failure to comply with Detention and Training Order– South West Essex Magistrates – no separate penalty.
6. 30.1.07 – Disorderly behaviour – Mid South Essex Juvenile Court – 3 months Reparation Order.
7. 17.4.07 – Breach of Reparation and Supervision Orders – Mid South Essex Juvenile Court – no action.
8. 25.5.07 –Public Order Offence –South West Essex Juvenile Court – Supervision and reparation Orders revoked – 4 months Detention and Training.
9. 8.6.07 –Breach of curfew arising from No 8 above – South West Essex Juvenile Court – no action..
10. 2.10.07 –Breach of Supervision Order– Mid North Essex Magistrates – order continues.
11. 20.11.07 –Breach of Supervision Order – Mid North Essex Magistrates – Order revoked.
12. 9.4.08 –Failure to comply with Detention and Training Order– South East Essex Magistrates – £50 fine plus costs.
13. 17.2.10 –Battery – Mid North Essex Magistrates – 16 weeks Youth Custody suspended for 12 months.

Though she is a rehabilitated person in respect of all these offences under the Rehabilitation of Offenders Act 1974, this legislation does not apply to all scenarios, and included among these is the holding of Private Hire and Hackney Carriage Drivers licences.

In support of her application, the Driver states that with the exception of the 2010 offence, see post, the offences arose as a result of a move of home unwelcome to her which led to her becoming involved with a bad crowd, and a consequential deterioration in her relationship with her mother, since repaired. Her mother accompanied her to interview [and is here today]. We understand that the 2010 incident arose in a nightclub and that the Driver and her companion were not the aggressors; that their reactions were initially self defence and that they were detained in a larger group.

Unfortunately in aggregate, these are serious matters and although the overwhelming majority of them took place years ago, the Rehabilitation of Offenders Act 1974 does not apply to proceedings before this Committee.

We have listened to what the Driver and her mother have to say and we have read the material provided most carefully. She now has a daughter has held down a steady job for three years. We believe that she has turned her life around and accepts responsibility for her previous actions.

Accordingly we grant this application, and the Driver will receive the paperwork in due course.

LIC45

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

Members considered a report in relation to agenda item 3.

The Chairman welcomed the Driver and his friend, who was attending as interpreter.

The Solicitor said it was important that the Driver and his interpreter be aware that all the interpreter could do would be to translate, not to speak on the Driver's behalf. The interpreter said he and the Driver understood this point.

The Chairman introduced all Members and officers and then explained the process.

The Enforcement Officer presented the report, allowing time for each sentence to be interpreted to the Driver. He said the Driver, if granted the application, intended to driver for a particular licensed private hire operator, but that the operator's licence had been repealed, with the hearing due in March.

The Chairman emphasised to the interpreter that he should say if the Driver had a question.

The Enforcement Officer said as part of the licensing process the Council had obtained an enhanced DBS check for the Driver. The DBS check dated 12 August 2016 was clear. An online driver check from DVLA records showed the Driver had received three penalty points for a TS10 offence (failing to comply with traffic light signals) on 23 February 2013, which had been disclosed on the application. This check had also showed that the Driver had been convicted and received six penalty points on 27 July 2016 for an MS90 offence (failing to give information as to the identity of the driver) which took place on 16 December 2015. This conviction was the day after the Driver had completed his application form in which he had stated he had no pending prosecutions.

Following the presentation of the report, the Chairman invited the Driver to ask questions. The Driver said he had no questions.

The Chairman asked about the interview under caution which took place on 30 November 2016 with the Council's officers. He asked whether the Driver had subsequently attended a further interview with an interpreter.

The Enforcement Officer said the Driver had not, due to the cost. He confirmed the Driver had been unaccompanied at the interview.

Councillor Hicks referred to the conviction for refusing to give the identify of a driver. He asked whether it had emerged who had been in charge of the vehicle.

The Enforcement Officer said it had not.

In response to a question from Councillor G Barker, the Enforcement Officer said interviews were recorded in accordance with the legislative requirements.

The Chairman invited the Driver to speak.

The Driver's interpreter said he would speak for the Driver.

The interpreter said regarding the conviction for speeding, the Driver was in the passenger seat and was trying to teach a friend who had just arrived from

Romania to drive. The friend was not insured and went past a speed camera and then another one. The Driver stopped the car and took over. The Police contacted his friend, who at first said it had been he who had been driving, but then he had changed his mind. The Driver had then received the points. When the Driver was completing his form for the application he hadn't intended to omit the information.

The Solicitor asked the interpreter to stop making the statement. She said he appeared to be admitting on behalf of the Driver to other offences. The Committee could continue to determine this application, but it was possible that if the interpreter was admitting other offences on the Driver's behalf that other authorities might need to be involved. Additionally, what was being admitted could be taken into account today by this Committee.

The interpreter explained the position to the Driver.

The Chairman halted proceedings to enable the panel to retire to consider the matter.

At 10.50am the Committee withdrew to determine the application.

At 11.15am the Committee returned to give its decision.

DECISION

The Driver's application dated 26th July 2016 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he intends to drive for West End Cars, whose appeal against this Authority's decision to revoke its operators' licence is to be heard by Basildon Magistrates on 20th March 2017.

However, the Council's routine DVLA check dated 28th September 2016 revealed a TS10 conviction (failing to comply with traffic lights) on 23rd February 2013, which was disclosed. However, it also showed a conviction dated 27th July 2016 for an MS90 offence (failing to give information as to the identity of the driver) on 16th December 2015. This conviction was recorded on the day immediately following the application for a licence, The driver having been fined £440 plus with costs, together with the endorsement of 6 penalty points upon his licence.

This penalty means the Driver does not meet para 2, of the Council's Standards for Drivers, namely

“No convictions or fixed penalty notices endorsed on a driver’s licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence.”

Furthermore, the Council’s standard renewal application form, completed by the Driver on 26th July 2016 contains the following question:-

“Have you in the last year been convicted of, or cautioned for, any offence (including motoring offences), been issued with a fixed penalty notice, or is there a prosecution pending against you?”

To which, the Driver replied, “No”.

It is an offence under S57(3) Local Government (Miscellaneous Provisions) Act 1976 for a person “knowingly or recklessly” to make a false statement or omit any material particular when applying for a licence. It carries a fine of up to £1000 upon conviction. A decision regarding prosecution has not been made but this Committee has been mindful of this matter in arriving at its decision; however, the concealment of the pending conviction could of itself be grounds for this Committee to conclude that the Driver is not a fit and proper person to hold a licence.

The Driver attended for interview under caution on 30th November 2016 in order to discuss this matter. It was immediately apparent that he did not understand the caution and so the interview had to be abandoned. He appeared before us today accompanied by his friend, who initially acted as interpreter but was then authorised by the Driver to represent him.

We are further mindful that Licensing Standard 13 requires

“..a reasonable standard of the English language sufficient to enable the driver to perform the functions of a hackney carriage/private hire driver”

The fact that the Driver does not have sufficient comprehension of English to understand the proceedings on 30th November, coupled with the fact that he should have known a DVLA check would be made gives us some concern.

Having heard on behalf of the Driver from his friend, who, we repeat, was specifically authorised by the Driver to speak on his behalf, this is not a case in which we should depart from our policy regarding a three year waiting period for the grant of a Private Hire/Hackney Carriage licence following a six penalty point endorsement on his licence. We also have concerns regarding the making of a false statement and the fact that he does not have sufficient command of the English language to understand the terms of the caution or the proceedings this morning. Accordingly we must refuse this application for a joint Private Hire/Hackney Carriage licence under S51(1)(a) Local Government (Miscellaneous Provisions) Act 1976 as we are not persuaded that the Driver is a fit and proper person to hold such a licence.

The Driver has a right of appeal to a Magistrates Court against this decision and he will be receiving a letter explaining the procedure.

LIC46

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

Members considered a report in relation to agenda item 4.

The Chairman welcomed the Driver and his legal advisor. He introduced all Members and officers and then explained the process.

The Licensing Officer presented a report asking Members to consider an suspension or revocation of a private hire/hackney carriage driver's licence.

The report set out details of a conviction for a speeding offence on 24 February 2016 in relation to exceeding a variable speed limit, where the limit was shown as 40mph, and the Driver had increased his speed along with the general flow of traffic around him. The Driver had, in accordance with the conditions attached to his licence, informed the licensing department in writing that he had received a notice of intended prosecution. The Driver had explained in his email that he had held a licence with this Council for almost 13 years, and that his licence had always been clear of penalty points for almost all of this time.

The Driver confirmed he had no questions for the Licensing Officer. In response to a Member question, he said his recorded speed during the 40mph variable limit had been 61mph.

The Driver made a statement. He said as stated in the report, he had been returning from Heathrow with no passengers in free-flowing traffic. Ahead of him was a sign for the return to the national speed limit, and along with the rest of the traffic he had increased his speed a little early. The circumstances were not dangerous.

The Driver's legal advisor said he had known the Driver for five years. He had wished to attend the Committee on behalf of the Driver today to affirm that he had an exceptional record throughout his 13 years of driving under licence from this authority, he had driven 700,000 miles, and carried out 16,800 jobs without incident. He had had only one no-fault accident, and had not had a single accident of fault, nor a single complaint. He took care at the wheel. His average gross income was £28,000, and any suspension or revocation would have a great impact. He was an exceptional driver, an asset to his operator and to the people he carried for this authority. He was a fit and proper person.

There were no member questions.

The Driver said he believed he had driven conscientiously, and that he was a safe driver, and that this was a one-off incidence which he regretted.

The Committee withdrew at 11.35am to determine the licence.

The Committee returned at 11.45am to give its decision.

DECISION

The application before the Panel today is for the revocation of the Driver's joint private hire/hackney carriage licence in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause.

On 9th March 2016 the Driver informed the Council that he had received a Notice of Intended Prosecution from Herts Police in respect of an alleged offence of speeding taking place on the 24th February 2016. On 12th December, 2016, the Driver informed the Council that his licence had been endorsed with six penalty points in respect of the offence. He was advised that since his licence had been endorsed with six points in respect of a single offence he no longer met UDC's Licensing Standards for drivers. Appendix A, para 2 of the Council's Policy states that:-

“No convictions or fixed penalty notices endorsed on a driver’s licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence”

The Driver supplied the Council with further information regarding the offence by email. The circumstances of the offence were that he had been travelling on the M25 in good conditions when he approached an overhead gantry signifying the national speed limit, and though he was simultaneously passing a sign giving a limit of 40. He increased his speed in common with other road users, but nevertheless was caught on camera. He accepted the offence and entered a guilty plea by post.

The Driver has a 13 year history of driving for UDC and has always worked from the Airport. The loss of his licence would mean the loss of his livelihood. Having heard from him, and from Mr Mahoney of 24x7, and taking into account his history within Uttlesford and the consequences to him of the loss of his licence, the Committee feels justified in making an exception to paragraph 2 of Appendix A of the Council’s Standards for Drivers. The decision of the Committee is that this application for revocation will be dismissed, and the Driver can continue to be licensed to drive in Uttlesford.

The meeting ended at 11.45am.

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm
on 25 JANUARY 2017**

Present: Councillor R Chambers (Chairman)
Councillors A Anjum, G Barker, J Davey, J Gordon, E Hicks and S
Morris.

Officers in attendance: T Cobden (Principal Environmental Health Officer), J
Jones (Licensing Officer), S Pugh (Interim Head of Legal Services), P Snow
(Democratic and Electoral Services Manager) and A Turner (Licensing Team
Leader)

Also Present: Barry Drinkwater and Doug Perry (representing ULODA), Murray
Hardy (representing 24x7) and Robert Sinnott (representing Acme Transport
Services)

LIC47 **PUBLIC SPEAKING**

In inviting the public speakers to present their statements, the Chairman asked
that, in future, each speaker should register to speak separately with
democratic services.

Public statements were made to the meeting as follows:

1. Doug Perry as President of ULODA
2. Murray Hardy representing 24x7
3. Robert Sinnott representing Acme Transport Services
4. Barry Drinkwater as Chairman of ULODA

The statements are appended to these minutes.

The Chairman thanked all of the speakers for their statements and said that he
had listened carefully to what had been said. His intention was to retain the
good relations between the taxi trade and the Council and that relationship
would involve an agreed form of future consultation with the trade.

In relation to the budget, Councillor Chambers stated that he had not yet seen
any budget figures and this was due to the late information coming from central
government. He was able to confirm that the Licensing Committee's surplus
had been reduced almost to a neutral position with a balance of only £275 in
2016/17. However, he stressed that the preparation of the budget was a matter
entirely for elected members to decide.

He was concerned about the references made to unpleasant meetings in the
past and he expressed the wish that future relations with trade representatives
would remain entirely cordial.

Mr Sinnott made further remarks about the internal structuring of enforcement
within the Council. In response, the Chairman said that the safety of the public
was the paramount consideration in determining future policy.

After thanking the Chairman and members for the helpful comments made, Mr Perry then left the meeting.

LIC48 **MINUTES OF PREVIOUS MEETINGS**

The minutes of the meetings held on 11 and 20 April, 23 May, 6 and 30 June, 28 July, 18 August, 8 and 19 September and 24 October 2016 were received and signed by the Chairman as a correct record.

LIC49 **REVIEW OF GAMBLING ACT POLICY**

Members were informed that the Council's licensing policy in relation to the Gambling Act 2005 was due for review. The Committee was invited to approve the draft statement of principles attached to the report as the basis for consultation.

The statement of principles was substantially similar to the existing policy except for some updates highlighted in the draft document.

The report set out in detail the Council's functions in enabling operators' licences and personal licences issued by the Gambling Commission to be administered and outlined the extent of licenced gambling activity within the district.

The Gambling Commission had permitted a reduced six week consultation period as only minor changes were being proposed. The outcome of the consultation would be reported back to the Committee on 12 April and a revised policy then recommended for Council adoption on 16 May 2017.

RESOLVED to adopt the draft statement of principles for consultation

LIC50 **IMMIGRATION ACT 2016 – RIGHT TO WORK CHECKS**

The Licensing Officer reported that the Immigration Act prohibited licensing authorities from issuing driver or operator licences to anyone disqualified by reason of their immigration status. This required the Council to conduct immigration checks to supplement the existing tests for ensuring that applicants were fit and proper persons. The checks were applicable to all applications made on or after 1 December 2016. The effect of the legislation was to prevent operators' licences from applying beyond the limit of applicants to remain in the UK.

Guidance issued by the Home Office stated that original documents must be checked and the Council was required to make and keep a copy of the documents inspected. One of the licensed operators had requested the use of tablets and face to face internet communication to facilitate easier application of the new requirements. This option was being investigated and a two week trial would be undertaken from the beginning of February. The key consideration was to ensure that a suitable quality of capturing the information required would

be possible. Some additional cost would be involved in administering this scheme. This would be evaluated and reported to members.

Members asked a number of questions about the way the proposed trial would work in practice. A number of suggestions were made including the possibility of making laminated copies of documents. The Principal Environmental Health Officer said that the system operated would need to be able to detect any obvious forgeries.

The Chairman said the Council would pay for any technology needed to operate video conferencing used internally but the trade must be responsible for any cost in enabling operators to use internet facilities. This would impact on small operators.

The Principal Environmental Health Officer said that he was exploring the use of tablets and would try to take into account any difficulties faced by small operators. He welcomed the trial and hoped this would help to resolve any connectivity issues likely to arise. All operators would be expected to meet the cost of providing their own tablets.

The Committee welcomed the initiatives being investigated to enable the new legal duties to be met and noted the report.

LIC51

ENFORCEMENT

A report was submitted outlined the application of delegated powers by officers since the transfer to these powers to the Principal EHO as the lead officer to this Committee. The report clarified that the use of delegated officer authority had been limited to cases requiring suspension for a period of five days or less.

The principal purpose of the policy being operated by officers was to reinforce the need to protect public safety at all times. The length of the suspension in individual cases was proportionate to the severity of the breach.

In response to an enquiry from Councillor Morris, the Principal EHO agreed to reinstate the previous practice of notifying Committee members by email of agreed licence suspensions.

The Committee noted the report.

The meeting ended at 8.20pm.

PUBLIC STATEMENTS MADE AT THE LICENSING MEETING ON 25 JANUARY 2017

PUBLIC STATEMENT TO L&EH COMMITTEE - Wednesday, 25 January 2017

from Barry Drinkwater - Chairman, Uttlesford Licensed Operators & Drivers Association (ULODA)

Chairman and Members

Doug Perry said that we have been a "united front". We came together as a group of concerned operators in 2008 to protest about a proposed draconian increase in licence fees, as Robert mentioned. In fact some of you (Cllr Hicks!?) will recall we persuaded members at the time to reverse a decision they had made to approve the increase - after we had challenged in public the basis of officers' calculations. This challenge brought us closer together and ULODA led the charge. Somebody called us "the three wise men" (was it Murray as Licensing Officer? or was it Brian Bennett at E-Cabs?) - because WE were Andy, Robert and Barry. Richard Ellis, who also sends his apologies this evening, joined us later and we were recognised by the council (and operators, proprietors and drivers) as the trade's senior representatives - who have met officers every year from 2010 onwards to review the Licensing Accounts and the council's Budget proposals.

This partnership working has been good for all of us - good for the trade, good for officers and good for councillors who have always wanted to see us collaborating and engaging together. Within the trade we have been continuously meeting about key issues and supporting each other, singing from the same hymn sheet in speaking with officers with a single united voice. The evidence is "hard" - we have attended every meeting of this committee, not always all of us but often two or three of us, and we have always, all of us, been signatory to public statements made to you, members, and to Scrutiny Committee members last year when we had our say at two meetings about the work of the Enforcement Task Group and also met together (Andy, Robert, Richard and me) with Cllr Derek Jones about decisions made under delegated powers and other enforcement issues. Also of course we met with Dawn French and Tony Cobden soon after he was appointed your Lead Officer in August, and in December Doug and I made public statements - authorised by Andy, Robert and Richard - to Full Council.

Over these last nine years, Chairman and members, you and your predecessors have got to know us pretty well at both ordinary meetings like this and extraordinary meetings on big issues such as the draft Licensing Policy and on individuals' disciplinary matters. Your agenda this evening includes the report on Enforcement which has become a standard item. You will be interested to learn that we intend to update shortly an analysis we presented to members of decisions made under delegated powers and reported between July 2013 and January 2016. Our analysis showed that only 69 or 0.2% of licensed drivers were dealt with in this way, and 70% of cases were for their alleged failure to notify fixed penalty notices.

We see your agenda does NOT include the Licensing Budget, though the January meeting has in the past been the right time in the council's schedule - one year the Finance Director presented it to members personally for approval and made public, warm reference to his meeting with us and other officers the autumn before. Chairman, there is also no item on the agenda about the actions the Scrutiny Committee recommended should be taken to review and revise the Licensing Policy and the Enforcement Strategy - may we ask you to update this under AOB following the Cabinet meeting on 12 January, please?

Finally, Cllr Lemon as Chairman of the UTF was minuted last year to bring to you the ULODA project on WAVs, on which we look forward to engaging with the committee at another time.

Thank you very much, Chairman.

***Barry Drinkwater
Chairman, ULODA***

Public Statement to Licensing & Environmental Health Committee, Wed 25 Jan 2017
by Doug Perry, Honorary President, Uttlesford Licensed Operators & Drivers Association

Chairman and Councillors.

I would like to firstly point out that you as Councillors of a Quasi Regulatory Committee are solely responsible for your decisions ,and not the officers. That both Scrutiny and this Committee have laid down a timetable for working together in partnership with the trade.

I would also like to dispel a myth that ULODA only has the support of a proportion of the trade. This is incorrect as for many years both ULODA and the Independent traders have time and time again presented a United Front to UDC.

The trade as a whole makes a significant input into the Uttlesford Economy and has an Annual turnover in excess of fifty Million Pounds.

I was told only yesterday that there is a perceived wind of change running through the Council which has led to officers not only consulting with 24/7 but also putting into a trial the suggested method to deal with the right to work. This does form part of your agenda this evening. I would like to state that having been involved for many years with video conferencing within the Courts and Prison systems, it is the best way forward. This is used by businesses throughout the world and the progress being made has led to a much simpler system as proposed by 24/7. It may surprise some of you to know that ULODA , 24/7, and other Independent traders have met and discussed this system and fully support it. It will also please Councillors to know that the cost to the Council is minimal .

This is a clear message that working together in collaboration does work and long may it continue.

The Budget however with respect to Licensing does cause concern as it has to be approved by next month and the next scheduled meeting of this Committee is not until April. The trade's senior representatives continue to insist on meeting face to face with officers about the Licensing Accounts and the Budget - as in all previous years since I as Chairman of this committee led the task group of councillors, officers and the same senior members representing the trade tonight. Cllr Lemon met officers yesterday to press the point home, and we wait with fingers firmly crossed.

A number of District Councillors in the past and currently support the trade and wish to see Best Practice valued and implemented. The trade would like personally to thank Cllr Mark Lemon for his intervention and input, unfortunately due to a prior engagement he cannot be here to speak tonight.

Doug PERRY
Hon.President . ULODA

Chairman and Members

1. Please place on record Andy Mahoney's apologies for absence - he is out of the UK on business as Managing Director, 24x7

2. I have his authority to speak about item 4 on your agenda - Immigration Act 2016, Right to Work Checks.

Members are asked to "note the Report" in the Licensing Officer's recommendation, but that is all.

3. Matters have moved forward since the Report was first drafted.

4. There has been dialogue since late November between Andy and Tony Cobden as Lead Officer for Licensing. This has

resulted in a Council decision yesterday to give Andy's suggestion a two week trial commencing 2 February.

5. This suggestion followed written advice received directly from the Home Office on 9 December that the council as Licensing Authority

"is required to check original documents in a face to face setting and this can be done by video conferencing via face time....".

6. Your Lead Officer may well want to confirm the details of this trial in due course this evening.....

7. Thank you very much for this opportunity to address you.

Murray Hardy
Recruitment & Compliance Consultant
24x7

Statement by Robert Sinnott, Acme Transport Services

I was part of the original group that challenged the proposed 35% licence fee increases in 2008.

We, as a trade, had been complacent about ensuring the licence fees were a correct and true reflection of their cost of production as required by the LGMPA76.

I think it is fair to say all involved had become complacent: the committee, the officers and the "trade".

What resulted was a prolonged and at times unpleasant experience, at a huge cost in time and effort and no little money for all parties involved. What did eventually come to bear was a mutual respect and an absolute and unequivocal resolve that the situation must never reoccur. The conclusion, agreed by all, was to prevent the environment which allowed such a problem to breed, being able to redevelop.

The result was to have a permanent process of dialogue on matters affecting the licence prices for Uttlesford. This was agreed to be a meeting covering the forthcoming year's budget.

For the past 6 or 7 years, the trade's role has been to act as a check and balance on the proposed budget, testing its robustness. The aim is to prevent a repeat of the 2008 situation; a situation that, if you speak to the councillors and officers involved at the time will confirm, you do not want to a participant of.

My belief is that if the meeting covering the budget is let to slide then we, as a collective, are again guilty of complacency and are allowing the environment for problems to grow.

Maintaining this meeting and process, so hard fought for, is absolutely to everyone's financial benefit and sanity.

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 24 MARCH 2017**

Present: Councillor R Chambers (Chairman)
Councillors A Anjum, J Davey and S Morris

Officers in
attendance: A Bochel (Democratic Services Officer), M Chamberlain
(Enforcement Officer), T Cobden (Principal Environmental Health
Officer), R Coox (Legal Assistant), E Smith (Solicitor) and M Watts
(Principal Environmental Health Officer).

Also Present: the driver in relation to Item 3, A Schiller (solicitor for the driver in
relation to Item 3), B Drinkwater (ULODA), the driver in relation to
Item 4, a friend of the driver in relation to Item 4.

LIC47 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies were received from the driver in relation to Item 6.

LIC48 EXCLUSION OF THE PUBLIC

RESOLVED that under section 100I of the Local Government Act 1972
the public be excluded for the following item of business on the grounds
that it involved the likely disclosure of exempt information as defined in
paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

**LIC49 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S
LICENCE**

The item listed as 3 on the agenda could not be heard at this time, because the
driver in relation to the item had not yet arrived. Item 4 was therefore heard first.

The procedure for determining private hire drivers' licences was read to the
applicant. The Committee considered the report of the Enforcement Officer.

Until October 2016, the driver was driving for 24x7 Limited at Stansted Airport.
On 13 May 2013, the driver had appeared before the Licensing and
Environmental Health Committee, as his licence was up for renewal. He had
been charged with harassment by Essex Police and was on police bail. A
decision was made by members to grant the renewal of his licence. The driver's
licence was suspended for a period of five days between 1-5 May 2014,
inclusive. This was because he failed to declare within seven days that he had
been convicted of an offence.

The driver was interviewed under caution by the Enforcement Officer on 27 May 2016. During the interview the driver admitted to smoking in the vehicle. He also admitted he may not have been wearing the badge when driving the vehicle.

A decision was made by the former Assistant Chief Executive Legal to prosecute the driver. He was given a conditional discharge for 12 months and ordered to pay a victim surcharge of £15 and costs of £1000. It was agreed that he would pay £100 cash on that day and the remaining balance of £915 by 18 November 2016. Due to the conviction, the driver failed to meet the Council's licensing standards for drivers.

The Chairman invited the driver to ask questions. The driver said he felt it was unfair that his previous hearings with the Committee kept being referred to. He said he had already pleaded guilty to the charges and had been convicted, and expressed a desire for closure.

The Chairman explained that previous licencing hearings appeared on DBS checks, and so it was up to the panel to decide if they were relevant to the case. Licencing hearings determined whether the person was a fit and proper person to drive a taxi. Ensuring public safety was paramount to these decisions.

The driver queried why the Council did not suspend him last March when the incident occurred, instead of allowing him to renew his licence. The Enforcement Officer said at the time, the investigation was still ongoing and so there were no grounds for not allowing the driver to renew the licence. The driver also asked why the process had been drawn out. The Enforcement Officer said for a period of time before he could be interviewed, the driver had been on holiday. Following that, much of the process was dependent upon the court dates set which were beyond the Council's control, and the issue had been brought before the committee as early as possible.

The Chairman asked the driver if he wanted to make a statement. The driver said that the incident was a year ago and at the time he was working night shifts. He couldn't really remember what had happened. He looks after his 81 year old mother and she was not well at the time. He has had no convictions on his licence previously and is paying for silly mistakes now. He said he has no intention of getting himself into trouble in the future.

Councillor Morris asked if he still worked as a driver. The driver answered that the majority of the time he worked as a controller, although he did sometimes drive when he was needed to.

The Enforcement Officer asked why the driver left 24/7. The driver replied that he had always been self-employed and at the time his mum was not well. He had not fallen out with 24/7. He just did not know when he would be available to work and it had been assumed that he had left the company.

The Chairman asked the driver if he would like to sum up. The driver said that he had done things he should not have done and that he was currently looking after his mum. He is surprised that people are unsure that he is a fit and proper person to be given a licence to drive a taxi.

At 10:30am the Committee withdrew to make its determination. At 10:45am the committee returned.

DECISION

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence dated 1st April 2016, in accordance with S61 (1) (a) (ii) and (b) Local Government (Miscellaneous Provisions) Act 1976.- that "he has since the grant of the licence been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act" or "any other reasonable cause" respectively. The three year licence is due to expire on 31st March 2019 and the driver's last driving role was with 24 x 7 Ltd at Stansted. He has held a licence since 2000.

On 24th March 2016 the Council received notification from a Braintree District Councillor that an Uttlesford licenced vehicle had been seen driven by a presumably licenced driver who had been a) smoking a cigarette in the vehicle and b) was not wearing his private hire badge. The driver was subsequently identified.

Smoking in the workplace, which includes a private hire vehicle, is an offence under S7 Health Act 2006. Furthermore, failure to wear a private hire badge while driving a private hire vehicle is also an offence, in this case under S54(2) Local Government (Miscellaneous Provisions) Act 1976.

The driver was interviewed under caution on 27th May 2016 in the course of which he admitted the S7 offence and accepted that he may not have been wearing his badge while driving the vehicle. The matter was referred to the Council's Legal Department as a result of which the driver was prosecuted for both offences. He entered a not guilty plea, but subsequently changed this at the date of his trial on 7th November 2016. He received a conditional discharge for 12 months and ordered to pay a victim surcharge and costs which he agreed to pay by instalments.

However, paragraph 9 of Appendix A to the Council's Licensing Standards states that a driver must have no:-

"Conditional discharges for any offence within the last 12 months"

The driver does not meet this standard.

We are also aware that he has previously been before this Committee on the occasion of the renewal of his licence in May 2013 and that subsequently he was subject to a suspension in May 2014 for a breach of paragraph 18 (c) of Appendix G of the Council's Licensing Standards, namely the failure to declare a conviction for an offence. He is thus aware of UDC's expectations of its licenced drivers.

We have read the papers before us and listened very carefully to what the driver has said to us this morning. This is a very serious matter and proceedings before this Committee are separate and distinct from those before the Courts. WE are primarily concerned with the safety of the public, and especially the most vulnerable members of our community. The driver has paid his fine and the costs of the Court case and we take this into account. Therefore, we find the driver to be a fit and proper person to continue to hold a private hire/hackney carriage drivers licence.

However, we trust the driver will not appear before us again. We read in the papers of the things that are reported as happening in taxi cabs. Behaviour of that sort is utterly unacceptable to this Committee and if any licenced driver offends we will take a very serious view of the matter. We repeat, once more, that we will not see the driver before us again.

LIC50

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The committee returned to Item 3. The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Enforcement Officer.

The driver is currently driving for a company called Diamond Transport carrying out school contract work in the Hertfordshire area. On 06 February 2017, the driver attended the Council Offices in Saffron Walden without an appointment and produced an enhanced DBS check dated 19 January 2017. This check showed that he received a caution on 19 January 2017 by Hertfordshire Police for an offence of sending letter/communication/article conveying indecent/offensive message on 12 September 2016.

As the driver had received a caution he had fallen below the Council's licensing standards for driver's, as standard 9 reads 'no official cautions (save for cautions administered by Uttlesford District Council) for any offences within the last 12 months.'

The Council's Enforcement Officer met with the driver on 16 February 2017. He confirmed that he carries out school contract work for Diamond Transport, transporting two children. On enquiring about the circumstances of his caution, the driver explained that it was because he sent/posted a picture of a naked female that he had obtained off social media (possibly Whatsapp or Facebook) to the same female. He said that he did not know the recipient and this was the first contact that he had with her and was trying to 'chat her up.' The female made a complaint to Hertfordshire Police and he was arrested, formally interviewed in November 2016 then cautioned in January 2017. He said that he has since deleted his social media accounts.

It had also come to the Council's attention that the driver moved to his current address but failed to notify the Council. At the meeting with Officers, he explained that he moved at the end of last year and told his employer. He was

under the impression that his employer would inform the Council. This is a breach of driver condition 18(a) which reads 'Notify UDC in writing of any change of address within 7 days of the change of address occurring.' The driver also failed to comply with condition 18d as he failed to notify the Council of the investigations by the police within 7 days of becoming aware of the investigation.

The Chairman asked whether Mr Schiller had any questions. Mr Schiller asked the Enforcement Officer whether the interview with the driver was conducted on an informal basis. The Enforcement Officer replied that it was. Mr Schiller then asked if it was fair to say that there were elements of confusion in the interview because the driver's first language is not English. The Enforcement Officer agreed, although he stated that the driver still spoke good English. Mr Schiller asked whether the Enforcement Officer had made enquiries as to the date of the driver's arrest. The Enforcement Officer replied that he had not. Mr Schiller asked whether the Enforcement Officer disputed that the driver had a Duty Solicitor present at the time of his arrest. The Enforcement Officer replied that he did not.

The Chairman asked whether the driver had any complaints about his meeting with the Enforcement Officer. The driver said he did not understand the question. Mr Schiller said that in his discussions with the driver he had stated that he had no complaints about the interview with the officer.

The Chairman asked Mr Schiller if he would like to make a case on behalf of the driver. Mr Schiller explained that the driver was born in Pakistan and moved to the UK when he was 18. He is now 24. He has been to college here, but his English language skills are still limited. He can have a sensible conversation in English but does not have a complete understanding of more complicated formalities. Mr Schiller said the driver first worked for Dominos as a delivery driver and then became a driver for Diamond. He still has a clean licence, and while he did not remember having the Green Book given to him, he did have a discussion with his firm about various rules of being a taxi driver. There have been no complaints made about the driver to Diamond Transport.

During 2016, he was given his first smartphone and was using apps on it to talk to a woman he was trying to 'chat up'. He sent her a picture of a naked woman, and she asked why he had done that. He felt very embarrassed, stopped the conversation and deleted the apps from his phone. In December, the driver moved house, informed his employer and assumed that they would inform the council. The police then arrested him with regard to the picture he had sent. After receiving a DBS check with the caution on it, he showed it to his employer who told him to contact the council, where it was noticed he had not updated his address.

Mr Schiller said that it was not a deliberate attempt to hide information. His client is young and is inexperienced in dealing with formalities. He is also working to improve his English. He has passed his Level 5 English exam and plans to apply for British citizenship. While he had fallen below the standards expected of a driver, he had not been deliberately dishonest, and his caution

had nothing to do with his career as a driver. The driver apologises and is deeply ashamed.

Councillor Morris asked how the driver had come into possession of the photograph. Mr Schiller said it was pre-existing on the internet, and was not a picture of the female that the driver had attempted to 'chat up'. The Chairman asked whether the driver's English was good enough to allow him to communicate with the children he drove if he needed to. The driver replied that they are good children who listen to him and behave when he tells them to. The Chairman also asked whether police checked his phone for other images. The driver said that they confiscated his phone for a month. The Principal Environmental Health Officer asked whether the driver struggled to read English. Mr Schiller said that the driver can read well for everyday needs, but requires help when language becomes more formal and complicated.

Mr Schiller summed up that licencing standards exist for a reason, but that the panel had discretion in one-off cases such as this. The driver is a young man, working on improving his skills, and had made an embarrassing error which he will have to live with for the rest of his life. Revoking his licence would be too strong a means of punishment.

At 11:35am the Committee withdrew to make its determination. At 11:55am the committee returned.

DECISION

The application before the Panel today is for the revocation of the driver's joint private hire/hackney carriage licence dated 4th May 2016, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 30th April 2019 and the driver currently drives for Diamond Transport, Hertfordshire on school contract work.

On 6th February 2017 the driver attended the Council's offices in Saffron Walden without appointment and disclosed an enhanced DBS check which revealed that on 19th January 2017 he had been cautioned by Hertfordshire Police for an offence of sending a communication/article conveying an indecent/offensive message on 12th September 2016 contrary to S1 (1) (A) Malicious Communications Act 1988. He was subsequently interviewed on 16th February 2017 and disclosed the caution related to the sending of a picture of a naked female obtained from social media to another lady in the course of an attempt at making contact with her; and she had referred the matter to the Police. He has since deleted his social media accounts.

However, Standard 9 of the Council's Licencing Standards for Drivers, to be found at Appendix A of the policy document, states:-

"No official cautions (save for cautions administered by Uttlesford District Council) for any offences within the last 12 months"

Furthermore, the driver has also failed to comply with Condition 18 of Appendix G of the Council's Policy in two respects.

Condition 18(d) requires a driver to report within 7 days "Any investigations being carried out into the activities of the driver by the police or a regulatory authority of which the driver is aware within 7 days of the driver becoming aware of the investigation".

This speaks for itself.

The driver also disclosed in the course of interview that he had moved home at the end of 2016 and had notified his employer. He believed that they would notify the Council, but unfortunately the responsibility for notifying the Council rests with individual drivers.

Condition 18 (a) of Appendix G requires a driver to notify the Council in writing of:-

"Any change of address within 7 days of the change of address occurring"

There are thus three breaches of the Council's licensing standards before this Committee for consideration, and the onus of proof is upon the licence holder to show us that they remain a fit and proper person to hold a taxi licence

We have read the papers before us with care and we have heard from Mr Schiller on behalf of the driver. We accept that the driver is very young, that he is contrite, and that it was a one-off event that has caused considerable embarrassment to him and to his family. The consequences of what has happened will be with him for the rest of his life.

Taking this into account we have decided to be lenient in this case and accordingly we will not revoke the driver's licences under S61(b) of the 1976 Act. However, we do not expect to see him before us ever again; and we would urge him in the strongest possible terms to continue with his study of English and to thoroughly familiarise himself with the content of the Green Book.

LIC51

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The driver gave no notice that she intended to attend and did not arrive for the hearing.

DECISION

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence dated 1st November 2015, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- "any other reasonable cause". The three year licence is

due to expire on 31st October 2018 and the driver's last driving role was with 24 x 7 Ltd at Stansted. They notified the Council she had left their employment on 2nd September 2016. She has held a licence since November 27th 2013.

However, on 22nd November a routine driver check showed that on 26th December 2015 the driver received a fixed penalty notice for an SP30 offence which she failed to disclose to the Council, thus breaching Condition 18 (c) of Appendix G to the Council's Licensing Standards, which states:-

"Any convictions, cautions or fixed penalty noticeswithin 7 days of the date of conviction, caution or the issue of a fixed penalty notice"

At the date of this hearing the driver has six penalty points endorsed upon her licence, three having fallen away on 3rd March 2017.

She was invited to a meeting to discuss the matter but failed to respond, as she failed to respond to requests for the production of a new DBS check and Group Two medical certificate, both of which are requirements of the Council's Licensing Standards. In the absence of this information or indeed of co-operation from the driver, officers have referred the matter to this Committee. We are mindful that she has previously appeared before us for breach of conditions, (again, failure to notify under condition 18 (c) of Appendix G) for which she received a five day suspension in November 2014.

It has been suggested to us that the driver may have left the country; she has not responded to communications from the Council. In the absence of any reaction from her within 28 days of today's date we will be minded to revoke the driver's licences under S61 (b) of the 1976 Act as she is no longer a fit and proper person to hold them. She should therefore contact the Council as soon as possible.

There is a right of appeal against revocation and the driver will receive a letter from the Legal Department explaining this.

LIC52

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The driver in relation to Item 6 could not attend the meeting due to work commitments. The panel agreed that these were reasonable grounds to defer his hearing.

The meeting ended at 12:10.

Committee: Licensing and Environmental Health

Agenda Item

Date: 12 April 2017

3

Title: Review of Gambling Act Policy

Author: Amanda Turner

Item for decision

Summary

1. The revised Statement of Gambling Policy completed its period of public consultation on 16 March 2017.

The purpose of the report is to request that Members approve the Policy for consideration by Council at the meeting on 16 May 2017.

Recommendations

2. That Members approve the proposed amendments to the Policy and recommend to Council that the amended policy be adopted.

Financial Implications

3. None arising from this report

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Revised Statement of Gambling Policy 2014-2017 (showing proposed changes)

Impact

- 5.

Communication/Consultation	The Licensing authority consulted on 26 January with Essex Police, one or more persons who represent the interest of persons carrying on gambling businesses in the authority's area and one or more persons who appear to the authority to represent the interest of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005
Community Safety	None
Equalities	None

Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. Our Gambling Policy Statement allows us to outline the Council's considerations in determination of applications. The revised Policy was only for minor changes and subject to a 7 week consultation exercise.
7. The public consultation exercise, as approved by the Licensing & Environmental Committee on 25 January 2017 was conducted between 26 January and 16 March 2017. Information was published on the councils website, and letters or emails sent to Essex police, statutory consultees, all premises & club licence holders, gamblers anonymous, and town and parish clerks.
8. No written responses or representations have been received from any parties to the proposed changes.
9. A copy of the revised Policy (showing proposed changes) is attached as Appendix 1. Members are asked to approve the revised Policy and recommend to Council that it be adopted.

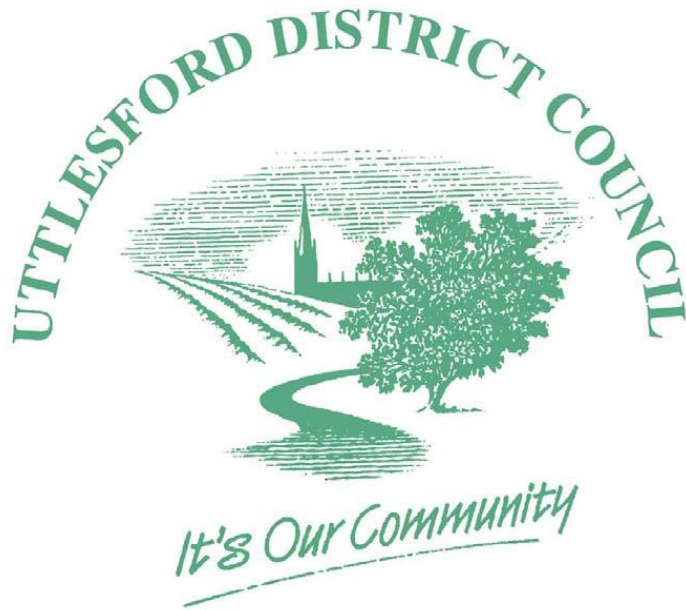
Risk Analysis

10.

Risk	Likelihood	Impact	Mitigating actions
The Council is under an obligation to review the Gambling Act Policy every 3 years and ensure that the processes are followed in accordance with the legislation and guidance. Failure to achieve the timescale or demonstrate that appropriate	1.	2.	The failure of the Council to give appropriate consultation responses could result in the imposition of sanctions upon the council.

<p>consideration has been given to responses received during the consultation process could result in Judicial review.</p>			
----------------------------------------------------------------------------------------------------------------------------	--	--	--

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.



STATEMENT OF PRINCIPLES GAMBLING ACT 2005

[2017 - 2020](#)

If you require this information in any other format or language please contact the Licensing Department on 01799 510578 or at licensing@uttlesford.gov.uk

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PART A

1. INTRODUCTION

1.1 This Licensing Authority Statement of Principles sets out the principles the Uttlesford District Council, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act'), proposes to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an "Interested Party";
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting [court](#) proceedings for offences [committed](#) under the Act.

2. THE LICENSING OBJECTIVES

2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:-

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

3. DESCRIPTION OF THE DISTRICT

3.1 Uttlesford District Council is situated in the County of Essex, which comprises twelve District and Borough Councils and two Unitary Authorities. Uttlesford is a rural area in North West Essex and is geographically the second largest district in the County. It has a population of approx. [79,400](#) [83,500 \(2014\)](#) and over half of these live in one of the four main centres of population, Great Dunmow, Saffron Walden, Stansted and Thaxted. The remainder live in the numerous villages and hamlets which make up the District. In the south of the District is Britain's fourth largest airport, Stansted. A survey published in December [2012](#) [2014](#) stated that Uttlesford offered the [6th](#) [23rd](#) best quality of life in England and Wales. Its pleasant rural setting attracts many visitors from day trippers to those staying for longer periods many of whom will make use of licensed facilities within the district.

4. RESPONSIBILITIES UNDER THE ACT

- 4.1 The Act contains a licensing regime for commercial gambling, to be conducted by the Gambling Commission and by Licensing Authorities, depending on the matter to be licensed.
- 4.2 The Act establishes each District or Borough Council as the Licensing Authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Uttlesford District Council is the Licensing Authority for the Uttlesford District.
- 4.3 The Gambling Commission is responsible for issuing Operating and Personal licences to persons and organisations who:-
- operate a casino;
 - provide facilities for playing bingo or for pool betting;
 - general betting operating licence
 - act as intermediaries for betting;
 - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
 - manufacture, supply, install, adapt, maintain or repair gaming machines;
 - manufacture, supply, install or adapt gambling machine software; or
 - promote a lottery.
- 4.4 The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are covered, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt Small Society Lotteries.
- 4.5 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as they think it is:-
- in accordance with any relevant codes of practice [under section 24 of the Act](#);
 - in accordance with any relevant Guidance issued by the Gambling Commission [under Section 25](#);
 - reasonably consistent with the Licensing Objectives (subject to the above matters), and
 - in accordance with the Licensing Authority's Statement of Principles (subject to the above matters).

Before the Licensing Authority can consider an application for a Premises Licence, an Operating and (if required) a Personal Licence must have been obtained from the Gambling Commission or applied for. Where an applicant for a Premises Licence has applied to the Gambling

Commission for a licence or licences the Premises Licence may not be granted until the Commission has granted the requisite licence(s).

5. STATEMENT OF PRINCIPLES

5.1 The Licensing Authority is required by the Act to publish a Statement of Principles which contains the principles it proposes to apply when exercising their functions under the Act.

5.2 In this document this is referred to as 'the Statement'. This Statement must be published every three years. The Statement must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Statement must then be published.

5.3 This Statement takes effect ~~on 8 April 2014~~ [in 2017](#)

6. CONSULTATION

6.1 In producing this Statement, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A list of these other groups and persons consulted is also provided below.

6.2 The Act requires that the following parties are consulted by the Licensing Authority:-

- The chief officer of police for the Authority's area;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

6.3 The other groups and people consulted were:-

- Parish and town councils within the District;
- Businesses who are, or will be, holders of Premises Licences;
- Responsible Authorities under the Act.
- The public

6.4 The Licensing Authority's consultation took place between [February 2017](#) ~~March 2013~~ and [April 2017](#) ~~June 2013~~

6.5 A full list of comments made and details of the Council's consideration of those comments is available by request to The Licensing Department, Council Offices, London Road, Saffron Walden, CB11 4ER

7. APPROVAL OF THE STATEMENT

- 7.1 This Statement was approved at a meeting of the full Council on *[To be inserted]* and was published via its website in *[To be inserted]*. Copies are available on request.
- 7.2 It should be noted that this Statement does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

8. DECLARATION

- 8.1 In this Statement the Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process.
- 8.2 Appendices have been attached to this Statement providing further information and guidance that is intended only to assist readers and should not be interpreted as legal advice or as constituent of the Council's Statement. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or the guidance or regulations should under the Act.
- 8.3 The Licensing Authority recognises its responsibilities under the Equality Act 2010. The impact of this Statement on race relations and disability equality will be monitored through the Uttlesford District Council's equality scheme.

9. RESPONSIBLE AUTHORITIES

- 9.1 A full list of the Responsible Authorities designated under the Act is given in the Definitions Section and their contact details are included. It should be noted that under the Act, the Licensing Authority is designated as a Responsible Authority.
- 9.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-
- the competency of the body to advise the Licensing Authority;
 - the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
 - the need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.
- 9.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates Essex County Council's Children's Safeguarding Children's Board for this purpose.

10. INTERESTED PARTIES

10.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-

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

b) has business interests that might be affected by the authorised activities,

or

c) represents persons who satisfy paragraphs (a) or (b).'

10.2 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party

District Councillors who are not members of the Licensing Committee will not qualify to act in this way.

Other than persons mentioned in 10.2 and 10.3 the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party.

10.3 The Licensing Authority considers that the Trade Associations, Trade Unions and Residents' and Tenants' Associations qualify as "Interested Parties" where they can demonstrate that they represent persons in (a) or (b) above.

10.4 In determining if a person lives sufficiently close to the premises that they are likely to be affected by the authorised activities, or has business interests that might be affected by authorised activities carried on from them the Licensing Authority will consider the following factors:-

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);

- The circumstances of the person making the representation. This does not mean the personal characteristics of that person but his or her interest, which may be relevant to the distance from the premises;
- The catchment area of the premises (i.e. how far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area that might be affected.

The Licensing Authority wishes to ensure that interested parties are aware of applications for licences and variations. Although Town and Parish Councils are not responsible authorities or interested parties in their own right when an application is made for a premises licence or a variation to such a licence in addition to the publicity given to the application by the applicant the Licensing Authority will notify the Town or Parish Council for the area within which the premises are situated. The Licensing Authority will also notify occupants of residential premises adjoining, opposite and to the rear of properties which are the subject of such applications.

11. EXCHANGE OF INFORMATION

11.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 1998 will not be contravened; the guidance issued by the Gambling Commission;
- Data Protection Act 1998;
- Human Rights Act 1998;
- Freedom of Information 2000;
- Environmental Information Regulations 2004;
- the Common Law Duty of Confidence;
- Electronic Communications Act 2000;
- Computer Misuse Act 1990;
- Criminal Procedure and Investigations Act 1996; and
- Crime and Disorder Act 1998.

11.2 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail. (Note: Written confirmation may include information in electronic form). An audit trail should include:-

- Record of data disclosed;
- Project chronology; and
- Notes of meetings with other partners and recent correspondence including phone calls.

12.2 PUBLIC REGISTER

The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations will

prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

13. COMPLIANCE AND ENFORCEMENT

13.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority follow best practice as promulgated by the Better Regulation Executive and the Hampton Review of regulatory inspections and enforcement and will endeavour to be:-

- Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable – Authorities must be able to justify decisions and be subject to public scrutiny.
- Consistent – Rules and standards must be joined up and implemented fairly.
- Transparent – Enforcement should be open and regulations kept simple and user friendly.
- Targeted – Enforcement should be focused on the problems and minimise side effects.

13.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme.

13.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act will be to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operating and Personal Licences. Concerns about the manufacturer, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

13.4 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities, [and will have regard to best practice.](#)

13.5 Bearing in mind the principle of transparency, the Licensing Authority's enforcement/compliance protocols, or written agreements, will be available on request to the Licensing Authority. Details of the risk based approach to inspection will also be available upon request. Details of this

information can also be found on the Council's website:
www.uttlesford.gov.uk

14. DELEGATION OF POWERS

The Council has agreed a scheme of delegation for discharging its functions under the Act.

PART B PREMISES LICENSES

15. GENERAL PRINCIPLES

15.1 Premises Licences will be subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is thought appropriate.

15.2 Licensing Authorities are required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks fit:-

- in accordance with any relevant codes of practice issued by the Gambling Commission [under section 24 of the Act](#);
- in accordance with any relevant guidance issued by the Gambling Commission [under section 25](#);
- to be reasonably consistent with the Licensing Objectives (subject to the above matters); and
- in accordance with the Authority's Statement (subject to the above matters).

15.3 Definition of Premises:

Premises is defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises although this will always be considered in the light of guidance issued by the Gambling Commission. It will always be a question of fact in each circumstance. The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

15.4 Demand:

Demand is a commercial consideration and is not an issue for the

Licensing Authority.

A. The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

B. In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6th April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

C. The LCCP also states that licensees must review (and update as necessary) their local risk assessments:

a) to take account of significant changes in local circumstance, including those identified in this policy;

b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;

c) when applying for a variation of a premises licence; and

d) in any case, undertake a local risk assessment when applying for a new premises licence.

D The Licensing Authority expects the local risk assessment to consider as a minimum:

• whether the premises is in an area of deprivation

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

• the ethnic profile of residents in the area, and how game rules, self-exclusion leaflets etc. are communicated to those groups

• the demographics of the area in relation to vulnerable groups

• the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

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

F Other matters that the assessment may include:

• The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.

• Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.

• The layout of the premises so that staff have an unobstructed view of persons using the premises.

• The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.

• Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, selfexclusion schemes, window displays and advertisements not to entice passers-by etc.

• The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.

• Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to

[provide betting machines.](#)

[G Such information may be used to inform the decision the council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.](#)

[H This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.](#)

15.5 Location:

Location will only be material consideration in the context of the Licensing Objectives.

15.6 Duplication with other Regulatory Regimes:

Duplication with other statutory/regulatory regimes will be avoided where possible. This Authority will not consider whether a licence application is likely to be awarded Planning Permission or Building Control consent.

15.7 Licensing Objectives:

In considering whether applications are reasonably consistent with the Licensing Objectives, the Licensing Authority will take into account the following:

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

Whilst the Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this licensing objective.

Where an area has known high levels of organised crime, this Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of door supervisors.

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

Ensuring that gambling is conducted in a fair and open way –

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. The Licensing Authority notes that in relation to the licensing of tracks, its role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances, the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

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

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

[The Council will pay attention to the proposed location of gambling premises in terms of the proximity of gambling premises to schools and vulnerable adult centres, or residential areas where there may be a high concentration of families with children.](#)

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

15.8 Conditions:

The Authority is aware that the mandatory and default conditions imposed by the Act will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premise or class of premises the authority may consider attaching individual conditions related to the licensing objectives. Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises 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.

In addition, the Licensing Authority will examine how applicants propose to address the licensing objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:

- Proof of age schemes
- CCTV
- Door Supervisors
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices and signage;

- Specific opening hours; and
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare.

15.9 Decisions upon individual conditions will be made on a case by case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. Applicants will also be expected to offer their own suggestions as to the way in which the Licensing Objectives can be effectively met.

15.10 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- any conditions on the Premises Licence which make it impossible to comply with an Operating Licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

15.11 **Door Supervisors:**

The Licensing Authority may consider whether there is a need for door supervisors in terms of the Licensing Objectives of protecting of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. As the Act has amended the Security Industry Act 2001, door supervisors at casinos or bingo premises will not normally need to be licensed by the Security Industry Authority.

[The Authority will make a door supervisory requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.](#)

15.12 **Credit:**

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATM's) may be installed in such premises but the licensing authority may apply conditions as to where they are sited.

15.13 **Betting Machines: (See Definitions)**

In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (where betting is permitted in the Casino).

15.14 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

15.15 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of codes of practice or guidance issued under the Act.

16. **PROVISIONAL STATEMENTS**

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

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

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, and in accordance with the Gambling Commission guidance.

17. **REPRESENTATIONS AND REVIEWS**

17.1 Representations and Applications for Review of Premises Licence may be made by responsible authorities and interested parties.

17.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is

appropriate. For the purpose of exercising its discretion in these matters, the Authority has designated officers in accordance with the Scheme of Delegation as being the proper persons to act on its behalf.

17.3 The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:

- Frivolous or vexatious.
- Will certainly not cause the Authority to wish to /revoke/suspend the Licence or remove, amend or attach conditions to the Licence
- Substantially the same as previous representations or requests for a review.
- In accordance with any relevant codes of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the licensing objectives.

17.4 There is no appeal against the Authority's determination of the relevance of an application for review but such determination may be the subject of an application for judicial review.

18. ADULT GAMING CENTRES

18.1 An Adult Gaming Centre is defined in the Definitions. Entry to these premises is age restricted.

18.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

19. (LICENSED) FAMILY ENTERTAINMENT CENTRES

19.1 A Licensed Family Entertainment Centre is defined in Definitions. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

20. CASINOS

20.1 The Licensing Authority has made no decision on casinos but each application will be considered on its own merit. In making this decision the Licensing Authority consulted widely on this specific issue.

20.2 Casinos and Competitive Bidding:

The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style casino, there are likely to be a number of operators which will want to run a casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State. It should be noted that at the time this Statement was adopted this Licensing Authority's area had not been so enabled.

20.3 Betting Machines:

The Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the casino*). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things should take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

20.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

20.5 Credit:

Credit facilities are prohibited in casinos; however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

21. BINGO PREMISES

21.1 A Bingo premises is defined in the Definitions. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

21.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

21.3 Credit:

Credit facilities are prohibited in premises licensed for Bingo, however,

this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

22. BETTING PREMISES

22.1 Betting Premises are defined in the Definitions.

22.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

23. TRACKS

A Track is defined in the Definitions. Entry to parts of these premises is generally age restricted. On race days, specific areas within the Track may be age restricted dependent on the licensable activities taking place.

24. TRAVELLING FAIRS

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

25. PUBLICITY FOR APPLICATIONS

The Licensing Authority wishes to ensure that interested parties are aware of applications for licences and variations. When an application is made for a premises licence or a variation to such a licence in addition to the publicity given to the application by the applicant the Licensing Authority will notify the Town or Parish Council for the area within which the premises are situated. The Licensing Authority will also notify occupants of residential premises adjoining, opposite and to the rear of properties which are the subject of such applications.

PART C PERMITS/TEMPORARY OR OCCASIONAL USE NOTICES/REGISTRATIONS

26. GENERAL

Forms and Method of Application and any additional information or documents required for permits covered by this section can be obtained from the Licensing Authority.

27. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

27.1 Where a premises does not hold a Premises Licence but wishes to provide Gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

27.2 Statement of Licensing Principles

The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however where children and young persons are permitted, they may include:-

- A basic CRB or equivalent criminal record check for the applicant and the person having day to day control at the premises
- How the applicant proposed to ensure that children will be protected from harm whilst on the premises
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises, or
 - children causing perceived problems on/around the premises.
 - Suspected truant children
 - [Safeguarding awareness training](#)

28. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

28.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of Categories C and/or D. The Premises Licence holder needs to notify the Licensing Authority at least two months prior to the date of expiry of the current permit.

28.2 Gaming machines can only be located on licensed premises that have a bar for serving customers.

28.3 Premises restricted to selling alcohol only with food, will not be able to apply for a Permit, unless they have a separate bar area

28.4 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:-

- Adult machines being in sight of the bar;
- Adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
- Appropriate notices and signage; and
- As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, and leaflets/help line numbers for organisations such as GamCare.

The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

29. PRIZE GAMING PERMITS

29.1 Where premises do not hold a premises licence but wish to provide prize gaming, an application for a prize gaming permit may be made to the Licensing Authority. The applicant must specify the nature of the gaming for which the permit is sought. The applicant should be able to demonstrate that:

- They understand the limits to stakes and prizes that are set out in the Regulations; and
- That the gaming offered is within the law

29.2 Statement of Licensing Principles

The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic CRB or equivalent criminal record check for the applicant and the person having day to day control at the premises
- How the applicant proposed to ensure that children will be protected from harm whilst on the premises
- Training covering how staff would deal with:-

- unsupervised, very young children being on the premises, or
- children causing perceived problems on/around the premises.
- Suspected truant children
- [Safeguarding awareness training](#)

In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

30. CLUB GAMING AND CLUB MACHINE PERMITS

30.1 Members' clubs and miners' welfare institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.

30.2 ~~A fast-track procedure is available for premises that hold a Club Premises Certificate under the Licensing Act 2003~~ [Commercial clubs may apply for a club machine permit, subject to restrictions.](#)

[30.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions.](#)

[\(a\) in respect of gaming machines](#)

[No child or young person may use a category B or C machine on the premises. That the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.](#)

[\(b\) the public, children, and young persons must be excluded from any area of the premises where the gaming is taking place.](#)

[30.4 Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines..](#)

31. TEMPORARY USE NOTICES (TUN)

31.1 The persons designated to receive TUNs and to issue objections are specified in the Scheme of Delegation available from the Authority.

31.2 A TUN may only be granted to a person or company holding an operating licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State prescribing the activities to be covered. Under current regulations a Temporary Use Notice can only be issued for equal chance gaming.

31.3 For the purpose of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.

31.4 The definition of "a set of premises" will be a question of fact in the

particular circumstances of each Notice that is given. In considering whether a place falls within the definition of “a set of premises” the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.

31.5 The Licensing Authority will object to Notices where it appears that there effect would be to permit regular gambling in a place that could be described as one set of premises.

32. OCCASIONAL USE NOTICES

32.1 Occasional Use Notices, apply only to tracks, which are described as being premises on any part of which a race or other sporting events take place, or is intended to take place. Tracks need not be a permanent fixture.

32.2 OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a Betting Premises Licence for the track.

32.3 The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.

32.4 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

32.5 The person designated to receive the OUN's and assess validity is specified in the scheme of delegation

33. SMALL SOCIETY LOTTERIES

The definition of a Small Society Lottery is contained in the Definitions and these require registration with the Licensing Authority.

ANNEXES

ANNEX 1 - DEFINITIONS

Adult Gaming Centres – premises for gaming machines; entitles them to make category B, C and D gaming machines available

Betting – making or accepting a bet on:-

- the outcome of a race, competition or other event
- likelihood of anything occurring or
- anything is or is not true

Betting Premises – Premises licensed to accept bets

Bingo – no statutory definition; have its ordinary and natural meaning. Can include cash bingo where the stakes paid are make up the cash prizes, or prize bingo, where form of prize is not directly related to the stakes paid

Family Entertainment Centre – premises which provides gaming machines in categories C and D.

Gambling – includes gaming, betting or lottery

Gaming Machines – machine designed or adapted for use by individuals to gamble (excludes betting machines or machines that enable the playing of bingo); Secretary of State by regulations can define four classes of gaming machine with regards to stake, value of prize, nature of prize and nature of gambling (A-D).

Interested Party - For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-

- 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;
- c) Represents persons who satisfy a) or b) above

Prize Gaming – gaming where nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by gaming; the prize is determined by the operator before the play commences

Responsible Authority - For the purposes of this Act, the following are responsible authorities in relation to premises:

1. The Licensing Authority in whose area the premises are wholly or mainly situated (“Uttlesford District Council”)
2. The Gambling Commission;
3. Essex Police;
4. Essex Fire and Rescue Service;

5. Planning Services Manager, Uttlesford District Council;
6. Environmental Health Manager, Uttlesford District Council;
7. Local Safeguarding Children's Board for Essex;
8. HM Customs and Excise

Small Society Lotteries – lottery run by non-commercial societies (established and conducted for charitable purposes, for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or for any other non-commercial purpose other than private gain.)

Tracks – site where races or other sporting events take place; no special class of betting premises licences for tracks

ANNEX 2 – RESPONSIBLE AUTHORITIES

LICENSING AUTHORITY: The Licensing Department, Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER

GAMBLING COMMISSION: Victoria Square House, Victoria Square, Birmingham B2 4BP

ESSEX POLICE : ~~Licensing Unit, Essex Police, Blythe Meadows, Braintree, Essex CM7 3DJ~~ The Licensing Department (Alcohol), Essex Police, PO Box 12306, Police Station, Newland Street, Witham. CM8 2AS.

ESSEX FIRE AND RESCUE SERVICE : Uttlesford & Braintree Community Command, Essex Fire and Rescue Service, Fire Station, Railway Street, Braintree, Essex CM7 3JD

PLANNING SERVICES: The Planning Department, Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER

ENVIRONMENTAL HEALTH: Environmental Health Department, Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER

ESSEX COUNTY COUNCIL CHILDREN'S SAFEGUARDING SERVICE: Head of Children's Safeguarding Service, Licensing Applications, Essex County Council, PO Box 11, Chelmsford, Essex CM1 1LX

HM CUSTOMS AND EXCISE: ~~Greenock Accounting Centre, Custom House, Custom House Quay, Greenock PA15 1EQ~~ The National Registration Unit, HMRC, National Registration Unit, Betting & Gaming, Cotton House, 7 Cochrane Street, Glasgow. G1 1HY

ANNEX 3 - USEFUL CONTACTS

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk Some of these organisations provide codes of practice on their particular interest area.

Committee: Licensing and Environmental Health

Agenda Item

Date: 12th April 2017

4

Title: ENFORCEMENT

Author: Marcus Watts, Principal Environmental Health Officer. Tel: 01799 510595

Item for decision

Summary

1. This report is to inform members of the enforcement activities since the last committee meeting on 25th January.

Recommendations

2. That members note the contents of this report.

Financial Implications

3. None arising from this report.

Background Papers

- 4 None

Impact

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. Since this committee's last ordinary 12 drivers have been dealt with under delegated powers. Of these, two have been suspended with immediate effect following concerns of public safety.
7. In accordance with the Licensing Policy, suspensions are issued in accordance with the Council's protocol for dealing with suspensions, revocation and non-renewal of drivers' licences. When considering exercising these powers, the Council first writes to the driver and invites he/she to the Council offices for an interview. This gives officers the opportunity to consider the drivers comments upon the allegations made against them. Following this meeting the driver is informed of any appropriate sanction.
8. Of the 12 suspensions since the last Committee meeting, 10 suspensions were issued for failing to notify the council of a fixed penalty notice within 7 days (Condition 18c of the Conditions of Licence).
9. Since the last committee meeting, there have been two occasions where urgent action has been considered necessary to suspend a driver with immediate effect. Suspensions for both cases were made in the interest of public safety.
10. Powers to take urgent action is outside the scope of the policy but is provided under part 3 of UDC's constitution. This decision rests with chief officers and deputy chief officers "in consultation" with the Chairman of the appropriate committee.
11. Suspensions using these powers were issued under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 on 29th March and 19th January.
12. A summary of the suspensions issued by delegated powers in accordance with the procedures given in the Licensing Policy are provided within table below

Date of interview	Breach of licence condition	No of days suspended
09-Feb	18(c)	3 days
09-Feb	18(c)	3 days
15-Feb	18(c)	2 days
15-Feb	18(c)	4 days
16-Feb	18(c)	5 days
16-Feb	18(c)	4 days
16-Feb	18(c)	1 day
21-Mar	18(c)	3 days

13. Members should note, that in accordance with Para 8.10 of the Council's Licensing Policy, the starting point for a suspension for a first case of breach of condition should be 5 days.
14. Variations in the number of days of suspension relate to differences in the drivers aggravating or mitigating factors for non-compliance.
15. Separate to the above suspensions, there are currently 73 on-going 'live' cases currently under investigation by Enforcement. Since January, there have been 14 drivers who have surrendered their licences as a direct result of enforcement intervention. One of these drivers also was the proprietor of a private hire vehicle licence which he also surrendered.
16. The Council reached a negotiated settlement out of court with West End Cars following new evidence that was provided to support their claim that they were operating in the district.
17. An appeal contesting a conviction of a taxi driver was heard on 31st March to the Crown Court. The Court found in the Council's favour but reduced the sentence to an absolute discharge.
18. Partnership working with Essex Police is continuing. Two visits have been made with the Essex Police Licensing Officer to inspect licensed premises since January and further inspections are planned.
19. There are six on-going investigations concerning licensed premises

Risk Analysis

15. There are no risks attached to this report.

