



Uttlesford District Council

Chief Executive: Dawn French

Licensing and Environmental Health Committee

Date: Wednesday, 20th September, 2017

Time: 10.00 am

Venue: Committee Room - Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER

Chairman: Councillor R Chambers

Members: Councillors A Anjum, G Barker, J Davey, A Gerard, T Goddard (Vice-Chair), J Gordon, E Hicks, S Morris and G Sell

Substitutes: Councillors H Asker, J Freeman, R Freeman, D Jones and J Loughlin

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

To receive any apologies for absence and declarations of interest.

2 Minutes of Previous Meetings

1 - 42

To consider the minutes of previous meetings.

3 Revised Statement of Policy

43 - 74

To consider the revised Statement of Policy.

4 Details of Scoping for the Proposed Review of Licensing Policy 75 - 80

To consider the details of scoping for the proposed review of licensing policy.

5 Right to Work Checks - Video Conferencing Trial Review Update 81 - 84

To consider the video conferencing trial review update.

MEETINGS AND THE PUBLIC

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The agenda is split into two parts. Most of the business is dealt with in Part I which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 2pm on 2 FEBRUARY 2017**

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

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).

Also present: Barry Drinkwater, Chairman – Uttlesford Licensed Operators Association; Paul Gwilliams, 24 x 7.

LIC46.1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

**LIC46.2 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE
DRIVER'S LICENCE**

Members considered a report by the Enforcement Officer in relation to a private hire/hackney carriage driver's licence held by Peter McKelvey.

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

The Licensing Officer presented the report, detailing the fact that a driver check completed on 2 December 2016 showed that Mr McKelvey had received five penalty points on his licence for a CD10 offence (driving without due care and attention). He had been convicted on 17 June 2016. Mr McKelvey completed his application form for a private hire/hackney carriage driver's licence on 11 November 2015, and the offence had taken place four days later. He had not notified the Council of this pending prosecution in that period. Mr McKelvey was interviewed (not under caution) on 6 January 2017, by the Licensing lead officer and Enforcement Lead Officer along with his contract manager from 24x7 Limited. He had stated that the incident had occurred in Milton Keynes on the Wellingborough roundabout in a 30mph zone when he was in collision with another car. He was unable to recall exactly what happened and while disputing that he was at fault, he was advised by his legal representative to accept the blame for the incident, stating "someone had to take the blame." He was aware five points had been placed on his licence and he was fined £260. He did not attend Court and his contact manager had offered the opinion that the matter had been dealt with via Northampton Magistrates Court. The meeting had been adjourned to get further information from Northampton Court Service.

On 10 January 2017, a member of the Licensing department made enquiries with Northamptonshire Magistrates Court Service who provided a memorandum of conviction for Mr McKelvey dated 17 June 2016. The memorandum reported that Mr McKelvey pleaded guilty to the offence of driving without due care and attention in his absence. The situation was that he was driving on London Road, Wellingborough on 15 November 2015, and was witnessed drifting over into the oncoming traffic's carriageway and caused a collision with another vehicle. The other vehicle was written off and the driver suffered slight whiplash. In addition to receiving five penalty points Mr McKelvey was fined £165, ordered to pay a victim surcharge of £20 and costs of £85.

In March 2014, the Rehabilitation of Offenders Act 1974 was amended to lower the time periods before a licence became spent. Previously when a fine was issued, it was spent after five years but now it was one year. As Mr McKelvey had been convicted on 17 June 2016, the matter was not spent. Therefore, Mr McKelvey fell below licensing standard 7: 'no other criminal convictions which are not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974.'

Mr McKelvey did not meet licensing standards as he had an unspent conviction; this was in addition to his breach of conditions for which he had yet to be sanctioned. Therefore the matter now appeared before members to consider whether Mr McKelvey remained a fit and proper person to hold a licence.

The Chairman invited Mr McKelvey to ask questions about the report. Mr McKelvey said his only comment was that the incident did not happen in Milton Keynes, but was on London Road, in Wellingborough. Otherwise the report was accurate.

There being no members' questions, the Chairman asked Mr McKelvey to put his case.

Mr McKelvey said he did not dispute the majority of the facts, and proceeded to give his account of the incident.

He said his barrister had advised him to plead guilty to the offence, but he now regretted doing so, due to the impact on his family as his wife had been injured. He admitted he was wrong not to tell the Council, and was truly sorry.

Paul Gwilliams as Contract Manager for Mr McKelvey's employer, 24 x 7, said as a manager, the fact that drivers often signed papers without reading them had focussed his mind on the need to do so. He felt he should take some of the blame.

Councillor Hicks said he would have thought that by this time 24 x 7 would have had in place a system for prompting drivers to report such matters to the Council. It was worrying that the company had not been doing so as a matter of routine.

The Enforcement Officer said the need to report to the Council within 7 days of an offence being committed was communicated by licensing officers to the

operators, and had been publicised in Taxi Chat so the company should have been aware and should have ensured its drivers were made aware.

Paul Gwilliam said he was new to the job and had not had any such information disseminated to him.

Councillor Barker asked whether Mr McKelvey had another job.

Mr McKelvey said he was retired.

The Committee withdrew at 2.30pm to determine the application.

At 2.50pm the Committee returned to give its decision.

DECISION

MR PETER MCKELVEY

The application before the Panel today is for the revocation of Mr McKelvey's joint private hire/hackney carriage licence in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. This licence was granted on 17th December 2015 and is due to expire on 30th November 2018. He drives for 24 x 7 Ltd on a Northamptonshire school contract.

On 2nd December 2016 a routine DVLA check revealed Mr McKelvey had received five penalty points on his licence for a CD10 offence (driving without due care and attention) on 15th November 2015. He was convicted by Northampton Magistrates on 17th June 2016, receiving five penalty points, a fine of £165, and being ordered to pay a victim surcharge and costs. Enquiries revealed that he had been involved in a collision on London Road, Wellingborough. This incident took place four days after Mr McKelvey had completed his licence application but nevertheless he did not at any time notify the Council of the matter.

Condition 18c of the Council's Driver Conditions requires drivers to notify the Council within seven days of the date thereof of a conviction, caution or fixed penalty notice. Mr McKelvey failed to do so, and he further signed a declaration dated 14 January 2016 stating he would abide by the conditions of the licence. No decision has as yet been made regarding this omission.

Since the conviction is dated 17th June 2016 Mr McKelvey does not have the protection of the Rehabilitation of Offenders Act 1974 as amended. He therefore falls below Licensing Standard 7, which states:-

“...no other criminal convictions which are not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974”

The rehabilitation period for a fine is one year.

Having heard from Mr McKelvey and his manager Paul Gwilliams, we understand that this accident led to members of Mr McKelvey's family suffering injuries. As to the failure to notify UDC, Mr Gwilliams on behalf of 24x7 Ltd accepted full responsibility for the training failures leading to this, which are currently being addressed.

Mr McKelvey is extremely sorry for what has happened.

We regard these matters as being serious but in the light of Mr McKelvey's contrition and the admissions of his employers, we do not feel it appropriate to revoke Mr McKelvey's licences. However, we do feel that the incident should attract some penalty and accordingly we suspend Mr McKelvey's licences for a period of 14 days under S61(b) of the 1976 Act.

There is a right of appeal against this decision and Mr McKelvey will receive a letter from the Legal Department explaining this.

LIC46.3

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.

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (Agenda item 4)

The Driver and his solicitor, Stuart Cooper, were present for this item.

The Chairman introduced all Members and explained the process.

Members considered a report by the Enforcement Officer seeking consideration of suspension or revocation of a joint private hire/hackney carriage driver's licence.

At the beginning of January 2017, the Council had received a report that the licence of an Asian man fitting the Driver's description and who was working for Stansted Airport Cars had been revoked by East Herts District Council in 2016, for a sexual offence. As a result of this report, the Council's Enforcement Officers had sent a Data Protection Act request to East Herts District Council, requesting details of the revocation. It transpired that East Herts District Council had revoked the Driver's licence after taking into consideration the findings of a Data Protection Act request received from Hertfordshire Police and a subsequent interview under caution. At this time, East Herts District Council were notified that Hertfordshire Police had decided to take no further action in relation to the allegation but due to the serious manner of the alleged offence, the District Council were of the opinion that the Driver was not a fit and proper person; and that his licence should be revoked immediately in the interests of public safety.

Members were informed of incident details taken from the internal memorandum of the East Herts Licensing Enforcement Officer to the East Herts Head of Service and Chair of Licensing Committee, as summarised in the report. As a result of a concern about the fitness and propriety of the Driver, a Data Protection Act request was sent to Hertfordshire Constabulary asking for details of an alleged offence and the investigation. Details were supplied to East Herts District Council regarding an allegation by a female complainant of kidnap and rape during the early hours of 07 May 2016, when she took a taxi from a nightclub in Bishops Stortford town centre. The Driver was arrested on suspicion of kidnap and rape on 10 May 2016. On 13 May 2016 the female complainant picked the Driver from a VIPER (Video Identification Parade Electronic Recoding) straight away. However on 6 November 2016, the police took the decision to take no further action with regards to this allegation as they had no confirmed account from the complainant and the Driver had responded with 'no comment' to all questions during interviews. The police added that the Driver currently remained on bail for another offence as during the search of a lock up used by the Driver over £50,000 in cash was seized for which he was arrested.

Members were reminded that when the police proceed with a criminal matter they were trying to prove an offence 'beyond all reasonable doubt.' However in relation to licensing, the standard of proof was 'on the balance of probabilities. The onus was upon the licence holder to show that they remained fit and

proper. Members were informed it was understood that the Driver was appealing the revocation by East Herts District Council and a preliminary Court hearing was due on 06 February 2017.

On 19 January 2017, the Principal Environmental Health Officer - Protection suspended the Driver's licence with immediate effect in the interests of public safety. The suspension would last until the date of the committee hearing. On 29 December 2016, the Driver had telephoned the Licensing Officer to notify her that he had moved address. He did not at any point in that conversation tell the officer about the police investigation or revocation of his licence by East Herts District Council. The Driver was offered the chance to attend a meeting with the Principal Environmental Health Officer – Protection and an Enforcement Officer at 1pm on Friday 20 January 2017, to discuss the matters at hand. He initially agreed to come in but had since declined the meeting as he wanted to seek legal advice. The Driver confirmed within his e-mail correspondence that he was no longer on bail for any offence. The Driver did not currently meet licensing standards as he had had a private hire/hackney carriage licence revoked within in the last three years. He had also breached his conditions of licence in not notifying Uttlesford District Council of the investigations being carried out into his activities.

At the time that this report had been prepared, the Council was unaware of the details concerning the police investigation into the other offence where they found the £50,000 in cash. The matter had appeared before members to consider whether the driver remained a fit and proper person to hold a licence.

The Chairman asked the Driver to comment on the report.

The Driver confirmed he had received a copy of the report, and Mr Cooper asked questions as follows.

He asked what information had been provided in relation to the Data Protection request referred to in the report. The Enforcement Officer confirmed this comprised the information provided by the police. Mr Cooper asked further questions about the response from the police regarding why they had not proceeded with a prosecution. The Enforcement Officer said the reason was given that the evidence was insufficient to continue the investigation.

Mr Cooper asked for confirmation that the licensing policy supplied was the current version. The Enforcement Officer said it was and explained that when it was last changed, due process had been followed, including consultation. He said all drivers and operators would have been informed at the time.

In response to a question regarding whether the Driver would have seen the condition regarding a requirement that any investigation should be notified to the Council, the Enforcement Officer said every licence had the conditions attached, and that the Driver on signing would have received a receipt.

The Driver was invited to ask questions, but said he had none.

Mr Cooper was invited to make a statement on behalf of the Driver. He said he accepted this was not a trial, and the test which the Committee had to consider was different to that of the criminal courts, but members should treat with suspicion evidence not supported by a police investigation. The Driver was innocent until proven guilty and was a fit and proper person.

There was nothing out of the ordinary with a person making no comment in response to police questioning about an allegation, as very often a lawyer would advise a client not to say much. The Driver was a man of good character, he had no issues with driving with this authority, he had been advised by his lawyer about his right to silence and he should not be criticised for it. The Driver had however made a short statement to the Police, and had stated there had been no inappropriate contact with the complainant. He had been arrested for kidnap but had not been prosecuted for that offence. Although forensic samples had been taken, no evidence had been produced, which would indicate prosecutors were not satisfied there was a realistic prospect of conviction. Regarding monies found during the Police search at his property, the Driver had given an innocent explanation. The test for this committee was the lower civil burden of proof. Subsequently the Driver had attended an interview with East Hertfordshire licensing authority, and had given a full account. The Driver could be forgiven for thinking by making a full statement to one local authority he had let all relevant authorities know the circumstances. There must be a presumption in his favour that he had not committed any crime. He had not remembered the conditions of his licence, and he remained a fit and proper person.

The Enforcement Officer asked various questions, to seek information on when the Driver had started working for his current employer. The Driver said he had started in January. Prior to that, he had worked as a hackney carriage driver. The Enforcement Officer asked why the Driver had not given his badges back to both authorities. The Driver said he had not been aware he was obliged to do so.

In response to a question regarding the monies found at the property of the Driver, Mr Cooper said there was no allegation of wrongdoing.

The Chairman invited the Driver to ask questions; the Driver said he had none.

Councillor Barker asked when Uttlesford licensing authority had issued the Driver with his licence. Officers stated the first licence had been issued in 2008.

Councillor Barker said the Driver had stated he had only started working for his employer in January 2015.

Mr Cooper said the Driver had been prevented by bail conditions from driving; he had chosen to use the East Hertfordshire licence prior to his arrest. After bail, he had resumed using the Uttlesford licence.

Councillor Barker asked whether there was evidence that between May and November 2016 the driver had used the licence.

The Enforcement Officer said there was no such evidence. Mr Cooper said there had been no suggestion that the Driver was driving on Uttlesford plates once the East Hertfordshire plates had been relinquished.

Following further questioning by Members regarding the alleged circumstances of the complaint, the Chairman invited Mr Cooper to sum up on behalf of his client.

Mr Cooper said the only failure on his client's part was to notify the local authority; there was a question as to whether he had complied with that duty as he had informed one of the two local authorities. The Driver had done everything he could to say he was a fit and proper person, and no information had been submitted by the Police. The complainant's account was not confirmed. Mr Cooper respectfully asked Members to find the Driver a fit and proper person.

At 4.15pm the Committee withdrew to determine the report. At 4.45pm the Committee returned 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 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 has held a licence in Uttlesford since June 2008. He currently drives for Stansted Airport Cars.

On 29 December 2016, the Driver telephoned the Licensing Officer to notify them that he had moved address. He did not at any point in that conversation tell the officer about the matters in respect of which he appears before us today, namely the Hertfordshire Police investigations, or the revocation of his licence by East Herts District Council.

At the beginning of January 2017, the Council received a report that an Asian man fitting the Driver's description and who was working for Stansted Airport Cars had had his licences revoked by East Herts District Council in 2016, for a sexual offence. As a result of this report, on 03 January 2017 a Data Protection Act request was sent to East Herts District Council, requesting details. On 10 January 2017 the Senior Specialist Licensing Officer at East Herts District

Council confirmed that the Driver had been licensed with them, but that his licence had been revoked with immediate effect on 11 November 2016. It was subsequently confirmed the revocation was effective as of 2nd December 2016. This decision is subject to appeal, and it is understood a preliminary hearing is to take place on 6th February.

East Herts District Council revoked the Driver's licence after consultation with Hertfordshire Police, a Data Protection Act request to them for further information, and a subsequent interview under caution. Hertfordshire Police ultimately decided to take no further action in relation to the allegation but due to the serious nature of the alleged offence, the District Council were of the opinion that the Driver was not a fit and proper person; and that his licence should be revoked immediately in the interests of public safety.

The report before us, a copy of which has been provided to the Driver, contains information taken from documentation supplied by East Herts District Council and via them, Hertfordshire Police. All this information has been supplied to Uttlesford District Council by officials of those two bodies acting under a duty and the information itself is contained within records held by those two bodies.

We quote:-

- On 17 August 2016, the Driver contacted the [East Herts]taxi office regarding a reminder sent to him for his expired vehicle insurance. During the subsequent conversation the Driver confirmed that he would not be renewing his vehicle insurance due to a bail condition not to work as a taxi driver.
- Enquiries were made with the police and on 19 August 2016 we were informed that the Driver had been arrested and bailed following an allegation of rape of a female. The police had seized the roof light and plate from the Driver's hackney carriage vehicle and imposed a bail condition stating: Not to act in the capacity of a taxi driver, licensed or unlicensed including private hire and the carrying of passengers for reward.
- As the roof light and plate remain the property of the Council they were requested from the police who provided them. The Driver voluntarily gave the licensing

section his driver's badges to hold until the matter was resolved. Neither the vehicle nor drivers' licences were suspended or revoked at this time as East Herts District Council were satisfied that the Driver was not working as a taxi driver.

- On 06 November 2016, the police confirmed that the extensive and complex investigation into the allegation had been finalised and that there was insufficient evidence to charge the Driver with any offence. In this email the police stated that:
Whilst at this time we cannot prove his involvement in the offence, we have confirmed the victim was picked up by him as a taxi from the club and a journey that should have taken 5 minutes actually took 40 minutes, The Driver declined to comment during his police interview and would not account for this fact amongst others.

And that:

The Driver is still on bail for a separate serious matter with Herts Police that is not a sexual matter.

- Concerned about the fitness and propriety of the Driver a Data Protection Act request was sent to Hertfordshire Constabulary asking for details of the alleged offence and the investigation. The following details were supplied to East Herts District Council.
- In the early hours of 07 May 2016, the female complainant took a taxi from a nightclub in Bishop's Stortford town centre, she was alone at the time and heavily intoxicated. She lives 5 minutes away from the scene of collection. The following morning she awoke at home and had a feeling she had been taken to a strange address and someone had had sex with her, she spoke to her friends and relatives and worked out that the 5 minute journey had taken 40 minutes (from collection at the club to her arriving home). She described the layout of a flat and remembers an Asian man leading her down some stairs. She had arrived home with the same amount of money she had on her meaning that the taxi had not been paid for.
- The length of time that the journey took was corroborated from timed CCTV at the venue the female left and from three witnesses who were waiting for her to arrive home.
- CCTV confirmed that during the taxi journey the passenger left the vehicle and used a cash point to withdraw money to pay for the fare. When she arrived home

she still had all of the money that her bank statement shows was withdrawn at this time.

- The police confirmed through CCTV enquiries that the complainant was collected by the vehicle licensed to the Driver.
- The Driver was arrested on suspicion of kidnap and rape on 10 May 2016.
- On 13 May 2016 the female complainant picked the Driver from a VIPER (Video Identification Parade Electronic Recoding) straight away. She stated that she knew it was him the minute he moved his head on the video.

NOTE: A VIPER is a video ID parade which is shown to witnesses replacing the old fashioned line-ups of suspects.

- During interviews the female complainant gave a description of what she could remember about the address where she alleges she was taken. The police state that this was a very similar likeness to the home address of the Driver, even down to the colour of the bed sheets.
- During interviews with the police the Driver answered 'no comment' to all questions.
- On 06 November 2016, the police took the decision to take no further action with regards to this allegation as they had no confirmed account from the complainant and the Driver had responded with 'no comment' to all questions.
- The police did add that the Driver currently remains on bail for another offence as during the search of a lock up used by the Driver over £50,000 in cash was seized for which he was arrested.

On 19 January 2017, the Principal Environmental Health Officer - Protection suspended the Driver's licence with immediate effect in the interests of public safety. The Driver initially agreed to attend a meeting with officers but subsequently declined the meeting as he wanted to seek legal advice. The Driver confirmed within e-mail correspondence that he is no longer on bail for any offence.

However, the Driver no longer meets UDC's Licensing Standards for Drivers as

- a) He has had a private hire/hackney carriage licence revoked within in the last three years (Appendix A para 11), and
- b) He has also breached his conditions of licence in not notifying UDC of the investigations being carried out into his activities (Appendix G para 18d).

We are mindful that when a criminal matter proceeds to trial it must be proved 'beyond all reasonable doubt.' This traditional formula is very often these days replaced by words to the effect that 'you must be so sure as to be certain'. However in relation to licensing, the standard of proof is 'on the balance of probabilities', that is, 'it is more likely than not'. This is the test operated by the CPS in deciding whether or not to prosecute.

However, before this Committee 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 Cooper on behalf of the Driver. We have listened very carefully but sadly matters have arisen from the submissions made before us that leave us with serious unanswered questions.

We do have to be mindful that one of the roles of this Committee is the protection of the public. In particular we are aware that taxi drivers very often transport some of the most vulnerable members of our community, and we are mindful of our responsibilities under the safeguarding legislation. Both allegations against the Driver relate to extremely serious matters and we have had to consider most carefully whether this Committee can place any trust and confidence in him as a licensed driver within the District of Uttlesford. Unfortunately, the answer has to be no.

Accordingly, we have no alternative but to revoke the Driver's licences under S61(b) of the 1976 Act as he is no longer a fit and proper person to hold them.

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

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (Agenda item 5)

The Committee considered a report seeking a suspension for one year of the licence of a Driver who no longer met the medical standards of the licensing standards.

DECISION

The application before the Panel today is for the long term medical suspension or 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. He has been licenced in Uttlesford since April 2013. He drives for 24 x 7 Ltd.

On 13th January 2017 the Driver's wife emailed the Council to advise that her husband had been involved in a RTA. The following day she advised that this was the consequence of a stroke and this was confirmed by Angela Markham of 24 x 7 Ltd on 16th January. Officers subsequently received a copy of a hospital letter confirming the diagnosis as being a Left MCA ischaemic stroke.

Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet

"...Group 2 medical standards as published by the Dept of Transport."

That Guidance states that following a stroke of any description drivers must not drive and must notify the DVLA. They may not drive for a period of one year following a stroke or TIA. Relicensing may then be applied for if certain conditions are met.

As the Driver no longer meets Group 2 medical standards his licence is suspended with immediate effect. The suspension is for a period of one year and may be lifted upon production of the appropriate medical certificate. The Driver has been advised of this by letter dated 19th January.

The decision of the Committee is that the suspension of the Driver's licence is confirmed pending production of the appropriate medical certificate in 2018.

We wish him a speedy recovery.

LIC46.6 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (Agenda item 6)**

The Committee received a report on an application for a private hire/hackney carriage driver's licence.

In the absence of the applicant, the Committee

RESOLVED to defer consideration of the report until the applicant was present, and that character references and a written offer of employment should be produced.

The meeting ended at 5pm.

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

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

Officers in attendance: M Chamberlain (Enforcement Officer), B Ferguson
(Democratic Services Officer), C Nicholson (Solicitor) and A Turner (Licensing
Team Leader).

LIC59 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies were received from Councillors Loughlin and Sell.

LIC60 MINUTES OF PREVIOUS MEETINGS

The minutes of the meetings held on 12 April were received and signed by the
Chairman as a correct record.

LIC61 LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY – REVISED

The Licensing Team Leader presented the report on the revised Statement of
Licensing Policy. Councillor Gerard asked for any significant changes to be
pointed out to members. Members were told that no major changes had been
made but it was required to review and publish the authority's statement of
licensing policy every five years. The Licensing Team leader said if the
recommendations in the report were approved, the Statement would go out to
consultation for a period of 12 weeks. It would then come back to this
committee before going to Full Council for approval and publishing.

RESOLVED to approve the revised Licensing Policy Statement and agree for it
to go out to consultation for a 12 week period and to delegate the Assistant
Director of Housing and Health to approve any minor amendments to the policy
as a result of the consultation.

The meeting ended at 7.40pm.

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 22 JUNE 2017**

Present: Councillor R Chambers (Chairman)
Councillors J Davey and E Hicks

Officers in
attendance: M Chamberlain (Enforcement Officer), T Cobden (Principal
Environmental Health Officer), B Ferguson (Democratic Services
Officer), J Jones (Licensing Officer), C Nicholson (Solicitor), M
Watts (Principal Environmental Health Officer)

Also Present: The applicant in relation to Item 3; the applicant in relation to Item
6.

LIC1 **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.

LIC2 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S
LICENCE – 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 applicant had applied for the grant of a joint private hire/hackney carriage
driver's licence. On the application form it had asked the question 'have you
ever been disqualified from driving or had your licence revoked?' The applicant
answered 'no' to this question. Another question on the application form asked
'have you ever been convicted of any offence (including motoring offences)
including spent and unspent convictions in any Court or received a police
caution?' The applicant also answered 'no' to this question.

As part of the licensing application process, the applicant was required to
undergo an enhanced Disclosure and Barring Service check. This revealed a
conviction for an offence of drink driving. The check also showed another
conviction for an offence of common assault.

The applicant attended an interview under caution on 07 March 2017, for the
alleged offence of making a false statement to obtain a licence under section
57(3) Local Government (Miscellaneous Provisions) Act 1976. The
Enforcement Officer asked him to explain the meaning of caution in his own
words and was satisfied the applicant understood the caution.

The applicant stated he did not believe he had to disclose his previous offences as they had been spent. Furthermore, he did not believe he had to disclose his conviction of common assault as it was not stated on the Basic Disclosure Check which he had based his application on.

A meeting was held between the Enforcement Officer, the Principal Environmental Health Officer and the Interim Head of Legal Services and the decision was taken to prosecute the applicant for the offence of making a false statement to obtain a licence. As the applicant had a pending prosecution, members were told he did not meet the Council's licensing standards for drivers.

The Chairman invited the applicant to comment on the report heard. The applicant said it was a long time since his convictions and, because nothing had shown on the basic DBS check, he thought he did not need to declare them. He concluded by saying he only wanted to work and had no intention of misleading officers.

The Committee withdrew to make its determination.

DECISION

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence.

On his application form he answered no to the question has your licence ever been revoked or been disqualified from driving. He also answered no to the question whether he had been convicted of any offence. However, the DBS enhanced check that came back revealed two convictions, one for drink driving where he was disqualified for driving, and one for common assault.

Following an interview under caution with the applicant; the Principal Environmental Health Officer and the Interim Head of Legal considered that it was appropriate to prosecute the applicant for the offence of making a false statement to obtain a licence, contrary to s57(3) Local Government (Miscellaneous Provisions) Act 1976.

As a result of the pending prosecution, the applicant does not meet licensing standards.

The prosecution is still proceeding at the Magistrates Court, and it is understood that an initial hearing has taken place, where the applicant has pleaded not guilty. A trial is set for October.

It is for members to decide whether the applicant is a fit and proper person to have a licence. The applicant advises that his mistake was genuine and as a result of a misapprehension of the question and the difference between a basic and enhanced DBS check.

It is not for Members to decide whether any offence has been committed, as that is a matter for the Courts to decide beyond reasonable doubt. Members

have to be more certain than not that the applicant is a fit and proper person to hold a licence. Members consider that the applicant's failure to give details of the offences, which were not so long ago that he could not remember them, raises questions about his honesty.

Members do not consider that the failure to disclose the convictions was the result of a genuine mistake. In the circumstances therefore Members are not convinced that the applicant is a fit and proper person to hold a licence and the licence is not granted.

The applicant is advised of his right to appeal the decision by application to the Magistrates Court within 21 days.

He is reminded that he is at liberty to reapply for his licence following the resolution of the trial.

LIC3

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 6

The applicants in relation to Items 4 and 5 had not arrived, so the Committee moved on to Item 6.

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

The Licensing Officer said the applicant had applied to this authority on 10 May 2017 for the grant of a joint private hire/hackney carriage driver's licence to work for Lucketts (a private hire operator licensed by UDC that does school contract work).

The applicant's application form was submitted with a separate sheet listing convictions and was accompanied by an enhanced Disclosure and Barring Service (DBS) certificate dated 16 June 2016 and a statutory declaration. The DBS showed 7 convictions for offences between 29 January 1982 and 20 November 1992. The last conviction on 20 November 1992 was for Theft from Person and resulted in a 4 month period of imprisonment.

Members were told the applicant did not meet the Council's licensing standards as, although the convictions were spent in accordance with the Rehabilitation of Offenders Act 1974, point 5 of the Licensing Standards – Drivers states that an applicant 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 Licensing Officer had carried out an interview with the applicant on Wednesday 10 May 2017. The applicant said he had struggled through school and had a series of convictions between the ages of 16 to 20. There were no convictions from 1985 until the conviction for theft from person in November 1992.

The applicant explained he had struggled with undiagnosed dyslexia throughout his time at school. Around the time he went to prison at the age of 27, his dyslexia was diagnosed and the applicant describes this as a weight being lifted off his shoulders as it explained why he had struggled for years. He said he learnt a lesson through being in prison, it had stopped his pattern of behaviour and he turned his life around. On leaving prison he undertook various training courses. He worked at Aldi and gained qualifications in mentoring and more recently in counselling. He had done a lot of voluntary work, and obtained a PACT (Partnership in Care Training) qualification in wheelchair handling.

The Chairman invited the applicant to comment on the report heard by the Committee. The applicant said he greatly regretted his actions; he felt stupid and had learnt his lesson. He told members that since his conviction he had turned his life around and he had proved he was capable of doing the job, demonstrated by his work in the voluntary sector. In conclusion, the applicant said he wanted to give back to the community and could do so through work.

The Committee withdrew to make its determination.

DECISION

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a number of convictions details of which are set out in the officer's report. The convictions were mainly for offences of dishonesty. In respect of these offences he received a range of punishments including custodial sentences. By virtue of the custodial sentences for offences of dishonesty the applicant does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy. Essentially the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note that the offences were all at the lower end of the scale. In general, the natures of the sentences imposed were not severe. The committee also note that the last offence was 25 years ago and that the applicant has had no convictions of any nature since. The applicant has explained his difficulties with dyslexia and how since his imprisonment he has undertaken training, and responsible employment. In the circumstances, members are satisfied that the applicant is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The applicant will be granted a driver's licence.

LIC4

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 4

The applicant did not arrive for the hearing due to work related matters.

DECISION

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence.

On his application form he answered no to the questions regarding having been disqualified from driving and conviction of any offence. However, the enhanced DBS check revealed a conviction for death by dangerous driving and driving licence disqualification from 1981.

The applicant meets the Council's licensing standards, but as result of his historic offence that was not revealed on application, the Principal Environmental Health Officer wanted the licence application to be considered by members. It is for members to decide whether the applicant is a fit and proper person to have a licence.

However, without the applicant being present to explain members felt unable to make a decision and ask for the matter to be deferred to allow the applicant a final chance to attend.

LIC5

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 5

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

The Committee considered the report of the Enforcement Officer in the applicant's absence.

The applicant held a joint private hire/hackney carriage driver's licence which was due to expire on 31 March 2019. He had been licensed by this Authority on 15 April 2014.

On 23 May 2016, the applicant appeared before a panel of the Council's Licensing and Environmental Health Committee. This was because he had made a false statement on his driver renewal. He had stated he had not received a fixed penalty notice when in fact he had done so. He was issued with a formal caution by the Council for the offence and members of the Committee decided to renew his driver licence.

The Council requires all drivers to have an enhanced Disclosure and Barring Service Check (DBS) when they apply for a licence and every three years after that. The applicant's DBS check expired on 31 March 2017 and he had failed to supply the Council with a new one.

The Council also requires all drivers to have a group 2 medical when they apply for a driver's licence and have a new one every three years subsequently. The applicant's medical expired on 31 March 2017, and he had failed to supply the Council with a new one.

The Licensing team made several attempts to get in touch with the driver by letter and email.

On 24 March 2017, an annual driver check on the applicant revealed two fixed penalty notices that had not been reported to the Council. He had received a SP30 (speeding offence) on 21 June 2016 for which his licence was endorsed with three points. He also received a CU80 offence (using a mobile phone) on 28 October 2016 for which his licence was endorsed with three penalty points. The applicant now had nine penalty points on his driver licence.

Condition 18c of the Council's conditions of drivers licence requires drivers to notify the Council within seven days of any fixed penalty notices on their licence. The applicant had failed to comply with these conditions on two occasions since his attendance at the Licensing Committee on 23rd May 2016. If the applicant had moved address, failure to notify the Council of this was a further breach of condition 18a of his driver's licence.

The applicant therefore was called to appear before members to consider whether he remained a fit and proper person to hold a licence. He had failed to supply the Council with a new enhanced DBS check and medical, and appeared to be in breach of his licensing conditions.

The Committee withdrew to make its determination.

DECISION

The applicant holds a current joint private hire/ hackney carriage driver's licence. A condition of that licence is that he notifies the Council within 7 days of a driving offence. Annual due diligence checks have revealed that the applicant has had two fixed penalty notices which have not been notified.

In addition the applicant has failed to provide his three yearly medical and DBS check as is required by the Council's policy. The applicant has not responded to the requests or provided any explanation.

The breach of the conditions, and the failure to provide up to date checks leads the Council to consider whether the applicant remains a fit and proper person. S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

In this case, Members note that the applicant has been before this committee before, only 12 months ago, for the same issue of failure to notify, and it has not had any deterrent effect. With the addition of the failure to provide an up to date medical or DBC check as required by Council policy, Members are not satisfied that the applicant is a fit and proper person, and therefore revoke his licence.

The applicant is advised that he has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

LIC68

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 7

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

The Committee considered the report of the Enforcement Officer in the applicant's absence.

The applicant held a joint private hire/hackney carriage driver's licence which was due to expire on 30 April 2019. She received a license by this Authority on 29 May 2014.

The applicant was the former sole director of SHFT Limited which held a private hire operator licence with Uttlesford District Council. This private hire operator licence was revoked by the Licensing and Environmental Health Committee on 13 November 2014.

On 29 April 2015, the applicant stated she intended to work for 24x7 Limited at Stansted Airport. However, subsequent enquiries by the licensing team with 24x7 Limited confirmed that they were not employing the applicant and she was unknown to them. The applicant had not been linked to a private hire operator since 22 May 2015.

The applicant had failed to collect her driver's badge or licence that was issued to her in 2015 and 2016 and consequently failed to sign to say she would abide by her conditions of licence.

The Council requires all drivers to have an enhanced Disclosure and Barring Service Check (DBS) when they apply for a licence and every three years after that. The applicant's DBS check expired on 30 April 2017, and despite having a reminder sent out, she had failed to provide the Council with a new one.

The Council also requires all drivers to have a group 2 medical when they apply for a driver's licence and are required to provide a new valid group 2 medical every three years. The applicant's medical expired on 30 April 2017 and she had failed to provide the Council with a new one.

Attempts were made by the Licensing team to contact the applicant by letter; however none of these letters received a reply.

The applicant therefore was called to appear before members to consider whether she remained a fit and proper person to hold a licence. She had failed to supply the Council with a new enhanced DBS check and medical. She had also failed to collect her last two licences and state that she would abide by the conditions of licence.

The Committee withdrew to make its determination.

DECISION

The applicant holds a current joint private hire/ hackney carriage driver's licence. She has failed to collect her last two annually issued licences and to provide her three yearly medical and DBS check as is required by the Council's policy. The applicant has not contacted the Council or provided any explanation for the failure. This failure to provide up to date checks leads the Council to consider whether the applicant remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

In this case, Members note that the applicant has not collected her last two licences, so if she is driving, is doing so without her badge and licence, and with the failure to provide an up to date medical or DBS check as required by Council policy, Members are not satisfied that the applicant is a fit and proper person, and therefore revoke her licence.

The applicant is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period

LIC8

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 8

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

The Committee considered the report of the Enforcement Officer in the applicant's absence.

The applicant held a joint private hire/hackney carriage driver's licence which was due to expire on 30 April 2019. He first received a licence with this Authority on 22 May 2014.

The applicant was until 15 April 2017, working for an Uttlesford private hire operator called 'I Love Meet and Greet'. He had left the company and had not notified the Council that he was working for another private hire operator.

The Council requires all drivers to have an enhanced Disclosure and Barring Service Check (DBS) when they apply for a licence and every three years after that. The applicant's DBS check expired on 30 April 2017, and despite a reminder sent out on approximately 8 weeks prior to its expiry, he had failed to provide the Council with a new one.

The Council also requires all drivers to have a group 2 medical when they apply for a driver's licence and are required to provide a new valid group 2 medical every three years. The applicant's medical expired on 30 April 2017, and had failed to provide the Council with a new one.

Several attempts were made by the Licensing team to contact the driver by letter and email; however none of these received a reply.

The applicant therefore was called to appear before members to consider whether he remained a fit and proper person to hold a licence as he had failed to supply the Council with a new enhanced DBS check and medical.

The Committee withdrew to make its determination.

DECISION

The applicant holds a current joint private hire/ hackney carriage driver's licence.

He has failed to provide his three yearly medical and DBS check as is required by the Council's policy. He has not contacted the Council or provided any explanation.

This failure to provide up to date checks leads the Council to consider whether the applicant remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

In this case, Members consider that with the failure to provide an up to date medical or DBS check as required by Council policy, Members are not satisfied that the applicant is a fit and proper person, and therefore revoke his licence.

The applicant is advised that he has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

The meeting ended at 11.00am.

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 31 JULY 2017**

Present: Councillor R Chambers (Chairman)
Councillors J Davey, A Gerard and E Hicks

Officers in
attendance: A Bochel (Democratic Services Officer), M Chamberlain
(Enforcement Officer), C Nicholson (Solicitor), A Turner (Licensing
Team Leader).

Also Present: N Dermott (Essex Police), V Powell (Essex Police), the applicant
in relation to Item 2, Mr Sutherland (Solicitor for the applicant in
relation to Item 2), the applicant in relation to Item 4.

LIC9 **APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN
INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR**

The application in relation to Item 2 was withdrawn by Mr Sutherland.

LIC10 **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.

LIC11 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S
LICENCE**

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

The applicant had made an application to this Authority for a private
hire/hackney carriage driver's licence. On the application form it asked the
question 'have you ever been disqualified from driving or had your licence
revoked' and the applicant answered this 'no.' Another question on the
application form asked 'have you ever been convicted of any offence (including
motoring offences) including spent and unspent convictions in any Court or
received a police caution.' The applicant answered this question 'no.'

As part of the licensing application process for applicants, the applicant was
required to undergo an enhanced Disclosure and Barring Service check. This
revealed that he was convicted in 1981 for the offence of causing death by
reckless driving. He was imprisoned for two months which was wholly
suspended for two years. He was fined £250 or 28 days imprisonment. He was

ordered to pay costs of £100, a legal aid contribution of £100 and disqualified from driving for three years.

Making a false statement to obtain a licence is an offence under section 57(3) Local Government (Miscellaneous Provisions) Act 1976. The application had come before members for them to consider whether to grant or refuse his licence because of the nature of the spent conviction which was not disclosed upon application

The Chairman asked the applicant whether he would like to say anything about his case.

The applicant apologised for the trouble he had caused. The accident had been a long time ago, and he had since had a good job for 36 years, and had had to deal with the public as part of this. However, he could not do such a physical job anymore. He had been working part time for another company as a delivery driver. He had a clean licence and had no endorsements in the following 36 years.

In response to a question from the Enforcement Officer, the applicant said he would take his medical after the result of the hearing.

In response to a question by Cllr Gerard, the applicant gave details of his most recent permanent employment which had been with the same company for 36 years and details of his most recent temporary delivery job

At 10:25, the committee withdrew to make its determination.

At 10:40, the committee returned.

DECISION

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence.

On his application form he answered no to the questions regarding having been disqualified from driving and conviction of any offence. However, the enhanced DBS check revealed a conviction for death by dangerous driving and 3 year driving licence disqualification from 1981.

The applicant meets the Council's licensing standards, but as result of his historic offence that was not revealed on application, the Principal Environmental Health Officer wanted the licence application to be considered by members. It is for members to decide whether the applicant is a fit and proper person to have a licence. The applicant advises that his failure to include details of the conviction on the application form was partly as a result of a misapprehension of the question and whether spent convictions needed to be revealed, and partly out of embarrassment.

The applicant has explained the circumstances of the original offence, and members note there was no drink involved, and that he took the blame, the custodial sentence was suspended and the offence occurred over 35 years ago. It is also noted that no offences have been committed since then, and that the applicant has held responsible jobs including a HGV driver and with the electricity board for 36 years without incident.

In the circumstances, members are satisfied that the applicant is a fit and proper person and he will be granted a driver's licence, subject to satisfactory outcome from his group 2 medical.

LIC 12

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

The driver in relation to Item 5 had surrendered his license, and therefore there was no report to consider.

The meeting ended at 10:50am.

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 29 AUGUST 2017**

Present: Councillor R Chambers (Chairman)
Councillors J Davey, T Goddard and E Hicks

Officers in attendance: M Chamberlain (Enforcement Officer),
B Ferguson (Democratic Services Officer),
J Jones (Licensing Officer), E Smith (Solicitor)

Also Present: The applicants in relation to Items 7 and 8.

LIC9

**DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S
LICENCE (AGENDA ITEM 2)**

Officers reported the reason for the failure of Mr Bakewell to attend the meeting was due to him having been sentenced to prison for five years at Chelmsford Crown Court on 26 June 2017 after admitting tax fraud.

The Committee considered the Enforcement Officer's report in Mr Bakewell's absence, seeking a determination as to whether the driver was a fit and proper person to retain a licence.

Members withdrew to deliberate on a decision.

DECISION

The application before the Panel today is for the revocation of Mr Bakewell's joint private hire/hackney carriage licence dated 1st January 2016, in accordance with S61 (1) (a)(i) and (b) Local Government (Miscellaneous Provisions) Act 1976.- the (a)(i) he has been convicted on an offence involving dishonesty, indecency or violence and (b) any other reasonable cause. The three year licence is due to expire on 31st December 2018 and Mr Bakewell's last driving role was with 24 x 7Ltd of Stansted working on school contracts.

On 5th July 2017 the Licensing Department received notification from Mr Mahoney of 24 x 7 Ltd that on 26th June 2017 Mr Bakewell had been sentenced to five years imprisonment for tax fraud. A link to the Essex Live website revealed that Mr Bakewell had apparently set himself up as a tax advisor and instructed a number of clients how to fraudulently claim £1.5 million in tax repayments. HMRC led the investigation and discovered that Mr Bakewell had managed to retain around £300,000 from his clients' fraudulent claims. He had not registered with HMRC as a legal tax agent nor did he either complete due diligence checks on his clients or keep records as required by the Money Laundering Regulations. Mr Bakewell was jailed for five years at Chelmsford Crown Court following a guilty plea.

Paragraph 5 of Appendix A of the Council's Licensing Standards for Drivers states 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 sentence) was imposed"

Furthermore, paragraph 18(d) of Appendix G of the Licensing Standards requires drivers to notify UDC in writing of:-

"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".

We have had to consider most carefully whether this Committee can place any trust and confidence in Mr Bakewell as a licensed driver within the District of Uttlesford. Unfortunately, the answer has to be no.

Accordingly, we have no alternative but to revoke Mr Bakewell's licences under S61(a)(i) and (b) of the 1976 Act as he is no longer a fit and proper person to hold them.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licenses remain in force. Were Mr Bakewell not serving a custodial sentence we would have to consider whether it was in the interests of public safety that the revocation was to be of immediate effect.

LIC10 **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.

LIC11 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (AGENDA ITEM 4)**

Members were informed the driver had contacted the Enforcement Officer to make him aware he would be unable to attend the hearing as he had been away and had not known the hearing was taking place.

The Committee considered the report of the Enforcement Officer in the driver's absence, seeking a determination as to whether the driver was a fit and proper person to retain a licence.

Members withdrew to deliberate on a decision.

DECISION

The driver holds a current joint private hire/ hackney carriage driver's licence. He had been called before members for them to consider whether he remained a fit and proper person to retain a licence following the 10 penalty points endorsed on his driving licence for offences committed within the last three years. He had also breached his conditions of licence by failing to notify the Council of the fixed penalty notice within seven days, for which he had yet to be sanctioned.

However, without the driver being present to explain, members felt unable to make a decision and asked for the matter to be deferred to allow the applicant a final chance to attend.

LIC12

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (AGENDA ITEM 5)

Members were informed the driver had given no notice that he would attend and had not arrived for the hearing.

The Committee considered the Enforcement Officer's report in the driver's absence, seeking a determination as to whether the driver was a fit and proper person to retain a licence.

Members withdrew to deliberate on a decision.

DECISION

The application before the Panel today is for the suspension or revocation of the applicant's joint private hire/hackney carriage licence dated 29th December 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 November 2019 and has never been collected from the Council's offices.

In his application the driver stated that he would be working for Stansted Travel Services, but they have no knowledge of him.

Uttlesford licensed drivers are required to have an enhanced Disclosure and Barring Service (DBS) check completed when they apply for a licence. They can obtain a licence if upon application they produce an enhanced DBS check that is less than 18 months old and no offences are recorded alongside a statutory declaration. The driver would then still need to undergo a new enhanced DBS check and submit it to the Council after their licence had been granted. The driver applied for a licence, the statutory declaration was dated 06 December 2016. The DBS check was dated 05 August 2016.

The Licensing Officer tracked the driver's enhanced DBS check which showed that it was sent to him on 24 February 2017. The Officer emailed him on 03

March 2017, requesting it to be sent to her but she did not receive a reply. On 27 June 2017, the matter was referred to the Enforcement Officer who sent a letter to the driver in the first class post. This letter reflected the Licensing Officer's email correspondence and warned him that if he failed to submit the DBS check by 11 July 2017, then the matter would be referred to the Licensing and Environmental Health Committee.

The driver made contact with the Council on 19 July 2017, when he confirmed that he still wanted his licence and would deliver his DBS to the Council by the end of the week. However, he failed to present the DBS to the Council and has made no further attempt to contact the Council with an explanation for this.

The driver has not attended before us today and there has been no further contact with the Council. We have had to consider most carefully whether this Committee can place any trust and confidence in him as a licensed driver within the District of Uttlesford. Unfortunately, the answer has to be no, and we therefore revoke the applicant's licences under S61-(1)(b) of the 1976 Act as he is no longer a fit and proper person to hold them.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licences remain in force. Were the licences not still in the Council's possession we would have to consider whether it was in the interests of public safety that the revocation was to be of immediate effect.

LIC13

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (AGENDA ITEM 6)

Members were informed that the driver had given no notice that he would attend and had not arrived for the hearing.

The Committee considered the Enforcement Officer's report in the driver's absence, seeking a determination as to whether the driver was a fit and proper person to retain a licence.

In response to a matter arising in the report, the Chairman asked why the Police were unwilling to provide details on the DVLA offences when previously they had shared such information with Enforcement officers. He asked the solicitor to draft a letter to the relevant police authority to request an answer.

Members withdrew to deliberate on a decision.

DECISION

The driver before the Panel today is for the revocation of a joint private hire/hackney carriage licence in accordance with S61- (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He was first licensed on 24th August 2016 and his current licence expires on 31st July 2019. It was understood that he was working for Lockett's of Watford on school

contract work but they informed us on 25th July that the driver had left their employment on 14th February of this year.

On 3rd July 2017 the routine annual check carried out on all licenced drivers revealed a new conviction that had not been notified to the Council. This was a CD10 (driving without due care and attention) offence taking place on 9th December 2016 for which the driver was duly convicted on 31st May 2019, receiving nine penalty points upon his licence.

The Police were on this occasion unwilling to provide further information, The Enforcement Officer therefore carried out an internet search for the driver and found an article from the Watford Observer dated 17 June 2017, which listed recent court cases. According to the article, the driver was given fines and costs of £569 in addition to the nine penalty points on his licence. The Enforcement Officer wrote to the driver on 26 July 2017, requesting a meeting to discuss the matter. The letter asked the applicant to contact the Council to arrange the meeting within seven days. The letter also informed the driver that failing to contact the Council would result in the matter being referred to the Licensing and Environmental Health Committee. The driver has failed to contact the Enforcement Officer.

Since the driver's licence has been endorsed with nine points in respect of a single offence he no longer meets 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"

Furthermore, condition 18c of Appendix G further requires drivers to notify UDC in writing of:-

"Any convictions, cautions, or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice"

We note that the driver has fallen below the Council's licensing standards in two respects, and he has also failed to co-operate with the Licensing Department. These are serious matters, and the primary function of this Committee is of course the protection of the public.

However, driving without due care and attention is a very serious matter and he has both nine points on his licence and received a substantial fine. We cannot overlook this, and accordingly we have no alternative but to revoke the applicant joint private hire/hackney carriage licences under S61(1)(b) of the 1976 Act as he is not a fit and proper person to hold them.

There is a right of appeal to the magistrate's court within 21 days against this decision and during this time period the licences remain in force. However, in cases where we consider it necessary for the protection of the public, we can

revoke the licences with immediate effect. Given the seriousness of the offence we do so in this case under section 61(2B) Local Government (Miscellaneous Provisions) Act 1976.

LIC14

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (AGENDA ITEM 8)

The Chairman agreed to move Item 8 forward in proceedings as the applicant had travelled from Hampshire.

The procedure for determining private hire drivers' licences was read and the panel was introduced to the applicant.

The Committee considered the report of the Licensing Officer.

At the invitation of the Chairman to make a statement, the applicant said that whilst the offence was a long time ago, he had learnt from his mistake. He had held positions of responsibility in the past, including as a teaching assistant, demonstrating that he would be a suitable driver for school contract work if granted a licence.

Members withdrew to deliberate on a decision.

DECISION

The driver's application dated 26th July 2017 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from 24 x 7 (Hants) doing school contract work.

In completing the application form, the applicant disclosed a number of offences. The enhanced DBS check dated 17th July 2017, confirmed his disclosures, and revealed the following matters:-

- 1) 2.5.73 – Assault Occasioning ABH x 1, Breach of the Peace – Godalming Juvenile Court - £10.00 fine, 12 month bind over.
- 2) 7.12.76 – Police Assault x 1, Assault Occasioning ABH x 1 – Surbiton Crown Court – 3 months imprisonment to run concurrently/£100 x 2 fine or 2 months imprisonment in default.

He also disclosed a 1993 motoring offence not included upon the DBS.

As a consequence, the applicant 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.”

Though he 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 the course of a telephone interview with the Licensing Officer on 28th July 2017, the applicant stated that the 1976 offences had taken place when he was just 18 years old. He was part of a group that had been ejected from a disco, his brother had publicly rebuked him, and other people had then intervened as a result of which the brothers and one other had been arrested, spent the night at Feltham YOI, and had been produced at Court the following morning.

He has not been in trouble since and has held a number of positions of trust, his last job being that of a teaching assistant, from which he had to take medical retirement.

Unfortunately in aggregate, these are serious matters and although they took place many years ago, the Rehabilitation of Offenders Act 1974 does not apply to proceedings before this Committee. Our primary role is protection of the public.

We have listened to what the applicant has to say and we have read the material provided most carefully. We believe that he has turned his life around and accepts responsibility for his previous actions. We also note that his last job was working with children.

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

LIC15

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (AGENDA ITEM 7)

The procedure for determining private hire drivers' licences was read and the panel was introduced to the applicant relating to Item 7.

The Committee considered the report of the Licensing Officer.

At the invitation of the Chairman to make a statement, the applicant said he was shocked to hear of his own past, even though it was many years ago. In response to a question from Councillor Hicks, the applicant confirmed that the 6 points accrued on his licence in 2016 was due to the single insurance offence outlined in the report.

The Chairman asked why he wanted to move to Saffron Walden. The applicant said he wanted a fresh start in a new town and he had a job waiting for him in Saffron Walden if he was granted a licence. Due to ill health he could no longer continue working as a roof tiler, although his condition would have no adverse impact on his driving ability.

Members withdrew to deliberate on a decision.

DECISION

The driver's application dated 2nd August 2017 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from Abel Cars of Saffron Walden.

Enclosed with the application was an enhanced DBS check dated 8th July 2016, bespoken by St Edmundsbury Borough Council for the purposes of applying for private hire/hackney carriage drivers licences.

It revealed that the applicant does not meet paragraph 5 Appendix A 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 applicant's Enhanced DBS Check revealed the following matters:-

- 1) 24.7.81 – Burglary and Theft x 3 – Bury St Edmunds Crown Court – Borstal Training
- 2) 8.12.82 – Theft x 5 – Haverhill Magistrates – fines totalling £120 and six months disqualification from driving.
- 3) 23.3.84 – Burglary and Theft x 3, TWOC x 1 – Bury St Edmunds Magistrates – 18 months Youth Custody to run concurrently, plus 18 months disqualification from driving.
- 4) 7.11.86 – Burglary and Theft – Bury St Edmunds Crown Court – 18 months Youth Custody.
- 5) 27.8.86 – Burglary and Theft – Haverhill Magistrates – 2 years probation plus £45 compensation order.
- 6) 30.12.87 – Theft from vehicle, breach of probation order – Stowmarket Magistrates – financial penalties totalling £117, probation order continued.
- 7) 12.4.89 – Theft – Halsted Magistrates – 2 years probation order, £500 compensation order.
- 8) 18.2.92 – Handling x 1, Theft x 1, Assault occasioning ABH x 1 – Bury St Edmunds Crown Court - 80 hours community service x 2 running concurrently, 20 hours community service to run consecutively.
- 9) 22.9.94 – Fraudulently using Vehicle excise Licence, failure to surrender to bail – West Malling Magistrates - £153 fine, £53 costs.
- 10) 5.8.02 – (under the name of Grey) – Police assault – Haverhill and Sudbury Magistrates – Community Rehabilitation Order 6 months.
- 11) 4.12.02 – (under the name of Grey) – S4(1)(a) Public Order Act, driving without insurance or MoT, motoring offences x 2 – Haverhill and Sudbury Magistrates – 12 months conditional discharge plus penalty points.

On 28.11.11 the applicant also accepted Police cautions in respect of S5(1)(a) Public Order Act 1986 and S127(1)(A) Communications Act 2003 which meant he admitted committing the offences.

Though he 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.

The applicant was interviewed by the Licensing Officer regarding these matters on 2nd August 2017. However, he rang the Licensing Officer a couple of days after the interview to advise that he had remembered that he had 6 points endorsed on his licence which he had forgotten to declare on his application form. A check carried out showed that the conviction date was 26 February 2016 for an offence on 29 August 2015

However, paragraph 2 of Appendix A of the Council's Licensing Standards states there should be:-

"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 applicant explained that he had a van at the time for which he had fully comprehensive insurance. When his van broke down he borrowed his sister-in-law's car believing he was covered third party by his own insurance to drive someone else's vehicle with the owner's consent. Although the applicant claims this clause was on his insurance policy he says the insurance company maintained its repudiation of liability.

Under interview, the applicant was asked to give some background to the convictions and in particular to explain what had happened on 24 July 1981 and 23 March 1984. He explained that he had 2 older brothers (one 8 years and one 10 years older than him). His brothers were always in trouble and were a bad influence on him as he felt pressure to emulate them and follow in their footsteps. When he left school he had hoped to go into the navy as a trainee engineer, but was refused as he had been in trouble. He was 17 at the time of the first conviction for Burglary and Theft Dwelling and Aggravated Burglary. The applicant explained that his grandmother had died several weeks before the incident. He went to the house to confront a man who had been verbally abusive to his grandmother over a period of years. Someone else opened the front door and the applicant pushed past him and started punching the doors and walls in frustration as the man he wanted to confront had got away. The applicant was sentenced to between 6 months and 2 years in borstal and served about 13 months. When he came out of borstal the applicant explained that there was not much work about and he got involved with his brothers, breaking into houses to steal money from the electricity meters. In March 1984 he attended Bury St Edmunds Magistrates court and was sentenced to 18 months youth custody. Whilst in custody he and his brothers attended court for the offence of Burglary and Theft – Non Dwelling (conviction 4 on the DBS). He pleaded guilty to this offence so that the evidence against his brothers would be withdrawn and they got off.

Between 1986 and 2002 the applicant worked as a roof tiler. He settled down with a partner and had 3 children. During this time he had some minor

convictions for handling, theft and motoring offences. The conviction in 2002 (conviction 11) for using threatening, abusive insulting words or behaviour with intention to cause fear occurred after he split up with his partner in 2001 as he was going through a bad time and got into trouble again. He and his ex-partner are now on friendly terms. Between 1989 and 1992 the applicant was licensed by St Edmundsbury Council as a taxi driver and had his own vehicle. He looked at becoming re-licensed with St Edmundsbury in 2016 and passed all of their tests with flying colours, but did not complete the process due to ill health. Once he was fit to drive his documents were out of date.

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

We have read the material provided most carefully. We have also listened to the applicant's submissions to us and though we note that the applicant has held a licence between 1989 and 1992, since then there has been offending, and of course we also take into account the non-declaration of the February 2016 motoring offence.

The primary function of the Committee is the protection of the public and we have anxiously asked ourselves whether the applicant is a fit and proper person to hold private hire/hackney carriage drivers licences within the District of Uttlesford. Unfortunately we have concluded that he is not. Accordingly we must refuse this application.

LIC16

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (AGENDA ITEM 9)

Members were informed that the driver had given no notice that he would attend and had not arrived for the hearing.

The Committee considered the Enforcement Officer's report in the driver's absence, seeking a determination as to whether the driver was a fit and proper person to retain a licence.

Members withdrew to deliberate on a decision.

DECISION

The application before the Panel today is for the revocation of a joint private hire/hackney carriage licence in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The driver was first licensed on 22nd July 2016 and his current licence expires on 30th June 2019. It is understood that he is working for Lockett's of Watford on school contract work.

On 5th June 2017 the routine annual check carried out on all licenced drivers' revealed two new convictions that had not been notified to the Council. These were:-

A) an SP50 (speeding on a motorway) offence taking place on 15th September 2016 for which the driver was duly convicted on 23rd March 2017, receiving three penalty points upon his licence, a £200 fine and ordered to pay a victim surcharge and costs, and

B) an MS90 (failure to give information as to the identity of the driver) offence on 24th November 2016. The driver was convicted of this offence on 26th April 2017 and received six penalty points, fined £660 and again ordered to pay a victim surcharge and costs. .

The Police were unwilling to provide further information. However, HMCTS supplied the following information:-

SP50 offence- Cheshire Police brought forward the prosecution as the driver was caught travelling at 62mph in a 50mph speed limit on the M6. The driver did not respond to the single justice procedure and the case was proved in his absence. He was fined £220, a victim surcharge of £30 and costs of £100 and given three points on his licence.

MS90 offence – Hertfordshire Police brought forward the prosecution as the applicant failed to give information regarding the identity of a speeding vehicle in Watford. The case was proved in his absence and he was fined £660, a victim surcharge of £66 and costs of £85 and was given six penalty points on his licence.

The driver has failed to respond to all attempts by the Enforcement Officer to contact him and he has not attended before us today.

Since his licence has been endorsed with six points in respect of a single offence and he has been ordered to pay substantial fines, he no longer meets UDC's Licensing Standards for drivers in two respects.

Appendix A, paras 2 and 7, of the Council's Policy respectively state 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"

And

"No other criminal convictions which are not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974"

Furthermore, condition 18c of Appendix G further requires drivers to notify UDC in writing of:-

"Any convictions, cautions, or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points

upon the driver's licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice”

The driver has twice breached this requirement.

We note that the driver has fallen below the Council's licensing standards in one respect, breached his licensing conditions and he has also failed to co-operate with the Enforcement Officer's investigation. These are serious matters, and the primary function of this Committee is of course the protection of the public.

However, these are very serious matters and he has both nine points on his licence and received two substantial fines. We cannot overlook this, and accordingly we have no alternative but to revoke the driver's joint private hire/hackney carriage licences under S61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 as he is not a fit and proper person to hold them.

There is a right of appeal to the magistrates' court within 21 days against this decision and during this time period the licences remain in force. However, in cases where we consider it necessary for the protection of the public, we can revoke the licences with immediate effect. Given the short timescale over which the applicant acquired nine points we are satisfied that this is such a case under section 61(2B) Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 11.45am.

Committee: Licensing & Environmental Health

Agenda Item

Date: 20 September 2017

3

Title: Licensing Act 2003 – Statement of Licensing Policy - Revised

Author: Amanda Turner, Licensing Team Leader

Item for decision:
yes

Summary

1. This report is to inform members of the outcome of the constitution of proposed amendments to the Council's licensing Policy.

Recommendations

2. That members recommend that Full Council adopt the proposed amendment.

Financial Implications

3. None.

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.

Uttlesford's Draft Statement of Principle Policy document
Revised Guidance issued under sections 182 of the Licensing Act 2003 (April 2017 version)

Impact

- 5.

Communication/Consultation	There is a statutory requirement to consult prior to the adoption of a revised Licensing policy.
Community Safety	This is encompassed in the licensing objective of public safety and the protection of children from harm
Equalities	There are no equality issues arising from this report.
Health and Safety	Public safety is one of the licensing objectives promoted by the draft policy

	statement.
Human Rights/Legal Implications	In the event that the Licensing Policy is not consistent with the legislation it is susceptible to challenge by way of judicial review. In the event that the Policy is inconsistent with government guidance and no good reason has been given for departure therefrom the Policy would also be susceptible to such challenge and the Authority would be at greater risk of adverse costs on appeal if the court decided the issue based on government guidance.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. The Licensing Act 2003 which has been in force since 2005 requires that the authority produces a Statement of Licensing Policy and reviews it at least every 5 years. The current policy was last reviewed in 2012 and approved by Full Council on 11 December 2012.
7. In accordance with the requirement to keep the Policy under review the Policy has now been updated for the five year period 2017 to 2022. Our Draft Statement of Principle policy document is attached as Appendix 1.
8. In exercising its duties under the Act the Licensing Authority must act in accordance with the general principles of public administration, and under a duty to promote the statutory licensing objectives of preventing crime and disorder: preventing public nuisance: protecting public safety; and protecting children from harm.
9. During the life of the current policy, it has proved satisfactory and there have been no challenges made to any parts of the Policy. This revision contains additional supportive information and is in accordance with the revised guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. It also contains relevant updates brought in by the Deregulation Act 2015, the Immigration Act 2016 and the Police and Crime Act 2017.
10. Following the previous meeting consultation letters/emails were sent to all responsible authorities under the Act, all premises licensed in the district, local businesses, Councillors, and Town & Parish Councils. In addition the consultation was published on the Council's web site.

11. Only 1 response has been received to the draft consultation by a member of a trade association supporting our draft policy. This is attached as appendix 2.

12. We received 3 telephone calls requesting a paper copy of the draft Policy document. None of the Statutory consultees, or premises licence holders consulted on this draft policy responded to the consultation letter.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
The recommended policy is contrary to the government guidance	1. Members have been given extracts of the relevant sections of the updated guidance and will have regard to it	3. There is a risk of judicial review and adverse costs orders on appeals	Members give sound reasons for any provisions of the statement of government guidance and Licensing Policy which they propose should be otherwise that in accordance with government guidance.
The council does not review its licensing policy prior to the next scheduled review	1. The licensing and environmental health committee have previously approved draft Licensing Act policies in a timely manner	3. The council would suffer reputational damage if its policy was seen not to be consistent with the legislation and may be the subject of adverse costs awards on appeal.	Members recommend a revised policy for consultation as soon possible and in the meantime recommend a statement to be published on the Councils website outlining the changes

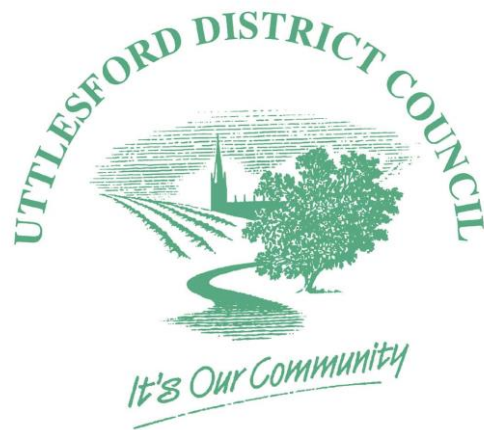
1 = Little or no risk or impact

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.

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STATEMENT OF LICENSING POLICY

2017-2022

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STATEMENT OF LICENSING POLICY

1.0 INTRODUCTION

Introduction

- 1.1 This is the ~~fourth~~ fifth Statement of Licensing Policy produced by Uttlesford District Council under the Licensing Act 2003, Since the adoption of the third statement the Act has been amended. The amendments expand the list of responsible authorities; extends the right to make representations with regard to applications and to seek reviews; reduces the evidential burden on licensing authorities by permitting them to take steps which they consider “appropriate” to the promotion of the licensing objectives rather than “necessary” for that purpose and amend the law relating to Temporary Events Notices. References in this statement to “the Act” are references to the Act as amended. This Statement sets out the general approach the Authority will be taking when making licensing decisions during the five year period up to December 201722.
- 1.2 Uttlesford District Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates and personal licences and acknowledging temporary events notices in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. In doing so the Licensing Authority will carry out its functions in such a way as to promote the licensing objectives referred to at paragraph 1.4 below.
- 1.3 When applications for new or variations to licences or certificates are made the responsible authorities and others may make representations. If no representations are received a licence will be granted subject only to those conditions required by statute and those offered by the applicant in the operating schedule. If representations are received however the application must be considered by the Licensing Authority. When assessing applications in respect of which relevant representations have been received, the Licensing Authority must be satisfied that the measures proposed in the applicant’s operating schedule aim to achieve the promotion of the licensing objectives, as far as possible. Bold type refers to matters that the Licensing Authority expects to see addressed in the applicant’s operating schedule, where appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of that outcome and the control measures that could be implemented by the applicant to achieve that outcome. Although it is open to applicants to omit any of the suggested

conditions, applicants should be aware that responsible authorities and others will scrutinise applications in the light of this policy. Failure to take account of the policy may therefore encourage representations.

- 1.4 It should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

The Licensing Objectives

- 1.5 The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. These are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children From Harm
- 1.6 **In respect to the promotion of each of the four licensing objectives, if representations are received from responsible authorities or others applicants will need should to provide appropriate evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to Applicants should also consider whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.**

Statement of Licensing Policy

- 1.7 The Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. Applicants should be aware that the Licensing Authority will only make decisions on applications where representations are made by relevant authorities or others.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and having regard to the guidance issued under Section 182 of the Act. This Policy Statement was reviewed in July 2012~~7~~,

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circulated for consultation between July and October 2012~~7~~ and was ratified by Full Council on ~~11 December 2012~~ (date to be advised). It will take effect on ~~12 December 2012~~ (date to be advised) and will remain in force for a period of not more than 5 years. It will be subject to regular review and further consultation prior to ~~11 December 2017~~ (date to be advised).

- 1.9 When making and publishing ~~and applying~~ its policy, the Licensing Authority must have regard to the Secretary of State's Guidance. The Licensing Authority may depart from this Licensing Policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the Licensing Objectives and if this situation arises the Licensing Authority will give full reasons for doing so. ~~It is possible that, during a consultation period the Guidance issued by the Secretary of State may be subject to revision leading to some temporary inconsistencies between the two documents. In such circumstances, the Licensing Authority will have regard to the revised Guidance as well as its Licensing Policy.~~

Consultation

- ~~1.10~~ ~~4.10~~—There are a number of groups who have a stake in the leisure industry, including providers, customers, residents, businesses and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives. These are in addition to those authorities and agencies that the Council is statutorily required to consult with in accordance with Section 5(3) of the Licensing Act 2003

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- 1.11 In developing ~~these~~ Policy ~~Statement and this revision~~, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District, the Essex County Fire and Rescue Service and ~~the Primary Care Trust~~), local representative for the Director of public Health in England ~~the views of existing licence holders, businesses, voluntary groups and residents were also taken into account and persons/bodies representative of existing licence and certificate holders, the views of Ward councillors, Town and Parish Councils, Appropriate weight and Due~~ consideration was given to the views of all those who responded to that consultation process.

Links to other Strategies

- 1.12 In preparing the statement of licensing policy and this revision, the Licensing Authority has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development, provision of private hire vehicles and hackney carriages to ensure the proper co-ordination and integration of the aims and actions of

these policies. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy.

1.13 Further, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.

~~1.14 To ensure proper integration with the Licensing Authority's planning policies, the Licensing Committee will provide reports to the Development Control Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the Development Control Committee to have regard to such matters when making its decisions.~~

1.15 The Licensing Authority recognises its responsibilities under the Equality Act 2010. The impact of this policy on those sharing protected characteristics will be monitored through Uttlesford District Council's equality scheme.

Regulated Entertainment

1.16 Having regard to the Live Music Act 2012, Licensing Authority's Leisure and Culture Strategy, Corporate plan and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities. Where representations are made by responsible authorities or others the Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. Where representations are made the Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the Licensing Authority's Youth and Arts Development Officer, appropriate cultural and leisure services within Uttlesford District Council.

Applications

1.17 When considering applications after receiving representations, the Licensing Authority will have regard to

- the Act, and the licensing objectives,
- Government guidance issued under Section 182 of the Act,
- any supporting regulations
- this statement of licensing policy

1.18 This does not however undermine the rights of any person to apply under the Act for a variety of permissions nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act. Where such representations or a request for a review is made the application or review will be considered on its individual merits.

1.19 When following the receipt of representations the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority. **However, applications for premises licences for permanent commercial premises should normally be from businesses with appropriate planning consent for the property concerned.** (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.) In some instances the conditions on a licence or certificate will be inconsistent with another consent (e.g. the closing time specified in a planning permission in respect of licensed premises may be different from that contained in the licence). In such circumstances **licence holders should be aware that the more restrictive condition is the one that applies.** Thus in the example given, if a planning permission required premises to close at 11 pm but the licence permits the premises to be open until midnight the planning permission prevails.

1.20 When one part of the ~~Licensing Authority Council~~ seeks a premises licence from the ~~Licensing Authority~~, the licensing committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered by the committee on its merits. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority may be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.

1.21 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.

1.22 Publicity for Applications

The Licensing Authority wishes to ensure that those entitled to make representations 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 statutory publicity given to the application 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 all district councillors and occupants of residential premises adjoining, opposite and to the rear of properties which are the subject of such applications.

1.23 Guidance will be available for applicants setting out the details of the application process, having regards to the Licensing Act 2003, as amended, the regulations, statutory guidance and local practice and procedures. It should be noted that incomplete applications will not be accepted but will be returned with an explanation as to why it is incomplete.

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Representations

1.24 The Chief Officer of Police, the Fire Authority, the Enforcing Authority for health and safety purposes, the local planning authority, the authority responsible for minimising or preventing the risk of pollution, the trading standards authority, the ~~Child Protection Authority~~ Children's safeguarding service, the Primary Care Trust for the District and the Licensing Authority are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.

1.25 Other parties are free to raise relevant representations. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews, not repetitious. If a party making representations does not live in or carry on a business in the vicinity of the premises and is unable to demonstrate that they would be affected by any licensable activities carried on at the premises their representations may be declined as being frivolous or vexatious.

1.26 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the Applicant. The Licensing Authority accepts that in exceptional circumstances, where there is a genuine and well-founded fear of intimidation or violence, an Interested Party may not wish for his/ her personal details to be disclosed to the applicant

- 1.27 Where the Licensing Authority consider that a relevant representation has been made and that exceptional circumstances exist, details of the name and address may be withheld from the copy of the representation that is provided to the Applicant.
- 1.28 Representations should be made within 28 days of the day after the application is made to the Licensing Authority in order to be considered. If a representation is made outside of this period, it cannot be considered.

Conditions

- 1.29 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations, to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.
- 1.30 The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:
- (a) planning controls
 - (b) positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other departments of the local authority
 - (c) the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
 - (d) powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
 - (e) police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
 - (f) the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are under age or drunk
 - (g) the confiscation of alcohol from children and adults in designated areas
 - (h) police powers to close down any licensed premises for between 48 and 336 hours where there has been persistent sales of alcohol to children. Use of Police and/or Local Authority powers (under the Anti-Social Behaviour

Crime and Policing Act 2014) to close down instantly for 24 hours up to a maximum of 48 hours any licensed premises or temporary events on grounds of disorder or the likelihood of disorder or noise emanating from premises causing a nuisance.

(h) police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance

(i) the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question

(j) Action under the Violent Crime Reduction Act 2006.

1.31 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

1.32 The Licensing Authority recognises that where representations are made applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions will therefore be avoided. Conditions will be not be imposed that cannot be shown to be appropriate or proportionate for the promotion of the licensing objectives.

Delegation of Functions

1.33 With the exception of the approval and review of its Licensing Policy and the making of Early Morning alcohol Restriction Orders, and late night refreshment exemptions decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. Applications which do not attract relevant representations will be granted by officers under delegated powers. Where such representations are received the application will be determined by Members of the Licensing Committee. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

The Need for Licensed Premises

1.34 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

Cumulative Impact of a Concentration of Licensed Premises

1.35 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.

1.36 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.

1.37 The Licensing Authority will only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting in unacceptable levels of crime and disorder or public nuisance.

1.38 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any of the licensing objectives.

1.39 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be on the objector to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed.

Late night refreshment exemptions

The provision of late night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at

fast-food takeaways where late-night drinkers congregate. However, these safeguards may not be needed everywhere or for every type of late night refreshment business. Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.

The powers therefore allow licensing authorities to choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with antisocial behaviour or disorder associated with the night time economy.

The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- a) on or from premises which are wholly situated in a designated area;
- b) on or from premises which are of a designated description; or
- c) during a designated period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.).

When choosing to designate particular categories of premises as exempt, a licensing authority can only exempt types of premises set out in the regulations. These are:

- Motorway service areas;
- petrol stations;
- local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
- schools (except domestic premises) unless there is an event taking place at which more than 500 people are present;
- hospitals (except domestic premises);
- community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present;
- licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.

Licensing authorities do not have to use the exemptions at all and can continue to require all late night refreshment providers to be licensed. However, licensing authorities should consider deregulation where appropriate.

When deciding which exemption to use, if any, the relevant licensing authority should always first consider what the risks are in terms of the promotion of the licensing objectives. the late night refreshment exemptions are not made on a case by case basis and there is no recourse to bring an individual premises back into the licensing regime if there is a problem with that particular premises. In such

cases the licensing authority would have to take a decision about the entire exemption and apply it across the whole area.

The Licensing Authority having regard to the evidence available at this time does not consider it necessary to make any exemptions.

Advice and Guidance

- 1.40 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Environmental Health, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.41 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department/section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory time scales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Reviews

- 1.42 Where possible and appropriate all Responsible Authorities ~~the Licensing Authority, Environmental Health, Essex Police, Essex Fire Service and/or the PCT~~ will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.43 Responsible authorities and/or others can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Licensing Authority and would ordinarily be expected to substantiate their complaints at a hearing.

1.44 No more than one review from persons other than responsible authorities will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

1.45 This Authority will not consider anonymous representations. However, the Licensing Authority accepts that in exceptional circumstances, a member of the public may not wish to provide their personal details to the licence or certificate holder. In those circumstances the member of the public might consider providing the relevant Responsible Authority with details of how they consider the licensing objectives are being undermined so that the Responsible Authority can apply for a review.

Enforcement

1.46 ~~The Licensing Authority Council~~ delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. ~~The Authority has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services~~ The Council is subject to the provisions of the Regulators Code which is designed to ensure effective and efficient public protection services. Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a proportionate, open and consistent manner.

1.47 ~~The Enforcement Concordat~~ The Council will base any enforcement action on is based on the principles that businesses should:

- Be clear about the issues that have made enforcement action necessary
- receive clear explanations from enforcers of what they need to do and by when;
- have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- receive an explanation of their rights of appeal

1.48 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.

1.49 The Licensing Authority will establish an enforcement protocol with Essex Police, Essex County Fire and Rescue Service, Essex County Licensing Authority Trading Standards, Environmental Health and the council's Enforcement Team on

enforcement issues. This protocol will provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. A draft of the protocol can be viewed on the Licensing Authority's website: www.uttlesford.gov.uk. Hard copies are available on request.

2.0 LICENSING OBJECTIVES

2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and should consider all aspects relevant to the individual style and characteristics of their premises and events.**

2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants need not mention a control measure more than once in their operating schedule.

2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be undertaken or documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing circumstances/conditions at the premises.

2.5 Additional measures may be appropriate on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g.

during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement promotion of the licensing objectives. If representations are made the Licensing Authority will expect to see **reference to be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**

2.6 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of personnel engaged on the premises and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this reason** If representations are made the Licensing Authority will expect to see, **these elements specifically considered and addressed within an applicant's operating schedule.**

2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the promotion of the four licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). If representations are made the Licensing Authority will expect **the issue of occupancy capacity to be considered and addressed, where appropriate, within an applicant's operating schedule.**

2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:

- (a) the nature of the premises or event
- (a) the nature of the licensable activities being provided
- (b) the provision or removal of such items as temporary structures, such as a stage, or furniture
- (c) the number of staff available to supervise customers both ordinarily and in the event of an emergency
- (d) the age of the customers
- (e) the attendance by customers with disabilities, or whose first language is not English
- (f) availability of suitable and sufficient sanitary accommodation
- (g) nature and provision of facilities for ventilation

2.9 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as doorstaff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of premises

without resort to such measures. **However**, If representations are made the Licensing Authority will expect that **where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

- 2.10 The Licensing Authority will consider applications for minor variations to premises licences, provided that the Authority is satisfied that the variation will not adversely impact on any of the licensing objectives and the Licensing Authority will consult with such of the Responsible Authorities as it deems appropriate to make such assessment.

3.0 PREVENTION OF CRIME AND DISORDER

- 3.1 The ~~Licensing Authority Council~~ is committed to further improving the quality of life for the people of the District of Uttlesford by continuing to reduce crime and the fear of crime.

- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Uttlesford District Council, Essex Police, Essex County the Licensing Authority and others to consider crime and disorder reduction in the exercise of all their duties. The Act reinforces this duty for local authorities.

- 3.3 The prevention of crime includes the prevention of immigration crime, and the Licensing Authority will work with Home Office Immigration Enforcement in respect of these matters.

The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**

- 3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs

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- Violent behaviour
- Anti-social behaviour
- Illegal working

Control Measures

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3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule in the event that representations are received, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
- Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 245 policy)
- Provision of effective CCTV and mirrors in and around premises
- Employment of Security Industry Authority licensed Doorstaff
- Provision of toughened or plastic drinking vessels
- Provision of secure, deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of local 'Pubwatch' schemes or similar organisations
- Right to work checks on staff and retention of documents

Designated Premises Supervisor

3.6 Within the operating schedule for premises from which alcohol will be sold, save for certain community premises, a Premises Supervisor must be designated ('Designated Premises Supervisor' DPS). The Licensing Authority will normally expect the DPS to have been given the day to day responsibility for running the premises by the premises licence holder. Mandatory conditions under the Act impose express duties upon the DPS and the premises licence holder with regard to irresponsible drinks promotions, the pouring of alcohol into the mouth of a third party, the supply of tap water and the availability of alcoholic drinks in small measures. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training, and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

- 3.7 Whilst the Licensing Act 2003 requires each sale of alcohol (other than in certain community premises) to be made or authorised by a personal licence holder there is no requirement for every sale to be made by a personal licence holder or for them to be personally present at every transaction. In determining whether the real authorisation was given, the Guidance issued by the Secretary of State encourages the practice of a written authorisation to make supplies of alcohol being given by personal licence holders to persons not holding a personal licence.
- 3.8 In the case of community premises (church halls, chapel halls, village halls, parish halls, community halls or other similar buildings) run by a management committee, providing the Licensing Authority does not consider that the conditions requiring there to be a DPS and for all sales to be made or authorised by a personal licence holder appropriate for the promotion of the crime prevention objective, then these conditions can be replaced by a condition that all sales must be made or authorised by the management committee. On an application for a new licence for such premises requesting the alternative condition, if representations are made the alternative condition must be included in the licence if the Licensing Authority is satisfied that the management arrangements are adequate and it does not consider that the conditions requiring there to be a DPS and for all sales to be made or authorised by a personal licence holder appropriate for the promotion of the crime prevention objective.

4.0 PUBLIC SAFETY

- 4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. If representations are made **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**
- 4.2 When addressing the issue of public safety, an applicant should consider those factors that impact on the standards of public safety. These may include:
- (a) the occupancy capacity of the premises
 - (b) the age, design and layout of the premises, including means of escape in the event of fire
 - (c) the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature

- (d) the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- (e) customer profile (e.g. age, disability)
- (f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- ~~(f)~~(g) Compliance with the Disability Discrimination Act etc

Control Measures

4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, in the event that representations are received, having regard to their particular type of premises and/or activities:

- (a) Suitable and sufficient risk assessments
- (b) Effective and responsible management of premises
- (c) Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- (d) Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons including the use of CCTV system
- (e) Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA))
- (f) Provision of effective CCTV in and around premises
- (g) Provision of toughened or plastic drinking vessels
- (h) Implementation of crowd management measures
- (i) Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety

5.0 PREVENTION OF PUBLIC NUISANCE

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises

are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective controls and measures in place or proposed ~~planned~~ to prevent public nuisance, may be suitable for 24-hour opening.

- 5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless representations are made and there are exceptional reasons relating to disturbance or disorder.
- 5.5 The Licensing Authority does recognise that in some circumstances flexible licensing hours may help to avoid concentrations of customers leaving premises simultaneously and could reduce the potential for disorder. It also recognises that licensing hours should not inhibit the development of safe evening and night-time local economies. However, the Authority will always seek to balance their decisions with the duty to promote the four licensing objectives and the rights of residents to peace and quiet.**
- 5.6 If representations are made **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**
- 5.7 When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:
- (a) the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
 - (b) the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00
 - ~~(c) the closing time of the premises~~ A “wind down period” between the end of the licensable activities and closure of the premises
 - (c) the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
 - (d) the design and layout of premises and in particular the presence of noise limiting features
 - (e) the occupancy capacity of the premises
 - (f) the availability of public transport
 - ~~(f)~~(g) A last admission time
- 5.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, in the

event that representations are received, having regard to their particular type of premises and/or activities:

- (a) Effective and responsible management of premises
- (b) Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
- (c) Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries and clearing up
- (d) Provision of effective CCTV in and around the premises
- (e) Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- (f) Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- (g) Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- (h) Liaison with public transport providers
- (i) Siting of external lighting, including security lighting
- (j) Management arrangements for collection and disposal of litter
- (k) Effective ventilation systems to prevent nuisance from odour

6.0 PROTECTION OF CHILDREN FROM HARM

- 6.1 The protection of children from harm is a most important issue. While it is hoped that family friendly premises will thrive, the risk of harm to children remains a paramount consideration when determining applications.
- 6.2 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

- 6.4 The Licensing Authority considers that there should be no presumption of giving or preventing children's access to licensed premises. The Licensing Authority will rarely impose complete bans on access to children. If representations are made then in exceptional circumstances, conditions restricting access or excluding children completely may be considered appropriate. Where no licensing restriction is appropriate, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 6.5 If representations are made **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**
- 6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant should consider those factors that impact on harm to children. Areas that will give particular concern in respect of children include:
- (a) where entertainment or services of an adult or sexual nature are commonly provided
 - (b) where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
 - (c) with a known association with drug taking or dealing
 - (d) where there is a strong element of gambling on the premises, and
 - (e) where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Control Measures

- 6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, in the event that representations are received, having regard to their particular type of premises and/or activities. These examples can be adopted in any combination:
- (a) Effective and responsible management of premises
 - (b) Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
 - (c) Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm

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- (d) Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks)
- (e) Limitations on the hours when children may be present, in all or parts of the premises
- (f) Limitations or exclusions by age when certain activities are taking place
- (g) Imposition of requirements for children to be accompanied by an adult
- (h) Measures to ensure children do not purchase, acquire or consume alcohol
- (i) Measures to ensure children are not exposed to incidences of violence or disorder
- (j) Acceptance of accredited “proof of age” cards and/or “new type” driving licences with photographs

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Film Exhibitions

6.8 In the case of film exhibitions, If representations are made, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee not to permit children to view the film unless it has been approved by the Licensing Authority applying British Board of Film Classification standards.

~~If representations are made the Licensing Authority may require that adult supervisors who regularly work with children having access to licensed premises who are not accompanied by an adult be checked with the Criminal Records Bureau for suitability to work with children.~~

6.9 The Licensing Authority expects that when a licensable activity is held exclusively for children and young persons, that there will be sufficient numbers of staff available who have undertaken an enhanced disclosure check with the DBS, to ensure the safety of those children. This does not require each member of staff to have undergone this level of check but the Licensing Authority expects that there should be sufficient members that have, who are then able to supervise others, e.g there will be one person at the main entrance to the premises who has been subject of advanced disclosure responsible for supervising the searching and checking of children by those who have not.

7. TEMPORARY EVENTS

7.1. Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder and/or public nuisance

implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police, environmental health and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

7.2. There are 2 categories of temporary event, “standard temporary events” and “late temporary events”.

7.3. A standard temporary events notice must be served at least 10 working days before the event is to take place. Organisers of these events should be aware that if a counter notice is served this has the effect of preventing the event from going ahead unless the counter notice is overturned on appeal. The appeal process is likely to take several months and unless the standard temporary events notice is served well in advance of the proposed event there may not be sufficient time for an appeal to be brought.

7.4. A late temporary event notice may be served between 5 and 9 working days before the event. Organisers of these events should be aware that in the event of a counter notice being served the event may not go ahead. There is no right of appeal against a counter notice in response to a late temporary events notice.

7.5. Event organisers should also be aware that either the police or the council’s Environmental Health Department can object to a temporary events notice (either a standard or late notice) on the basis that to permit the event to go ahead would undermine **ANY** of the licensing objectives. Where such an objection is received in respect of a late temporary events notice the Licensing Authority must serve a counter notice and the event cannot take place. Where a counter notice relates to a standard temporary events notice then the Licensing Authority must hold a hearing in order to determine the issue. At a hearing into objections to a standard temporary events notice any conditions on a premises licence or club premises certificate may be attached to the temporary events notice if the Licensing Authority consider it appropriate for the promotion of the licensing objectives unless the conditions would effectively prevent the event going ahead.

7.5.7.6. If TENs must be made with the minimum amount of permitted notice given, it must be understood that the requirements for 5 or 10 clear working days does not include the day the notice was received or the day of the event. If the period includes a bank holiday the the notice must be extended by 1 working day for each bank holiday. The Council has no ability to waive or reduce the legal notification periods.

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8. THE ROLE OF THE LICENSING AUTHORITY AS A RESPONSIBLE AUTHORITY

- 8.1. As a responsible authority the Licensing Authority may make representations on applications for the grant or variation of a premises licence or club premises certificate and may also seek a review of a licence or certificate
- 8.2. Without imposing any limitations on its power to make such representations or to call for a review it is the view of the Licensing Authority that the other responsible authorities are generally better placed to determine whether representations are appropriate or whether a review should be called for. The Licensing Authority is therefore likely to exercise its powers in the capacity of a responsible authority only in exceptional circumstances. This in no way inhibits the right of the other departments of the Council which are responsible authorities in their own right (namely Environmental Health and Planning) to make representations or to apply for reviews if they consider it appropriate to do so
- 8.3. To ensure that the Licensing Committee are able to conduct a hearing impartially and to reach a conclusion on its merits the power of the Licensing Authority to make representations and to seek reviews has been delegated to the ~~Team Leader of the Council's Licensing Enforcement Team Officer.~~

9. PERSONAL LICENCES

Much of the foregoing policy relates to premises licences and club premises certificates. However, the Licensing Authority will also be responsible for issuing personal licences authorising individuals to supply alcohol or to authorise the supply of alcohol, in accordance with a premises licence.

30.2 Provided that an applicant fulfils the requirements of Section 120 (2) (a), (b) and (c), of the Act, a licence will be granted unless the applicant has a relevant conviction or a foreign conviction as defined in the Act. In the event of such a conviction, the application will be referred to the Police, and if the Police give an objection notice, a hearing will generally be held. Whilst each application and objection will be considered on its merits, the application will normally be rejected if the Licensing Authority considers this appropriate for the crime prevention objective.

From 6 April 2017 the Licensing Authority has the power to revoke or suspend personal licences where they become aware of relevant conviction, foreign offence or civil penalties for immigration matters. In making their decision the Licensing Authority will have regard to the crime prevention objective

30.3 From the 1st April 2015 the requirement to renew a personal licence has been

removed. As a result of that amendment a personal licence will no longer have an expiry date.

The Immigration Act 2016 requires that personal licences may only be granted to individuals if they have provided evidence of their lawful immigration status and proven their eligibility to undertake work relating to the carrying on of licensable activity in line with the requirements of the legislation and guidance. Licences issued after 6 April 2017 automatically lapse if and when the licence holder's lawful leave or permission to work ends.

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APPENDIX (Outline of the District)

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 ~~77500~~ 85100 (2015). There are four main centres of population, Great Dunmow, Saffron Walden, Stansted and Thaxted. The remainder of the district consists of numerous villages and hamlets. In the south of the District is Britain's fourth largest airport, Stansted. A survey carried out for the ~~Sunday Times-Mail~~ Sunday Times-Mail in 2002~~14~~ 14 stated that Uttlesford ~~offered the best quality of life in England and Wales~~ was in the top 10 rural places to live in Britain. 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.

Currently there are ~~3006~~ 3006 premises within the District licensed to sell alcohol for consumption on and/or off the premises. Of these premises 76 are on sales only, 54 for off sales only, 144 authorise sales both on and off the premises and 32 that do not permit the supply of alcohol. ~~188 are public houses or registered clubs, 57 are off licences, 42 restaurant licences and 13 are residential.~~ In addition there are some bars airside at the airport which are not subject to the Licensing Acts by virtue of government designation.

Amanda Turner

From: Jack Shepherd <jshepherd@beerandpub.com>
Sent: 21 June 2017 11:13
To: Licensing
Subject: Uttlesford draft Statement of Licensing Policy - BBPA comments
Attachments: Late Night Levy Report March 2016.pdf

Dear Sir/Madam,

I write to you from the British Beer and Pub Association. Our members account for around 90% of the beer brewed and half of all pubs in the UK and, as such, we welcome the opportunity to provide input to licensing consultations. We have reviewed your draft Statement of Licensing Policy and have no negative comments to feedback. It is generally well balanced and emphasises a consideration of each licence on its individual merits, which is something that we strongly support.

In particular we are pleased that you have recognised the value of local partnership schemes such as Pubwatch and PASS in your Statement of Licensing Policy. We believe that such local initiatives provide targeted solutions to local issues and we continue to support their recognition and expansion. To this effect, please find attached a copy of our guidance on alternatives to the Late Night Levy, which further sets out the benefits of local partnership initiatives.

We also appreciate that you have referenced BBPA guidance in your draft Statement. By way of an update, the BBPA will soon be launching an updated version of our Drugs in Pubs guidance and, further to this, will be looking to update our Managing Safety in Pubs guidance as well.

Many thanks for the opportunity to review your draft Statement of Licensing Policy and if you have any questions please do not hesitate to get in touch.

Kind regards,

Jack Shepherd
Policy and Information Officer
British Beer & Pub Association
T: 020 7627 9143

British Beer & Pub Association
Brewers' Hall
Aldermanbury Square
London
EC2V 7HR
www.beerandpub.com



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Committee: Licensing & Environmental Health

Agenda Item

Date: 20 September 2017

4

Title: Details of Scoping for the proposed review of the licencing policy and procedure relating to Hackney Carriage and Private Hire Trades

Author: Tony Cobden, Environmental Health Manager (Commercial) 01799 501583

Item for decision:
no

Summary

1. This report is presented for member's information and sets out the scoping for the proposed review of the licencing policy relating to the Hackney Carriage and Private Hire Trades.

Recommendations

2. Members are asked to note the details of the scoping for the proposed review.

Financial Implications

3. An appropriate level of remuneration will be paid in order to cover any back filling of the reviewing officer's post and to cover all reasonable travelling and subsistence expenses incurred. All allowances will be paid in accordance with UDC policy.

Background Papers

4. None

Impact

Communication/Consultation	None undertaken at this time. Consultation with Trade representatives and other interested parties will be undertaken as the process move forward
Community Safety	No impact on community safety
Equalities	No impact on equalities
Health and Safety	No impact on employee health and safety
Human Rights/Legal Implications	No impact on Human Rights
Sustainability	No impact on sustainability

Ward-specific impacts	No Ward-specific impacts
Workforce/Workplace	No Workforce/Workplace impacts

Situation

5. The law relating to hackney carriages and private hire trades is largely contained in 2 statutes, the Town Police Clauses Act 1847 which is exclusively concerned with hackney carriages and the Local Government (Miscellaneous Provisions) Act 1976 which deals with both the hackney carriage and private hire trades. The object of the legislation is to ensure the safety and wellbeing of the public.
6. The power to regulate the private hire trade under the 1976 Act is adoptive. The Council resolved to adopt those powers in 1992 and has regulated the private hire trade since.
7. Under the legislation the council is responsible for licensing hackney carriages and private hire vehicles, drivers of those vehicles and operators of private hire vehicles.
8. For some time officers have become aware of an increase in the number of applications for drivers, vehicles and operators licences with a large proportion of these (83%) coming from outside of the District. The increase in applicants for driver's licences has risen since 1 October 2015. Officers speculate this increase is due to a more rigorous application process at other authorities.
9. This has resulted in a disproportionate number of drivers licensed and operating within the Uttlesford District which is likely to continue to rise, placing ever increasing pressure on the licensing team and its ability to maintain its existing levels of service.
10. Additionally the rises in popularity of firms such as UBER have served to create a different landscape to that which existed in 1992.
11. It is therefore proposed to undertake a full review of the current licence policy and procedures in place at Uttlesford. This would allow reaffirmation of those areas that work well and identify potential areas for improvement.
12. This review forms part of the 2017/18 EH service plan and will be outcome based with success being measured by the production of a reports identifying both strengths and weaknesses and the delivery of a briefing to the EH Managers and members of this Committee.
13. The resources identified as being required are an experienced Senior Licensing Officer/Manager, external to the service, supported by the UDC licensing team as required. The project is felt to be adequately resourced and will run alongside participating UDC officers' normal workload
14. The Senior Licensing Officer/Manager external to the service has been identified as Oliver Rawlings and he is prepared to undertake this work. Mr Rawlings is the current service manager for Licensing and Enforcement at East Hertfordshire District Council. He is a highly experienced officer who

commenced his career in licensing in 2004 and having worked at Maldon, Brentwood, Watford and East Herts Councils. He also holds a certificate of higher education in licensing law and currently chairs the Herts and Beds licensing group.

15. It is intended that the review be completed within four months, commencing September 2017, and that it be used to inform a report to the Licensing and Environment Health Committee detailing the current strengths of the service and recommending any necessary changes both to current team structure and licensing procedures. Appropriate consultation on any recommendations made will be undertaken with trade representatives and other interested parties as appropriate
16. Mr Rawlings will be given full autonomy to carry out a comprehensive review. He will be fully supported by both licensing and enforcement staff and their management and provided with all necessary documentation. Staff will be available to answer questions or provide clarification on issues as necessary. Candid and honest input will be encouraged and licensing staff will all be aware that the purpose of the review is not to find fault but rather to offer an impartial and fresh perspective on service delivery.
17. It is anticipated there will be a need to attend both the council offices to view licensing procedures in operation and to site visit / meet with operators and trade representatives. Assessments of written policy and procedures, web based information and other corporate documents are considered appropriate to be undertaken off site. No information subject to data protection will be removed from the council offices.
18. The Environmental Health and Licensing Committee Chair and other members will be invited to take part in this review at either their own or the reviewing officers request, contact will be facilitated by the EH Manager (Commercial).
19. The review of Hackney carriage vehicles and PHV service will incorporate an assessment of the following.
20. Current UDC licensing policy and its implementation including the standards and conditions applied to drivers, operators and vehicles. The review will consider the compliance with current licensing legislation and any relevant code of practice. The review may extend to look at the issue of wider consistency focusing on other councils particularly with those across Essex, Herts and Cambs. Where requested by the reviewing officer Licensing policies and other appropriate benchmarking data necessary for an effective comparison will be obtained by UDC staff. Where significant UDC staff time resource is likely to be required EH Manger (Commercial) approval will be required.
21. Current enforcement policy and procedures including triggers for the use of delegated powers by officers and /or referral to committee in the case of an identified breach. The review will also look at consistency in application and the appropriate nature of any sanctions applied and the link to a graduated

approach to enforcement. Consideration will be given on the appropriate nature of current referrals to committee and if adjustment to licensing policy is required this will be highlighted.

22. The adequacy of levels of staffing resource available within both the licensing and enforcement service together with its efficiency under its current structure and the overall service resilience. An assessment relating to the resilience of available legal support will be made, including the effectiveness of any agreement with external legal agencies to provide timely and expert legal opinion in support of the internal legal resource and the licensing officers.
23. The current use of IT systems (Lalpac and Uniform /DMS) and the effectiveness of the support it provides in the efficient administration of the service, the monitoring of work undertaken and the provision of adequate auditable records and reports.
24. Any areas where the service could expand or identify opportunities to enter into partnership and / or build stronger links with other local authorities with a view to sharing knowledge and resource.
25. The way the service currently engages and offers advice and support to members of the trade or other users including the appropriate nature of any forums for consultation and other links with the community. This will likely entail visits to larger operators and meeting with senior members of Uttlesford Licensed Operators and Drivers Association (ULODA) to canvass opinion on trade interaction with service.
26. The openness and transparency in the way information relating to the setting of fees and charges is provided both to the Trade and other interested parties. To review the budget setting process and the means by which costs are calculated and the fees and charges informed.
27. A consideration of the means by which UDC ensures that public safety is at the forefront of its Licensing service and ways in which that could be enhanced such as the introduction of a knowledge test, more formal English language tests, safeguarding training, driver safety awareness and disability awareness. Identify options available for positive action to increase the numbers of disabled access vehicles locally available and make recommendations to facilitate their introduction.
28. Any review of the other areas covered by licensing service will be at the discretion of the reviewing officer, with the exception of where they relate to the assessment of the current team structure, changes to it and any potential impact on resilience.
29. Monitoring of the project delivery will be undertaken by the EH Manager (Commercial) supported by the EH Manager (Protection) and the Licensing Team Leader. Regular updates will be provided by the reviewing officer with a formal mid-way review being scheduled at the end of October 2017.

30. In addition there will be a presentation to the Environmental Health and Licensing Committee on 24 January 2018 of initial report to inform and seek member views and agree the potential consultees. A further presentation will be made to the Environmental Health and Licensing Committee on 21 March 2018 to provide feedback on consultation responses and for members to agree or amend the recommendations for the adoption of the findings of the review.

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Committee: Licensing and Environmental Health

Agenda Item

Date: 20 September 2017

5

Title: Immigration Act 2016, Right to Work Checks-Video Conferencing Trial update

Author: Joanne Jones

Item for decision:
no

Summary

1. The purpose of this report is to update the Committee on the remote checking of ID documents for Right to Work Checks for Taxi Licensing as required by the Immigration Act 2016.

Recommendations

2. That Members note the content of this report.

Financial Implications

3. None.

Background Papers

4. None.

Impact

- 5.

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. On 25 January 2017 I presented a report to Committee outlining the requirements of the Immigration Act 2016 in relation to Right to Work checks on all new applicants applying for driver or operator licences and on the first renewal of driver and operator licences. Point 13 of the report explained that original documents must be checked, but that this may be in the physical presence of the applicant or by live video conference. One of our large operators, 24 x 7 had requested that we look into carrying out the checks using tablets and face to face internet communication and I reported that we were looking into this. At the time it was felt that there would be financial implications in terms of one off costs for tablets and costs for the use of Skype or Airtime software. The Licensing Team also had concerns about storing applicants' passports and or birth certificates.
7. Following discussions between the Operator and the Licensing Team it was decided to run a trial with the applicant sending their documents to the Operator who would then send up a member of staff by appointment with the ID documents and a tablet allowing live video conferencing. At the end of the interview the Operator would take the ID documents back with them to return to the applicant. This solution has several benefits: there is no added financial burden to the Council as the Operator supplies the technology required to carry out the checks; the Operator's representative is responsible for using the equipment and making contact with the applicant; there is no need for the Licensing Team to look after applicants' ID documents.
8. The trial began in February 2017 and was initially for 2 weeks to allow us to ensure that we could see applicants clearly enough to meet the requirements of the legislation and to identify any other issues that should arise. 24 x 7 Ltd has school contracts through their Stansted base to licence drivers in various locations around the Country. So far only 2 of their remote bases, Hampshire and Lincolnshire have opted to take part in the remote checking of documents. In the six months February to July 2017 231 Right to Work checks were carried out for 24 x 7 of which 74 were done remotely.
9. It quickly became clear that a longer trial period was necessary in order to get a true picture of how things were working. Initially there were some problems with the technology, but these have been ironed out for the most part and we now usually have a dedicated member of staff from 24 x 7 Ltd who is familiar with the equipment. Contacting applicants via Facebook is not normally an issue, but there were problems with Skype. On one occasion early on in the trial 45 minutes was wasted trying to establish contact using Skype and, despite one of our IT section trying to assist, in the end we had to abandon the attempt and reschedule for another time. Setting up a connection with an applicant here at the office also wasted time and the operator was requested to establish a connection prior to the appointment to save everyone's time.
10. **Appointments** - Initially we said that licensing staff would be available to carry out checks on Monday afternoons and on Tuesday and Thursday mornings. In practice the Monday afternoon slot was not being used and most checks take place between 10.30 and 11.30 on Tuesdays and Thursdays which seems to work out well, but we do try to be flexible regarding appointments.

Occasionally there can be a problem with applicants at the other end not responding when they are called, but the local managers they now give us a number to call if this happens so that they can make contact with their drivers themselves.

11. **Paperwork** – When we started to carry out RTW checks in December 2016 we asked drivers to come in with their complete applications to avoid confusion with documents coming in to the office on an ad hoc basis. This approach did not work so well with remote RTW checks and we have now agreed on a solution which I believe works well for both sides.
12. **Feedback from the Operator** - The Manager at Hants reports *“We have completed 50+ RTW checks through video conference since January 2017, most of these have been completed without any issue with just a few needing to be rearranged due mainly to connectivity issues, usually with the individual being checked. I do believe that we are getting better at briefing drivers before the event as we learn more about the potential pitfalls so expect these issues to be ironed out in the course of time.”* The Director of Operations at Lincs reports that the system has worked relatively well, but that having to send documents to Stansted can cause delays. Both agree that it is better than having to send drivers in personally with the Manager from Hants saying, *“From our point of view, a video conference RTW check is a very positive alternative to face to face. Drivers that are based in Hampshire would otherwise have to travel for over 5 hours with a round trip of 200 miles+, so I would suggest that the environmental and wellbeing impact is significantly reduced and we would certainly wish to continue with video conferencing”*.
13. **Conclusion** – The picture quality on the tablet/phone is acceptable to establish the identity of the applicant. Being able to contact six or seven applicants in one session saves time and avoids applicants having to travel a long way for individual appointments which are more difficult to set up. The Licensing team see no reason to discontinue video conferencing and would be willing to extend it to any other large operators on request providing the same procedure is followed.

Risk Analysis

14. There are no risks associated with this report.

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