



Uttlesford District Council

Chief Executive: Dawn French

Licensing and Environmental Health Committee

Date: Wednesday, 27th June, 2018

Time: 7.30 pm

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

Chairman: Councillor R Chambers

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

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

5 - 40

To consider the minutes of previous meetings.

3 Sky Lanterns and Helium Filled Balloons

41 - 46

To consider the report on sky lanterns and helium filled balloons.

4 Statement of Principles Gambling Act 2005 47 - 82

To consider the report on the Statement of Principles Gambling Act 2005.

5 Cross Border Operations 83 - 86

To consider the report on cross border operations.

6 Enforcement Update 87 - 90

To consider the enforcement 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.

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

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Agenda Item 2

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN CB11 4ER, on TUESDAY, 17 APRIL 2018 at 9.00 am

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

Officers in attendance: M Chamberlain (Enforcement Officer), B Ferguson (Democratic Services Officer) and C Nicholson (Solicitor)

Also Present: The driver in relation to item 3, B Drinkwater (ULODA – representing the driver in relation to item 3), D Perry (ULODA - representing the driver in relation to item 3) and A Schiller (Solicitor for the driver in relation to item 3).

LIC57 **EXCLUSION OF THE PUBLIC AND PRESS**

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.

LIC58 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The Chairman welcomed all present and introduced the panel. The procedure for determining a private hire/hackney carriage licence was read to the driver.

The Committee considered the Enforcement Officer's report.

The driver had been called before the committee due to historical allegations made by his ex-partner relating to assault by beating. The first allegation related to an incident in November 2016; the second incident allegedly occurred in January 2017. The driver received neither a conviction, nor a caution, in relation to these allegations.

The Enforcement Officer tabled a letter from Suffolk Police. For legal reasons, the letter could not have been provided to anyone but Mr Schiller in advance of the panel hearing.

The Chairman adjourned the meeting at 9.20am to allow those present to read the document.

The meeting was re-adjourned at 9.25am.

The Chairman invited Mr Schiller to question the Enforcement Officer regarding his report.

Mr Schiller asked whether the Enforcement Officer had taken the police investigation at face value, and if he had any contact with the Crown Prosecution Services regarding this case.

The Enforcement Officer said he had taken the investigation at face value, and he had not been in contact with the Crown Prosecution Services.

Mr Schiller asked whether the Enforcement Officer was aware that the driver's ex-partner had a record of dishonest convictions.

The Enforcement Officer confirmed he was unaware of this.

Mr Schiller asked whether the Enforcement Officer had verified the order of events set out in the police report.

The Enforcement Officer said he had not.

Mr Schiller described his client's version of events to the panel. He told Members that the historical allegations made by his client's ex-partner followed his client's own complaint against the ex-partner to the police. He asked the Enforcement Officer whether he could disprove this version of events.

The Enforcement Officer confirmed that he could not.

The Chairman invited the panel to question the Enforcement Officer regarding the details set out in the report.

Councillor Barker asked the Enforcement Officer to expand on his account of the meeting held on 21 September 2017, when the driver refused to discuss the alleged incident that had occurred in January that year.

Mr Drinkwater, who had attended the meeting and taken notes, gave an account of the conversation that took place between the driver and Enforcement Officer. The driver had said at the meeting that he would not comment on the alleged incident that had occurred in January, as he had voluntarily attended the meeting to discuss an alleged incident which had occurred in November 2016.

The Enforcement Officer said the account was an accurate reflection of the conversation that took place.

The Chairman invited Mr Schiller to address the panel to put forward his client's case.

Mr Schiller said his client was a fit and proper person and had not breached the terms of his licence. He said his client had been licenced for twelve years and had not incurred any penalty points in that time. He was a trusted driver and his customers were prepared to vouch for him; he had not had any complaints made against him in the twelve years he had been driving.

Mr Schiller explained the order of events as his client said they had occurred. He said the police had not investigated the alleged incident of January 2017 and this

was a closed matter. Of the alleged incident that had occurred in November 2016, the Crown Prosecution Services had reviewed the file and decided that the trial was not to take place. The driver had accepted a restraining order and wanted no more contact with his ex-partner. There had been no problems since and Mr Schiller reminded the panel that it was the driver himself who had brought this matter to the attention of the licensing officers.

Testaments of the driver's customers were tabled. Mr Drinkwater read a statement put forward by the driver's employer.

Mr Schiller invited questions from the panel.

The Chairman said this case had been difficult for the Enforcement Officer as the police had been slow in responding to his enquiries and had not provided all the information requested due to fears of breaking the data protection act.

Mr Schiller said he accepted this and he had only been made aware of the ex-partner's convictions as he, the legal defence, had the prerogative to know the prosecution's background.

In response to a Member question, the Solicitor said the ex-partner's history of convictions were a matter of record; the panel did not need to look behind these convictions.

In response to a question from the Enforcement Officer, Mr Schiller said the markings and bruising found on the body of his client's ex-partner were considered by the Police, who could not determine whether they were a result of the surgery she had been through or something else.

Councillor Hicks asked whether the restraining order received by the driver was a breach of licensing standards.

The Solicitor said it was not an admission of guilt and was neither a conviction, nor a caution and therefore was not a breach of licensing standards.

At the invitation of the Chairman, Mr Schiller made a closing statement to the panel. He said the police and prosecution services were satisfied that his client had not committed the alleged crimes he was accused of. He said his client's driving record, and the reported high level of customer satisfaction, demonstrated that he was a fit and proper person who was not a threat to public safety.

At 10.15 the Committee withdrew to make its determination.

At 10.50 the Committee returned and the Chairman read the decision to those present.

Decision

The driver has held a hackney carriage / private hire driver's licence from Uttlesford since 2007.

He had previously come before this committee, in August 2012 to consider the fact that he had received a caution for a violent act against his then partner. Members considered at that stage that the behaviour was out of character, and aggravated by his partner's actions.

The driver is before the committee today as a result of being informed by the driver, in accordance with the licensing conditions, that he was charged and being prosecuted for an offence of assault by beating against his former partner. The committee have heard how when the matter came to court, the prosecution offered no evidence, so the driver was acquitted. However, a post acquittal restraining order was obtained, which prevented the driver from contacting the victim for a year.

The committee understands that the restraining order is not an admission of guilt of any offence, and that in this particular case is clearly limited to contact only. The committee only have evidence from the police setting out the nature of the offence, and a short description of the events. There is no evidence from the alleged victim of the nature of the incident.

In respect of the November 2016 incident, he admits that he and his partner argued, but does not accept that there was any violence. The incident was only referred to the police by the driver's ex-partner, some time after the event, following complaint by the driver about his partner's behaviour during an argument in January 2017. The driver and his partner split up at this time.

The Committee takes account of the information provided by Mr Schiller regarding the prosecution case in respect of the November 2016 incident, and the fact that once the evidence was reviewed prior to trial, the CPS considered there was not strong enough or credible evidence to take the matter further to trial.

The committee notes that no action has been taken in respect of the January 2017 incident by the police following his interview. Members note the circumstances set out by Mr Schiller of that event, and the police conclusions.

It is accepted in case law, and in particularly in *McCool v Rushcliffe Borough Council* 1998, that a local authority licensing committee were allowed to take into account circumstances and incidents where a driver has not been convicted, or has been acquitted of an offence, and hearsay evidence of those matters. It is also established in the case of *R v Maidstone Crown Court ex p Olson*, that the local authority needed only to satisfy the civil standard of proof in determining whether the incidents complained of took place.

However, unlike the cases of *McCool*, and *Olson* referred to, the Council does not have any complainant or third party evidence, other than what the police have provided by letter. The account from the driver gives a version of events where no violence was committed, and explains that the complaints made against him were made only after they had split up, and after he made the complaint himself.

The Council has to consider what weight to give to the evidence before it of the police emails, and summons in respect of the two incidents, and what inference, if any, can be taken from that, as against the evidence offered by the driver, and the fact that the police took no action against the January 2017 incident, and offered no evidence in respect of the November 2016 incident when the matter got to court.

Members note that Mr Schiller has demonstrates the driver's exemplary driving history over the last 12 years, and have read the testimonies provided on his behalf, and are clear that the driver meets licensing standards. The driver himself notified the Council of the charge and court appearances in respect of the November 2016 incident.

Members primary concern is the safety of the travelling public, and Members consider that there is no evidence before them that would leave them to believe that the Driver is no longer fit and proper.

In this matter Member's decision is that they need to take no further action, but would reiterate that they do expect the highest standards of behaviour from their licensed drivers, and would not wish to see the driver here again.

The meeting ended at 10.55.

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**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on MONDAY, 23 APRIL 2018 at 7.30 pm**

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

Officers in attendance: T Cobden (Environmental Health Manager - Commercial),
B Ferguson (Democratic Services Officer), E Smith (Solicitor)
and B Stuart (Accountant)

LIC59 PUBLIC SPEAKING

Doug Perry and Barry Drinkwater gave public statements to the Committee. Summaries of the statements have been appended to these minutes.

LIC60 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies were received from Councillors Anjum and Gerard.

LIC61 MINUTES OF PREVIOUS MEETINGS

The minutes of the extraordinary meetings held on the 13 March, 21 March and 29 March 2018 were received and approved as correct records of those meetings.

**LIC62 FEES FOR DRIVERS, HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES
AND PRIVATE HIRE OPERATORS**

The Licensing Team Leader presented the report to the Committee. It proposed a rise in fees for drivers of Hackney carriages and private hire vehicles, and for private hire operators. The proposed rise had been put to consultation with the trade and responses had been sent to those who had objected. She asked Members to consider the proposed fee structure which would come into effect on 1 May 2018 if approved.

In response to a question from the Chairman, the Solicitor said she had sought specialist legal advice on the matter of cost recovery in relation to licensing fees and charges. She said the Council could charge for administration and compliance checks but were not entitled to charge for enforcement costs. She said if a prosecution was successful, the Council could claim for legal costs from the Court but these were borne by the individual Defendant and were therefore not included in the figures outlined in the report. These claims were for legal costs only and made on a full cost basis, with no element included for investigation costs. They were therefore unrelated to licensing fees.

Councillor Morris asked why the Council required a surplus in the years 2018-2020, instead of breaking even.

The Accountant said the overall costs would be neutral as the forecast for 2020-2021 was projected as a deficit.

The Chairman said that the proposed rise in fees would give greater scope to the Licensing department to enact the recommendations set out in the upcoming policy review. The fees outlined in the report were still some of the lowest in the country.

In response to a question from Councillor Gordon, the Chairman said the Council had met its obligations in terms of transparency. He said the accounts were available for inspection and the department had met and consulted with the trade.

RESOLVED to approve the fee structure proposed in Appendix B to come into effect on 1 May 2018

The meeting ended at 8.00pm.

PUBLIC STATEMENTS

Public Statements – Licensing and Environmental Health – 23 April 2018

Doug Perry - ULODA

Chairman, Members

Good evening. I start our first half with a few words about my many years as both a Town and a District Councillor.

As you know I chaired this committee after being a member and Vice Chairman when Cllr Hicks was chairman. He will remember that one of my biggest tasks was to run the Licensing Task Group. The taxi trade had argued that there were no grounds for a 29% increase in Licence Fees as recommended by officers.

Following representations from the trade, the committee reversed its decision to approve the recommendations. The task group comprised members, officers and representatives of the trade and was charged with analysing the costs of licensing and revenues from licences. We uncovered a surplus of over £160,000 which had unfortunately accrued over several years. The committee correctly decided that this surplus from the overpayment of fees should be "ring fenced" as the Licensing Reserve and paid back to the trade each year from 2010. The final balance of £17,000 was transferred on 1 April 2016 (Page 27 of your docs).

My concern is that we have STILL not seen even a DRAFT set of Licensing Accounts showing this transparently.

The Council has an obligation to be transparent. It seems it has not learned from its past mistakes.

Officers can ONLY make recommendations. The ultimate liability rests with this committee as key decisions on other matters rest with other committees.

Tonight you are presented with a set of recommendations which suggest that the trade's objections have been addressed (Page 25, point 17).

Trade representatives have read the words, but are NOT satisfied with the conclusions. If "additional Legal advice" has been sought on point 14 about what areas of Enforcement may be charged against fees, we would like to see this advice spelled out in detail please - as you surely would too!

There is a feeling we've been short changed on the details, ridden rough shod over.

Where is the transparency, please?

Thank you, Chairman and members. We very much hope your meeting is thorough, balanced and pays due regard to the need for proportionality.

Doug Perry

Hon President, ULODA

Uttlesford Licensed Operators & Drivers Association

Barry Drinkwater - ULODA

Good evening, Chairman and Members

Thank you, Mr Perry, for a hard hitting first half! The trade delegation including our larger company representatives will be delighted.

If I may pick up on your final point, Mrs Turner's "Considerations" in her report on Page 25, Point 18 include the words

"The legal advice received confirms that the fees have been calculated correctly and that no changes are required to the new fees proposed..."

Are we really expected to take these words at face value? What are the details of this legal advice, members may like to ask.

Our concern has ALWAYS been to see the "correct" allocation of Enforcement costs against licence fees. We are still to be convinced.

Are you, members, satisfied that all the objections raised have been "addressed" proportionately, and dealt with transparently?

We are disappointed that the Licensing Accounts are still hidden from our view. What's to hide?! They used to be shared so transparently.

Before the final whistle blows, may we end on a positive note?

The Spring issue of Taxi Chat has appeared and Mr Cobden and his team are to be complimented. We are delighted to see due weight given to ULODA's contribution. We were disappointed only that ULODA's proposed paragraph on UBER was edited out, despite its content being in the public domain.

Thank you, Chairman and Members. We hope your meeting is thorough, balanced and pays due regard to the need for proportionality.

Barry Drinkwater

Chairman, ULODA

Uttlesford Licensed Operators & Drivers Association

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on TUESDAY, 24 APRIL 2018 at 10.00 am**

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

Officers in attendance: A Bochel (Democratic Services Officer), M Chamberlain (Enforcement Officer), J Jones (Licensing Officer) and C Nicholson (Solicitor)

Also present: The driver in relation to Item 3, the sister of the driver in relation to Item 3, a witness in relation to Item 3, the applicant in relation to Item 4, the applicant in relation to Item 5.

LIC63 EXCLUSION OF THE PUBLIC AND PRESS

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.

LIC64 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The procedure for determining a private hire/hackney carriage licence was read to the driver.

The panel considered the Enforcement Officer's report.

The Licensing Department had received a phone call from an operator who notified the Council that he had let the driver go from his employment for health and safety reasons. He said the driver had twice attempted to commit suicide, first by jumping off a bridge and then by stabbing himself.

Due to these recent incidents and concerns over the driver's mental health, his licence was being brought before the panel to consider whether he remained a 'fit and proper' person to hold a private hire/hackney carriage driver's licence.

The witness to the incident read out her summary of the driver's most recent suicide attempt.

The driver said he was not mental and he was suffering from a broken heart. His wife had been very violent to him, but he was now getting regular help from members of a Crisis Team. His psychologist was referring him for discharge.

Councillor Hicks said any decision made by the panel was based on the understanding that people go through difficult periods in life, rather than the belief that the driver was in any way a “head case”.

The driver said he was in a better place now. His attempted suicide at the bridge had been an overdose. He was currently staying with his sister, and while there was no mechanism in place to prevent him from seeing his wife, they were choosing not to see each other.

The meeting was adjourned for members to examine the Group 2 medical standards for assessing fitness to drive.

At 10.40, the panel re-adjourned.

The driver said he had been authorised to drive by his care team.

At 10.45, the panel retired to make its decision.

At 11.10, the panel returned.

The Chairman read out the decision.

Decision:

The driver holds a joint private hire / hackney carriage licence, and has done so since 2013.

Unfortunately the Council has been advised that over the last few weeks the driver has made a couple of attempts to commit suicide. The details of the events are set out in the officer's report.

The Council's licensing standards require drivers to meet the DVLA's group 2 medical standards, and recent events lead the Council to consider whether the driver meets those standards.

The driver has explained the circumstances and background to the recent events, the extreme stress and pressure that personal matters have brought, and the continued help and treatment he is receiving from the Crisis Team and their psychologist. He is still under their care, although discussions are taking place regarding his discharge. He advises that he has started taking medication which is also helping him.

Members are asked to consider whether the driver remains a fit and proper person to hold a driver's licence.

Public safety is the paramount consideration for the Licensing Authority, and Members take particular note of the guidance given by the DVLA in their group 2 medical standards. Those standards say in respect of agitation, behavioural disturbance or suicidal thoughts, that the driver must not drive, and must notify the DVLA.

Relicensing by the DVLA will depend on the outcome of medical enquiries and the DVLA will require a period of stability. The DVLA considers that it might be appropriate to relicense after 6 months, if the person is well and stable and not taking medication with side effects that affect alertness or concentration.

As these incidents happened so recently, Members have not got medical reports as to the mental health of the driver, or details of the medication he is taking. However, on the information they do have regarding the recent behaviour of the driver, and the details he has given about his current care, Members consider that the driver is on the balance of probabilities no longer fit and proper to drive members of the public.

Members consider that they would wish to see the driver have a period of stability, and a period during which the impact of his new medication can be assessed, as is advised by the DVLA in these circumstances.

The driver's licence does not expire until 31 January 2019, and therefore Members consider it is appropriate to suspend the licence until its expiry.

Members can consider lifting the suspension before this date, at another meeting of this committee, by the production of a satisfactory medical reports showing he meets Group 2 standards in relation to his mental health, and that the DVLA have been informed of the driver's situation, and are also happy for him to drive. This suspension is to take immediate effect on public safety grounds under section 61(2B) Local Government Act 1972, as the self-harm incidents took place so recently, and the driver is still under the care of the mental health teams.

The driver is advised that he can appeal against this decision on application to the Magistrates Court within 21 days of the notice of this decision. He is reminded that the suspension is immediate and he cannot drive pending any appeal.

LIC65 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The procedure for determining a private hire/hackney carriage licence was read to the applicant.

The panel considered the Licensing Officer's report.

An enhanced Disclosure and Barring Service (DBS) certificate the applicant showed 6 convictions between September 1967 and October 1973 for various road traffic offences and offences under the Theft Act 1968.

The applicant therefore 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 applicant said he regretted what he had done in the past. He would like to change his life now.

In response to a question from Councillor Hicks, the applicant said he had not intended to hide his convictions on his application form. He had never been good at filling in forms and had thought he only needed to declare past driving convictions.

At 11.25, the panel retired to make its decision.

At 11.30, the panel returned.

The Chairman read out the decision.

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 varied but were all 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 and 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 the explanations given by the applicant, detailed in the report and here today. The committee also note that the last offence was over 40 years ago and that the applicant has had no convictions of any nature since.

The applicant has also had responsible employment throughout that time, and most recently has been with his current employer for 17 years, working in an environment that required a significant level of trust.

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.

LIC66

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The procedure for determining a private hire/hackney carriage licence was read to the applicant.

The panel considered the Licensing Officer's report.

On the application form, the applicant declared the following convictions

Offence	Disposal
Larceny	£5 fine
Larceny	Probation order
Theft and Going Equipped for Burglary	£5 fine Conditional Discharge 12 months
Burglary, going equipped, no insurance, taking motor vehicle without consent	Detention Centre 3 months, Driving licence endorsed

Theft	£10 fine
Criminal Damage	£100 fine
Assault	£35 fine

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 applicant said he was pleased to have the opportunity to explain his past mistakes. He did not recognise the person he was back then.

At 11.40, the panel retired to make its decision.

At 11.45, the panel returned.

The Chairman read out the decision.

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 varied but were for offences of dishonesty and violence. In respect of these offences he received a range of punishments including a custodial sentence. By virtue of the custodial sentence for an 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 and 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 the explanations given by the applicant, detailed in the report and here today. The committee also note that the last offence was over 20 years ago and that the applicant has had no convictions of any nature since.

The applicant has also had responsible employment throughout that time, undertook a part time degree and qualified as a surveyor, and worked in that industry for a number of years in the City and with Essex Fire Brigade. Following a change of circumstances, he has worked as a National Express coach driver without any issues.

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.

LIC67

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item was unable to attend.

The panel considered the Licensing Officer's report.

The driver had contacted the Licensing Department at the end of January to advise that he had suffered a stroke in November.

The Council's licensing standards for drivers' state drivers must "meet Group 2 medical standards as published by the Department of Transport" The DVLA Guidance for Group 2 drivers states that following a stroke drivers must not drive and must notify the DVLA. Individuals may not drive for 1 year following a stroke or TIA. Relicensing after 1 year may be considered providing certain conditions are met.

As the driver no longer meets Group 2 medical standards his licence was suspended with immediate effect on grounds of public safety under delegated powers in accordance with the council's licensing policy. In accordance with the Council's licensing policy, this suspension was referred to the panel for the purpose of determining whether the suspension as outlined above should be confirmed or the licence revoked.

At 11:50, the panel retired to make its decision.

At 11:55, the panel returned.

The Chairman read the decision to those present.

Decision:

The driver holds a joint private hire / hackney carriage licence, and has done so since 1999.

Unfortunately in November 2017, the driver suffered a stroke. DVLA Group 2 medical standards for driving following a stroke are that individuals must not drive for 1 year thereafter.

The Council's licensing standards require drivers to meet the DVLA's group 2 medical standards, and as the driver did not meet those standards, Officers exercised their delegated powers to suspend the licence with immediate effect on the grounds of public safety.

Members are asked to consider whether to confirm the suspension or revoke the licence.

Public safety is the paramount consideration for the Licensing Authority, and Members take note of the DVLA guidance regarding driving following a stroke. The driver's licence does not expire until March 2019, and therefore Members consider it is appropriate to confirm the suspension for 1 year, which can be lifted by production of a satisfactory medical report showing he meets Group 2 standards.

LIC68

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check upon application. The driver's application was processed with an old enhanced DBS check dated 29 September 2017 and a statutory declaration. However, he failed to supply a new DBS check.

The driver failed to respond to the Council's attempts to contact him. The matter was therefore brought before the panel for it to consider whether he remained a 'fit and proper' person to retain a private hire/hackney carriage driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. He was first licensing in November 2017, using a DBS check from September 2017, supported by a statutory declaration. This is done to speed up the application process, on the requirement that a new DBS is applied for thereafter and supplied to confirm no change.

The driver has not supplied a new up to date DBS check.

The driver has been chased by the Council by letter on two occasions and telephone, and he has not contacted the Council or provided any explanation for the failure.

This failure to provide an up to date check leads the Council to consider whether the driver 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'.

Members note that the failure to have an up to date DBS check is a breach of Council policy, the check is vital to establish that a driver has not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke his licence.

The driver 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.

LIC69

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

Licensed drivers are required to complete DVLA mandate forms for the Council every three years to enable the licensing department to carry out checks on DVLA records every year. The driver's last driver mandate expired on 31

January 2018 and she failed to supply a new one. This prevents the Licensing Department from being able to conduct Drivercheck's on her DVLA records.

Both the driver's last enhanced DBS check and medical expired on 31 January 2018.

Reminder letters were sent to the driver's address, but returned in the post as 'not known at this address return to sender.' No response was received to emails.

The matter was therefore brought before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire/hackney carriage driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out in January 2018. The Council also requires The driver to complete the DVLA mandate form to enable the Council to check her driving licence.

The driver has been chased by the Council by letter and email on a number of occasions, have tracked down an alternative contact address and also tried writing to her there, and she 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 driver 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'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver 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.

LIC70 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo a Group 2 medical when they apply for a licence and then every three years after that. These checks assist the

Council in establishing where an applicant is a 'fit and proper' person to hold a licence. The driver's medical expired on 31 March 2017.

Licensed drivers are also required to complete DVLA mandate forms for the Council every three years to enable the licensing department to carry out checks on DVLA records every year. The driver's current mandate expired on 31 March 2018 and he failed to supply a new one.

The driver has not responded to the Council's attempts to contact him. His licence was therefore brought before the panel for it to consider whether he remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. His three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by March 2017. The Council also require the driver to complete the DVLA mandate form to enable the Council to check his driving licence.

The driver has been chased by the Council by letter on a number of occasions over the last 6 months, and he 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 driver 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'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver 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.

LIC71

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service check and Group 2 medical when they apply for a licence and then every three years after that. The driver's last enhanced DBS and Group 2 medical checks expired on 31 December 2017.

The driver had not responded to the Council's attempts to contact her. Her licence therefore came before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by December 2017.

The driver has been chased by the Council by letter on a number of occasions, and she 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 driver 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'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver 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.

LIC72

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council require all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. These checks assist the Council in establishing where an applicant is a 'fit and proper' person to hold a licence. Both the driver's last enhanced DBS check and group 2 medical expired on 31 December 2017.

The driver had not responded to the Council's attempts to contact her. Her licence therefore came before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence.

Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by December 2017.

The driver has been chased by the Council by letter on a number of occasions, and she has not contacted the Council or provided any explanation for the failure. The Council believe she is not at the address on the Council's records, but have been unable to find another address for her

This failure to provide up to date checks leads the Council to consider whether the driver 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'.

Members note that the driver failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver 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.

LIC73 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and Group 2 medical when they apply for a licence and then every three years after that. These checks assist the Council in establishing whether an applicant is a 'fit and proper' person to hold a licence. The driver's last enhanced DBS check and Group 2 medical expired on 31 March 2017.

Licensed drivers are also required to complete DVLA mandate forms for the Council every three years to enable the licensing department to carry out checks on DVLA records every year. The driver's last mandate expired on 02 March 2018 and she has failed to supply a new one.

The driver had not responded to the Council's attempts to contact her. Her licence therefore came before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by March 2017. She is also required to provide an up to date DVLA mandate to check her driving licence.

The driver has been chased by the Council by letter and email on a number of occasions, and she 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 driver 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'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver 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.

The meeting closed at 12.15.

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at ROOM 7
- UTTLESFORD DISTRICT COUNCIL, COUNCIL OFFICES, LONDON ROAD,
SAFFRON WALDEN, ESSEX CB11 4ER, on THURSDAY, 10 MAY 2018 at
10.00 am**

Present: Councillor R Chambers (Chairman)
Councillors A Gerard, E Hicks and G Sell

Officers in attendance: A Bochel (Democratic Services Officer), C Nicholson (Solicitor)
and A Turner (Licensing Team Leader)

LIC74 CERTIFICATION OF A FILM CLASSIFICATION

The Committee watched the film "The Messenger".

Members said the film was not suitable to be rated as a U, because of the presence of scenes of mild threat and violence which some young children might find upsetting. It was agreed to classify "The Messenger" as a PG.

The meeting closed at 11:40.

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LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held in the COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on MONDAY, 4 JUNE 2018 at 10.00 am

Present: Councillor R Chambers (Chairman)
Councillors G Barker, J Davey and A Gerard

Officers in attendance: M Chamberlain (Enforcement Officer), B Ferguson (Democratic Services Officer), J Jones (Licensing Officer) and C Nicholson (Solicitor)

Also Present: Mr Ahmed (Director of Rainbow Travel Limited); Mr Butt (Manager of Reachers Cars and Minibus Limited); the drivers in relation to items 5 and 7; the father of the driver in relation to item 5; B Drinkwater (ULODA) and Councillor M Foley.

1 DETERMINATION OF A PRIVATE HIRE OPERATOR APPLICATION

The Chairman introduced the Panel and the procedure for determining a private hire operator application was read to the applicant.

The Committee considered the Enforcement Officer's report.

Reachers Cars and Minibus Limited had applied on 21 March 2018 for the grant of a private hire operator licence. The address stated on their application was in Stansted, although at a later meeting Mr Butt, a manager of the Company, had said the Stansted office would not be manned. The application stated that they wished to licence 40 drivers and 40 vehicles with Uttlesford to do school contract work in Hertfordshire.

The Council's policy surrounding the licensing of private hire operators stated that the Council would not licence any operators which did not carry out business predominantly in the District of Uttlesford.

The Enforcement Officer said to grant this application would be a departure from the Council's policy and good reasons would need to be given to do this. Members would need to bear in mind throughout their decision making that this applicant had told the Licensing Officer that they would not be operating in Uttlesford and the Council had no evidence that the work was 'accepted' or 'invited' at the address in Stansted.

The Chairman invited Mr Butt to question the Enforcement Officer's report.

In response to a question from Mr Butt, the Enforcement Officer said the Council's Licensing policy had not changed since 2013.

Mr Butt said he had previously withdrawn an application in 2016, due to the Enforcement Officer's guidance that policy changes were forthcoming.

Mr Butt asked how many operators were licensed in the District, but were not operating in the District.

The Enforcement Officer said this was irrelevant to the application.

The Chairman invited Members to question the report.

In response to a Member question relating to the redacted email of July 2016, the Enforcement Officer tabled the original email.

The Solicitor said the email provided background information on why the previous decision to take the application to Committee was made.

Mr Butt was invited to present his own case to the Panel.

Mr Butt said he only wanted to be treated fairly and the same as his competitors. He added that he had been given incorrect information when he had previously applied for an operator's licence and had not been aware that this decision would be taken by Committee.

In response to a question from Councillor Barker, Mr Butt said 99.9% of the Company's work was reliant on school contracts.

Councillor Gerard asked Mr Butt in what area did the Company operate.

Mr Butt said the Company operated across Hertfordshire and said they had jobs in Stevanage, Sawbridgeworth, Cheshunt, London and Birmingham. He said he had always been honest and had never informed the Enforcement Officer that the Company worked predominantly in Uttlesford. He added that if granted a licence the Company could potentially expand its business into Uttlesford.

Councillor Gerard asked if it was fair to say that the Company had no work in Uttlesford.

Mr Butt agreed and said the Company had no work in Uttlesford.

The Enforcement Officer asked Mr Butt why the Company had applied for an Operator's Licence in Uttlesford.

Mr Butt said it was due to the large pool of drivers in Hertfordshire who had been licenced by Uttlesford; if granted an Operator's licence, this pool of drivers could be utilised and work for Reachers Cars.

The Solicitor explained the predominant use criteria but said Members needed to be aware of the Knowsley Council decision, whereby it was determined that a private hire licence could be granted if an applicant was found to be fit and proper, regardless of where they predominantly worked. She said the wording for private hire and operator licences was identical and therefore the same could potentially apply to operator licences. It was for Members to decide whether location had any bearing on an operator's standing of being fit and proper.

At 10.35 the Committee retired to make its decision.

At 11.25 the Committee returned.

The decision was read to the applicant.

Decision

Reachers Cars and Minibus Limited have applied for an operator's licence under s 55 Local Government (Miscellaneous Provisions) Act 1976.

Mr Butt for the company has advised that although they wish to be licensed by Uttlesford, they intend to actually operate private hire vehicles for school contracts in Hertfordshire.

They have stated that they are to have an operating address within the Uttlesford District and have rented an office at Regus House, at Stansted Airport.

The company is properly constituted and still operating and the Council has no other information suggesting that the company, and its directors are not fit and proper to hold an operators licence.

S55 of Local Government (Miscellaneous Provisions) Act 1976 provides that a district council shall grant a licence to an applicant, but that it shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operators licence.

Uttlesford District Council have stated in their licensing policy that they would not licence operators who do not carry on business predominantly in the District, as a result of the case R (on the application of Newcastle City Council) v Berwick on Tweed Borough Council 2009.

In that particular case, the judge did say that Berwick had a discretion under section 37 of the Town Police Clauses Act 1847 whether to issue a licence to the proprietor of a hackney carriage vehicle and that it should not exercise that discretion in a case where the authority knew that the driver intended to operate unregulated outside the area covered by the licence.

That proposition has been used for predominant use policies by authorities across the country to try and prevent applicants for licences undermining the local control of taxi licences by applying for licences with the cheapest authority, with no intention of operating there.

Members consider that an applicant who has little or no intention of working within its boundaries is not a fit and proper person within the terms of section 55, because he would be undermining a principle of "local licensing" that has been recognised as central to the private hire regime provided by the 1976 Act.

Members note the decision in R (on the application of Delta Cars and Uber) v Knowsley Borough Council earlier this year in respect of a predominant use policy for licensing drivers. However, Members note that although a correlation could be made between a predominant use policy in respect of drivers, and one in respect of operators, the two different licences can be distinguished.

Whilst a drivers' licence could be considered a generic licence, and it is well accepted that a private hire driver can carry out his driving within any district if the trinity of licences is held, the situation is not the same for an operator. The intention of the legislation is to have local control, and therefore where an operator intends to operate from is a central part of the consideration of their licence.

Therefore, in this case, Members are mindful of the decision in Knowsley, but the Council's licensing policy is quite clear, that it will not licence operators who do not intend to operate predominantly within the district. This policy has not been challenged by way of judicial review and remains in force.

Mr Butt has been quite clear in his assertion that his business is running school contracts in the Hertfordshire area, and clearly this is not predominantly within the district of Uttlesford.

Members do not have any other good reason to depart from their policy and therefore the application for an operator's licence is rejected, and no licence will be granted.

The applicant is advised that he has a right of appeal against the decision of the committee on application to the Magistrates Court within 21 days of receipt of the written decision.

2 **DETERMINATION OF PRIVATE HIRE OPERATOR APPLICATION**

The Chairman introduced the Panel and the procedure for determining a private hire operator application was read to the applicant.

At 11.30am the Chairman adjourned the meeting to allow the Enforcement Officer to provide the applicant with a paper copy of the report.

At 11.35am the Chairman re-adjourned the meeting.

The Committee considered the Enforcement Officer's report.

The application was submitted on 27 March 2018 for the grant of a private hire operator licence to Rainbow Travel Limited. The address the Company had stated they would operate from was the Regus Building, Stansted. They had initially put on their application form that they would operate from an address in Hemel Hempstead but then had crossed this out. The application form stated that the operator intended to employ 10-15 licensed drivers. At a later meeting with the Licensing Officer, Mr Ahmed, Director of Rainbow Travel Limited, said he had won school contracts from Hertfordshire County Council and he intended to use the Uttlesford licence for this, if granted.

Mr Ahmed had supplied the Enforcement Officer with copies of contracts he would use if granted an operators licence in Uttlesford. All of the contracts were

for school contract work outside of Uttlesford and Essex, and the contracts were made at Mr Ahmed's address in Hemel Hempstead.

The Council's policy surrounding the licensing of private hire operators stated that the Council would not licence any operators which did not carry out business predominantly in the District of Uttlesford.

The Enforcement Officer said to grant this application would be a departure from the Council's policy and good reasons would need to be given to do this. Members would need to bear in mind throughout their decision making that this applicant had not been operating in Uttlesford and the contracts supplied to Enforcement Officer had not been 'invited' or 'accepted' via the Company's Uttlesford office.

There were no questions regarding the report.

The Chairman invited Mr Ahmed to make his case.

Mr Ahmed said he was a fit and proper operator and had two other operators' licences with other Authorities. He said the Regus Office in Stansted was not manned as he did not have an operators licence in this District, and it would not be manned until a licence was granted. He had assumed he would be granted a licence by Uttlesford and had hired a number of UDC licenced drivers in anticipation, who were currently working as driver assistants until the licence was granted. He said this licence was much needed in terms of creating competition with the three or four large companies who were operating in Hertfordshire.

Councillor Barker asked where Mr Ahmed planned to expand his business.

Mr Ahmed said Rainbow Travel Limited operated across Hertfordshire but could move into Uttlesford if granted a licence.

Councillor Gerard asked whether the Company had any work in Uttlesford and, if not, had any preliminary discussions taken place regarding working in Uttlesford.

Mr Ahmed said he had no work in Uttlesford and any discussions relating to working in this District would not occur until a licence was granted.

In response to a Member question, Mr Ahmed said he had not ruled out working in Uttlesford in the future.

In light of this the Enforcement Officer retracted his comment in the report which said, 'this applicant has told the Licensing Officer that they will not be operating in Uttlesford.'

The Solicitor explained the predominant use criteria but said Members needed to be aware of the Knowsley Council decision, whereby it was proven that a private hire licence could be granted if an applicant was found to be fit and proper, regardless of where they predominantly work. She said the wording for private hire and operator licences was identical and therefore the same could potentially

apply to operator licences. It was for Members to decide whether location had any bearing on an operator's standing of being fit and proper.

At 12.00pm the Committee retired to make its decision.

At 12.25pm the Committee returned.

Councillor Foley left the meeting at 12.25pm.

The decision was read to the applicant.

Decision

Mr Ahmed has applied for an operator's licence under s 55 Local Government (Miscellaneous Provisions) Act 1976 and intends to operate through a company called Rainbow Travel Limited.

He has advised that although he wishes to be licensed by Uttlesford, he intends to actually operate private hire vehicles for school contracts in Hertfordshire.

He has stated that he is to have an operating address within the Uttlesford District and has rented an office at Regus House, Stansted.

The company is properly constituted and still operating, and the Council has no other information suggesting that the company, and its directors are not fit and proper to hold an operators licence.

S55 of Local Government (Miscellaneous Provisions) Act 1976 provides that a district council shall grant a licence to an applicant, but shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operators licence.

Uttlesford District Council have stated in their licensing policy that they would not licence operators who do not carry on business predominantly in the District, as a result of the case R (on the application of Newcastle City Council) v Berwick on Tweed Borough Council 2009.

In that particular case, the judge did say that Berwick had a discretion under section 37 of the Town Police Clauses Act 1847 whether to issue a licence to the proprietor of a hackney carriage vehicle and that it should not exercise that discretion in a case where the authority knew that the driver intended to operate unregulated outside the area covered by the licence. That proposition has been used for predominant use policies by authorities across the country to try and prevent applicants for licences undermining the local control of taxi licences by applying for licences with the cheapest authority, or as we have heard, with no knowledge test, with no intention of operating there.

Members consider that an applicant who has little or no intention of working within its boundaries is not a fit and proper person within the terms of section 55, because he would be undermining a principle of "local licensing" that has been recognised as central to the private hire regime provided by the 1976 Act.

Members note the decision in R (on the application of Delta Cars and Uber) v Knowsley Borough Council earlier this year in respect of a predominant use policy for licensing drivers. However, Members note that although a correlation could be made between a predominant use policy in respect of drivers, and one in respect of operators, the two different licences can be distinguished.

Whilst a drivers' licence could be considered a generic licence, and it is well accepted that a private hire driver can carry out his driving within any district if the trinity of licences is held, the situation is not the same for an operator. The intention of the legislation is to have local control, and therefore where an operator intends to operate from is a central part of the consideration of their licence.

Therefore, in this case, Members are mindful of the decision in Knowsley, but the Council's licensing policy is quite clear, that it will not licence operators who do not intend to operate predominantly within the district. This policy has not been challenged by way of judicial review and remains in force.

Mr Ahmed has been quite clear in his assertion that his business is running school contracts in the Hertfordshire area, and clearly this is not predominantly within the district of Uttlesford. Although Mr Ahmed is open to expanding his business in the Uttlesford area, he has not made any enquiries, or put any plans in place that would demonstrate an intention to carry on his business predominantly in the Uttlesford District.

Members do not have any other good reason to depart from their policy and therefore the application for an operator's licence is rejected, and no licence will be granted.

The applicant is advised that he has a right of appeal against the decision of the committee on application to the Magistrates Court within 21 days of receipt of the written decision.

3 EXCLUSION OF THE PUBLIC AND PRESS

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.

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

The procedure for determining a private hire/hackney carriage licence was read to the applicant.

The Committee considered the Enforcement Officer's report.

The driver's latest three yearly enhanced Disclosure and Barring Service (DBS) check was dated 24 January 2018. This DBS check revealed a conviction dated 12 January 2016 at Paphos District Court in Cyprus for an offence of foreign legal possession of a class B controlled drug on 28 August 2011. The driver was fined 300 Euros and the conviction was removed from the Cypriot register on 12 January 2018.

The driver attended a meeting with the Enforcement Officer on 06 April 2018 to discuss the matter. He explained that he regularly travelled to Cyprus as he had family there. The driver explained that he was arrested in 2016 upon arrival and was taken straight to Court. He told the Officer that the hearing only took a few minutes in Greek. The driver explained that whilst he can speak some Greek he was not fluent and was unable to fully follow what was being said. He was made to pay a fine at the end of the hearing and thought it was a fixed penalty notice. He had no idea that he had been convicted as he received no paperwork from the Court. At this time, the driver explained that he was looking after both his mother and father. When he was questioned about why he incorrectly completed the renewal document, he claimed he was not aware that he had been convicted, only becoming aware when he received the DBS check in January 2018.

The Enforcement Officer said the driver still met licensing standards as the conviction was now spent. He said the decision before Members was to consider if he remained a 'fit and proper' person to hold a licence due to the nature of the conviction in 2016 and the fact he failed to declare it upon his renewal in 2016. He added that the driver had been an exemplary applicant and had fully cooperated with his investigation.

The Chairman invited the driver to address the Panel.

The driver explained that the cannabis which had been found was for his mother, who was very unwell at the time. In Cyprus he had taken responsibility for the drug, so his mother would not have to face the punishment and shame associated with the possession of drugs. He said he was completely unaware of the conviction and had assumed it was a penalty notice, due to the lack of information provided to him by the Cypriot court. He added that as soon as he was aware of the conviction he had contacted the Council, and the circumstances surrounding his unwell parents had also contributed to the situation.

The driver's father made a statement to the Panel. He said his son had gone through a very difficult time in the past few years as his mother had passed away and he also had been very ill with cancer. He said his son was a good and just person who took his work very seriously; he added that he was reliant on his son's income as he had recently moved back in to help support him through his illness.

The Enforcement Officer said a job offer with 24 x 7 was waiting for the driver if he was granted a private hire licence.

At 12.50pm, the Committee retired to make its decision.

At 1.00pm, the Committee returned.

The decision was read to the applicant.

Decision

The driver holds a joint private hire / hackney carriage driver's licence and has done so since 2012.

A recent DBS check revealed a conviction for possession of cannabis in Cyprus. The offence dated from 2011, but he was only convicted in 2016.

The conviction was not revealed by the driver when he completed his renewal paperwork in 2016, despite the conviction having only recently taken place.

The driver has explained the circumstances surrounding the commission of the offence, which was during a difficult time when he was caring for his mother, and the drugs were being used to provide relief from her illness. The driver has also explained the circumstances of the court case, and the conviction, which took place in Cyprus. He did not understand the proceedings, paid a fine and did not realise with was a full conviction.

Under s61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 members are entitled to consider the suspension or revocation of a drivers licence, where information has come to their attention following the grant of a licence, which falls into the category of 'any other reasonable cause'. This would mean any thing that may lead the Council to reasonably belief that the driver is no longer a fit and proper person to hold a licence.

Members note that this offence actually took place 7 years ago, and is now spent. It was a personal family matter, that took place in difficult circumstances, there have been no convictions or any other issues since, and Members are satisfied that this offence does not make the driver no longer fit and proper to hold a licence.

With regards the failure to notify of a conviction or to reveal it on the renewal form, Members accept the explanation from the driver that he did not understand the nature of the proceedings, or the conviction, and thought it was a fine attached to a fixed penalty notice. Members would like to reiterate the importance of being aware of the licence conditions, and that notifying the Council of cautions and convictions is a vital part of ensuring the safety of the public, by being able to review the suitability of drivers to continue to be licensed and driver. However, they do not consider it necessary to impose any sanction.

5

DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE

The Committee was informed that the driver in relation to Item 6 had surrendered their licence.

DETERMINATION OF PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The procedure for determining a private hire/hackney carriage licence was read to the applicant.

The Committee considered the Enforcement Officer's report.

The driver's most recent enhanced DBS check was dated 13 March 2018 and revealed one caution from 2012 which the Council was aware of on his original application for a licence in 2015. The check also revealed a caution from Essex Police dated 08 August 2017 for an offence of being an owner/person in charge of a dog dangerously out of control causing injury on 07 August 2017.

The driver was required under the conditions of his driver's licence to notify the Council in writing of any cautions within seven days of the date of caution, however he had failed to do so.

The driver attended the Council Offices in Saffron Walden on 19 April 2018 to discuss the matter with the Enforcement Officer. The driver said that he had been at the vets in Colchester with his partner and their Staffordshire Bull Terrier on the date of the offence. His dog was wearing an orange harness which read 'no dog' to warn others to keep their dogs away from his. The dog was not muzzled but was separated from other dogs. The driver then dropped something and bent down to pick it up. At this time the lead snapped. The driver explained that a nearby lady started to behave hysterically and thought the driver's dog may attack her, or her dog. She dragged her dog round which set the driver's dog off and both dogs locked onto each other. The driver's partner then pulled the dogs apart. The other dog was slightly injured.

The driver and his partner called the Police straight away to report the matter. The other party logged a complaint with the Police and he attended Colchester Police Station the next day for an interview. After the Police viewed the CCTV footage of the incident they gave the driver a caution which he accepted and advised him to get a muzzle for the dog when he takes it out.

The driver was asked why he did not report the matter to the Council. He said he read the conditions three years ago when he first received his licence but had forgotten them. He also did not think the Council would need to know about the matter as it was not driving related.

The Enforcement Officer said the driver no longer met the Council's licensing standards for drivers due to the undeclared Police caution. The matter before Members was to determine whether he remained a 'fit and proper' person to hold a driver's licence.

At the invitation of the Chairman, the driver read a statement provided by his employer which highlighted his good character as a dependable employee.

In response to a Member question, the driver said he had owned the dog since it was a puppy. The dog was now three years old.

The Chairman asked how the lead had snapped.

The driver said it was a retractable lead and it had snapped as he was bending down. He said he would not use a retractable lead again and now owned a lead which was much stronger.

In response to a Member question, the driver confirmed he had a clean driving licence.

At 1.30pm, the Committee retired to make its decision.

At 1.40pm, the Committee returned.

The decision was read to those present.

Decision

The driver holds a joint private hire/hackney carriage drivers' licence and has done since 2015.

His most recent DBS check has revealed a police caution in respect of being in charge of a dog that was dangerously out of control causing injury. The caution dates from August 2017, and the driver failed to advise the Council as required by his licence conditions.

As a result of the caution, the driver no longer meets licensing standards, and by virtue of s 61 Local Government (Miscellaneous Provisions) Act 1976, the Council can consider whether there is any other reasonable cause that would lead the authority to suspend or revoke his licence. Members have to consider whether as a result of the caution the driver remains a fit and proper person to hold a licence.

Members note that this related to an offence in his private life, which is unlikely to impact on his work as licensed driver. Members consider that the driver remains a fit and proper person to hold a licence.

However, Members do take seriously the failure to comply with the licence conditions, in not notifying the Council of the offence. It is of vital importance that the Licensing Authority is kept informed of any offences committed since the grant of the licence so that the fitness of the driver to hold a licence can be continually reviewed. The Council's licensing enforcement policy indicates that in the case of a failure to notify of an offence, a suspension is the most appropriate sanction, both as a mark of disapproval of the driver's conduct and as a deterrent to others.

In determining whether to suspend a licence and if so in determining the length of suspension, regard will be had by the Licensing Committee to the following factors:

1. Whether the driver fully admitted the matter alleged or whether he or she put forward explanations which were wholly unsustainable.
2. The seriousness of the matter complained of.
3. The driver's past history.
4. Whether the driver has suffered any other penalty in respect of the matters complained of.
5. Any aggravating factors
6. Any mitigation put forward by the driver or his or her representative.
7. The financial effect of any suspension upon the driver acknowledging that he or she will not be able to earn an income from driving during the period of any suspension.

Members have heard how this is a matter related to his personal life and an unfortunate incident relating to his dog. There were no aggravating factors, he accepted the police caution, and this was a case of failing to remember the requirements of his licence to notify of all cautions rather than just those relating to driving. Members have no information relating to the financial effect of any suspension, but consider that a suspension of 1 day would be appropriate in this case.

The driver is reminded of his right to appeal against this decision on application to the Magistrates Court within 21 days of the receipt of the formal decision. The suspension would not take effect until after this period.

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

The driver in relation to Item 8 had notified the Enforcement Officer that he would be unable to attend the Committee meeting.

Members agreed to defer determination of the licence until the next meeting.

The meeting ended at 1.50pm.

Agenda Item 3

Committee: Licensing and Environmental Health Committee
Date: Wednesday, 27 June 2018
Title: Sky lanterns and helium filled balloons
Report Author: Marcus Watts, Environmental Health Manager
- Protection
mwatts@uttlesford.gov.uk
Tel: 01799 510595

Summary

1. This report is for members to acknowledge and support the Full Council motion made on 10th April to restrict, discourage and prohibit the use of sky lanterns and helium filled balloons at licensable events in Uttlesford District Council.

Recommendations

2. That members agree that in carrying out the Councils statutory licensing functions, requests are made to licence applicants, event organisers and their authorised agents to voluntarily prohibit the use of sky lanterns and helium filled balloons at licensable events, and
3. Where the discretion of the Licensing Authority is engaged on an application under the Licensing Act 2003, to consider whether it is appropriate for the promotion of public safety and prevention of public nuisance to make representation seeking to prohibit their use.

Financial Implications

- 4.

Background Papers

5. 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.

Impact

- 6.

Communication/Consultation	None
Community Safety	None

Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	The recommendations in the report support the principles of sustainability by preserving the environment, keeping it free from litter, waste and sources of destruction
Ward-specific impacts	None
Workforce/Workplace	None

Situation

7. There is increasing concern about release of sky lanterns and helium filled latex balloons and the possible impacts that these may have on the environment, on animal welfare, the fire risk to buildings and risks to aviation.
8. At a meeting of the Full Council on 10th April 2018, members backed a motion that resolves to:
 - Support a ban on the release of sky lanterns and helium balloons.
 - Review the terms under which council land and premises are let to the public with a view to prohibiting their release.
 - Write to town and parish councils and recent venues in Uttlesford highlighting the risks and urging them to introduce voluntary bans.
 - Write to Uttlesford's MP urging action at a national level.
 - Display publicity in council premises raising awareness of the risks posed.
 - Treat reports of release of sky lanterns and helium balloons as potential littering offences.
 - Request the Licensing & Environmental Health Committee give consideration to the inclusion of a condition on premises licensing to prevent balloon and sky lantern releases.
9. Sky lanterns, otherwise known as 'Chinese lanterns' are small hot air balloons made from paper, often wire or bamboo with rope or wire struts. They have an opening at the bottom where a candle or fuel cell is lit causing the balloon to rise.
10. Lanterns can descend with the flame lit and have been the cause of a number of fires. In 2013, the large fire at the Smethwick recycling site in the West Midlands was thought to have been caused by a Chinese lantern. More than

200 firefighters attended the blaze at a recycling depot, and the damage caused was estimated to cost £6m. Given the number of listed buildings within the district with thatched roofs there are concerns regarding the risks associated with the use sky lanterns.

11. The remnants of sky lanterns also cause unnecessary litter. The metal framework can cause damage to farm machinery. Wildlife and grazing livestock can also be harmed from the ingestion and entanglement of sky lantern parts.
12. The Country Land and Business Association has also identified sky lanterns as the cause of barn fires and livestock deaths and have called for a government ban on their use. There is currently an online petition with over 26000 signatures to support the ban.
13. Balloons are also a source of littering and a serious environmental hazard. They can take over 6 months to break down in the environment. If swallowed they have been reported to block an animals gut causing it to starve. Animals can become entangled in ribbons and strings. They also look like jellyfish or food sources for marine animals.
14. Currently other than littering offences, there are no regulations banning or restrictions the release of sky lanterns or helium balloons. However, increasingly restrictions and bans are being imposed. Research indicated that Royal Parks, Birmingham, Caerphilly, Cardiff, Hampshire, East Suffolk Councils are amongst those where restrictions or bans have been imposed.
15. In respect of the Licensing Act 2003 the use or release of sky lanterns is not a licensable entertainment or activity that falls within the direct control and jurisdiction of the Act in the way that the sale of alcohol or the performance of live music would.
16. It is unlikely that applicants for a premises licence, club premises certificate or Temporary Event Notice would ever inform the Licensing Authority of any planned use of sky lanterns as part of any other licensable activity or entertainment taking place because they are not specifically required to under the Act.
17. If an applicant did include details of the use or release of these lanterns within their operating schedule, for example as part of an application for a new premises licence or a variation of licence, or there is knowledge that this is likely to take place, then it would be open to 'Responsible Authorities' to comment on this use. Such scrutiny is likely to fall within the remit of the 'Public Safety' licensing objective and the 'Public Nuisance' objective, in respect of litter emanating from, or sourced from, licensed premises.
18. An application will only be heard and determined by the Licensing Committee, however, if representations in the form of objections are submitted against it that are relevant representations under the Licensing Act 2003, considered. It

is not open to a Licensing Authority to attach conditions to an application to control, restrict, or curtail times or activities if no relevant representation has been submitted. If no representations are made then an application must be granted as applied for. In respect to Temporary Event Notices it is only the police and the environmental health service that can submit a representation against the notice.

19. Whilst it is not legally possible under the Licensing Act 2003 to impose 'standard' conditions on licences, where the Licensing Committee's discretion becomes engaged via hearing processes then at that time consideration may be given to imposing controls relating to use of sky lanterns and similar airborne devices, where appropriate (based on the individual nature of the premises, its activities and its locality) to promote the licensing objectives of the prevention of public nuisance and public safety. This is to be decided on a case by case basis, should be evidence based and proportionate to the effect on the licensing objective and what it is intended to achieve.

20. It is possible for the council to use its role as 'Responsible Authority' to directly influence licencing controls and formal conditions by advising applicants as part of an early intervention of likely problems with their application, and suggesting suitable control measures, and making a representation in respect of an application, identifying how the granting of the licence may undermine the licensing objectives.

21. In accordance with the Full Council motion on 10th April, it is recommended that Officers adopt the following measures:

- a. Ensure that the use of sky lanterns and helium filled balloons are discouraged at multi-agency Safety Advisory Group (SAG) meetings.
- b. To provide information discouraging the use of sky lanterns and helium filled balloons to applicants seeking Temporary Events (TEN applications).
- c. For Environmental Health to make representation when there are legitimate public safety concerns regarding the use of sky lanterns at particular venues.

Risk Analysis

22.

Risk	Likelihood	Impact	Mitigating actions
1. It is known that	1. The risks to	2. Potential for	To discourage the use

demand for sky lanterns are on the increase. There may be some criticism directed to the Council if we do not discourage there use.	damage to wildlife, the environment and buildings are low	some fires and minor littering offences arising from licensed premises	of sky lanterns and helium balloons in accordance with the Full Council Motion.
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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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Committee:	Licensing and Environmental Health Committee	Date:	Wednesday, 27 June 2018
Title:	Statement of Principles Gambling Act 2005		
Report Author:	Amanda Turner, Licensing Team Leader aturner@uttlesford.gov.uk	Item for decision:	Y

Summary

- 1 The Council's Statement of Principles under the Gambling Act 2005 was last adopted by Full Council on 16 May 2017 and came into effect on 26 June 2017. The Gambling Commission is now requiring all local authorities to publish a revised Statement of principles to come into force on 31 January 2019. This is irrespective of whether any amendments have been made in the period since 31 January 2016. This report is to seek members' views as to whether any alterations are required to the policy prior to the policy going out for consultation.

Recommendations

- 2 That the committee approves the draft statement of principles under the Gambling Act 2005 annexed to this report as the basis for 6 week consultation.
- 3 To consider introducing a local area profile as a separate document to this Policy

Financial Implications

4. None arising from this report.

Background Papers

- 5 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.

The following papers were referred to by the author in the preparation of this Report:

Guidance to Licensing Authorities (5th edition) published by the Gambling Commission September 2015 available at

<http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities.aspx>

Updated draft Policy from Southend –on-Sea Borough Council 2019-2022
Gambling Commission – Licensing authority bulletin Statements of Policy 2019-2022 (provided in January 2018 for information)

Impact

6

Communication/Consultation	Prior to adopting any revision of the Licensing Policy the authority is obliged to consult the Police, one or more persons who represent the interest of persons carrying on gambling businesses in the authority's area and one or more persons who appear to the authority to represent the interest of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

- 7 The Gambling Act 2005 regulates the gambling industry by a licensing regime that establishes 3 types of licence namely an operating licence, a personal licence and a premises licence. In addition there are provisions for premises to be used on a temporary basis for gambling purposes and also permissions for certain gaming machines.
- 8 Operators' licences and personal licences are issued by the Gambling Commission which has overall responsibility for gambling in the UK. The functions of the district council are:
 - Granting premises licences
 - Considering temporary use notices
 - Granting permits for gaming and gaming machines in clubs
 - Regulating gaming and gaming machines in alcohol licensed premises
 - Granting permits for family entertainment centres for lower stake gaming machines.
 - Granting permits for prize gaming.
 - Considering occasional use notices for betting at tracks.
 - Registration of sport society lotteries

- 9 Gambling activity in Uttlesford is limited. At the date of preparing this report the following licences have been issued:
- Betting premises licences - 6
 - Adult gaming centre premises licences - 3
 - Unlicensed family entertainment centre premises - 6
 - Club gaming machines permits - 7
 - Licensed premises gaming machine permit – 1
 - Notification of intent to have gaming machines (automatic entitlement to up to 2 category C or D gaming machines on alcohol licensed premises) – 40
 - Small Society Lotteries - 111
- 10 In exercising its functions, the Council must have regard to the licensing objectives under the 2005 Act which are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - Ensuring that gambling is conducted in a fair and open way.
 - Protecting children and other vulnerable persons from being harmed or exploited from gambling.
- 11 In addition, the Act requires the authority to exercise its functions under the Act so as to permit gambling.
- 12 The Council is also required to have regard to guidance issued by the Gambling Commission. The current Licensing Policy is consistent with the most recent guidance issued by the Commission.
- 13 The draft proposed statement of principles annexed to this report as Appendix A is substantially similar to the Council's current statement of principles, apart from some minor updating highlighted on the attached draft. These changes include:
- Plans
 - Local area profile
 - Casino - not changing but could make resolution
 - Fixed Odds Betting Terminals (FOBT's)
- 14 There have not been any issues of concern with respect to the application of the Councils current Policy statement since its implementation. Furthermore there have been no legal challenges to the Policy.
- 15 Although there is no statutory requirement on the Licensing Authority to do so, it is considered appropriate that a local area profile should be completed for Uttlesford in the future, covering the areas of Saffron Walden, Great Dunmow and Stansted. The initial view is that it should include considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children. If the Licensing Committee are in agreement to this it will be

produced by Officers and published as a separate document to this Policy and will not form part of it.

16. The Gambling Commissions Licence conditions and codes of practice (LCCP) formalise the need for operators to consider local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In understanding their risk assessment, they must take into account relevant matters identified in the Local Authorities statement.
17. Our Statutory Consultees are Police, Fire, Gambling Commission, Planning, Environmental Health, Child Protection, UDC Licensing Authority & HM Customs & Excise. The Gambling Commission suggests that letters be sent to all these consultees, all premises licence holders, town and parish councils, gambling groups, and the Director of Public Health.
18. The notice of the consultation will also be published on our website. A press release would also be issued inviting responses. In view of the fact that no major changes are proposed to the current policy which was subject to wider consultation only a year ago and that the policy is consistent with the Gambling Commission's guidance, wider consultation is not considered necessary on this occasion.
19. The Gambling Commission is instructing all Local Authorities to revise their statement of principles to come into force on 31 January irrespective of whether any amendments have been made since January 2016. They have not set a mandatory consultation period but as this Policy was only reviewed last year a 6 week consultation is considered appropriate. The intention would be to report the results of this consultation to the scheduled meeting of the Licensing Committee on 12 September 2018. Thereafter this committee could recommend a policy for adoption to the next meeting of Full Council on 4 December 2018 with the Policy coming into effect 31 January 2019.

Risk Analysis

20.

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

<p>Failure to achieve the timescale or demonstrate that appropriate consideration has been given to responses received during the consultation process could result in Judicial review.</p>			
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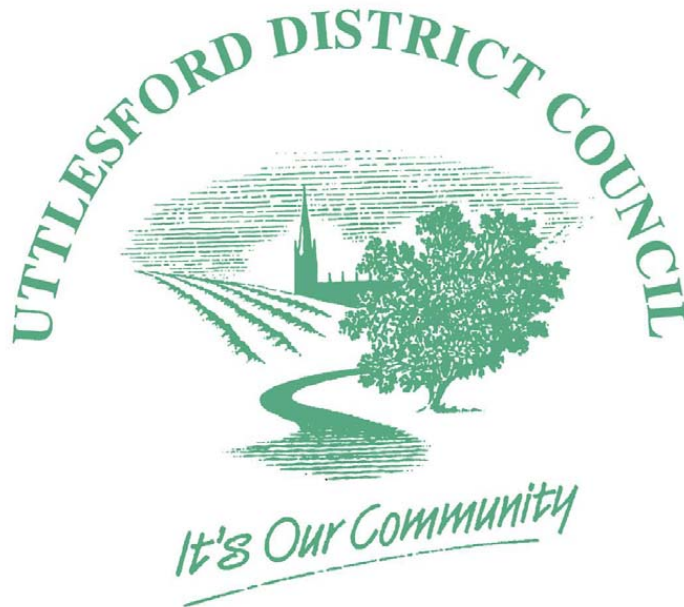
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STATEMENT OF PRINCIPLES GAMBLING ACT 2005

2017 – 2020 2018-2021

If you require this information in any other format or language please contact the Licensing Department on 01799 510613 or at licensing@uttlesford.gov.uk

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PART A

1. INTRODUCTION

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

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

2. THE LICENSING OBJECTIVES

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

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

3. DESCRIPTION OF THE DISTRICT

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

4. RESPONSIBILITIES UNDER THE ACT

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

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

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

5. STATEMENT OF PRINCIPLES

- 5.1 The Licensing Authority is required by the Act to publish a Statement of Principles which contains the principles it proposes to apply when exercising their functions under the Act.
- 5.2 In this document this is referred to as 'the Statement'. This Statement must be published every three years. The Statement must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Statement must then be published.
- 5.3 This Statement takes effect on 26 June 2017.

6. CONSULTATION

- 6.1 In producing this Statement, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A list of these other groups and persons consulted is also provided below.
- 6.2 The Act requires that the following parties are consulted by the Licensing Authority:-
 - The chief officer of police for the Authority's area;
 - One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
 - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.
- 6.3 The other groups and people consulted were:-
 - Parish and town councils within the District;
 - Businesses who are, or will be, holders of Premises Licences;
 - Responsible Authorities under the Act.
 - The public
 - Director of Public Health
- 6.4 The Licensing Authority's consultation took place between 29 June and 11 August 2018
- 6.5 A full list of comments made and details of the Council's consideration of those comments is available by request to The Licensing Department, Council Offices, London Road, Saffron Walden, Essex CB11 4ER

7. APPROVAL OF THE STATEMENT

- 7.1 This Statement was approved at a meeting of the full Council on 16 May and was published via its website on www.uttlesford.gov.uk/licensing. Copies are available on request.
- 7.2 It should be noted that this Statement does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

8. DECLARATION

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

9. RESPONSIBLE AUTHORITIES

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

10. INTERESTED PARTIES

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

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

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*
- b) has business interests that might be affected by the authorised activities,*
- or*
- c) represents persons who satisfy paragraphs (a) or (b).'*

10.2 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party. District Councillors who are not members of the Licensing Committee will not qualify to act in this way.

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

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

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

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (e.g. number of customers,

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

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

11. EXCHANGE OF INFORMATION

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

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

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

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

12.2 PUBLIC REGISTER

The Licensing Authority is required to keep a public register and share

information in it with the Gambling Commission and others. Regulations will prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

13. COMPLIANCE AND ENFORCEMENT

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

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

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

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

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

13.5 Bearing in mind the principle of transparency, the Licensing Authority's Enforcement Policies be available on request to the Licensing Authority. Details of the risk based approach to inspection will also be available

upon request. Details of this information can also be found on the Council's website: www.uttlesford.gov.uk

13.6 Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the

14. DELEGATION OF POWERS

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

PART B PREMISES LICENSES

15. GENERAL PRINCIPLES

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

15.2 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:

- Casino premises
- Bingo
- Betting premises
- Adult gaming centre premises (for category B3, B4, C and D machines)
- Family entertainment centre premises (for category C and D machines) (note that separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only)

15.3 Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the application proposes that the Licensing Objective concerns can be overcome.

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

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

15.5 Definition of Premises:

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

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

15.6 Demand:

Demand is a commercial consideration and is not an issue for the Licensing Authority.

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

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

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

- a) to take account of significant changes in local circumstance, including those identified in this policy;
- b) when there are significant changes at a licensee’s premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and
- d) in any case, undertake a local risk assessment when applying for a new premises licence.

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

- whether the premises is in an area of deprivation
 - whether the premises is in an area subject to high levels of crime and/or disorder
 - the ethnic profile of residents in the area, and how game rules, self-exclusion leaflets etc. are communicated to those groups
 - the demographics of the area in relation to vulnerable groups
 - the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather
- Any premises where children congregate including bus stops, café’s, shops and any other place where children are attracted

Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking etc

Recorded incidents of attempted underage gambling

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

F Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, selfexclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.

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

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

The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

15.7 Location:

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

15.8 Local Area Profile

Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Licensing Authority is looking to publish a local area profile (LAP). The LAP will be published as a separate document to this policy and does not form part of it. The LAP may be reviewed by the Licensing Authority at any time. Such a review would not constitute a review of this policy.

15.9 The LAP once produced should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the LAP and assessment, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be

presented to any subsequent licensing committees when they determine an application that has received representations. The LAP should not be taken as the definitive overview of a particular area and applicants are encouraged to use their own local knowledge in addition to the content of the LAP to inform their local risk assessments.

- 15.10** The Licensing Authority recognises that it cannot insist on applicants using the local area profiles when completing their risk assessments. However, an applicant who decides to disregard the LAP should be alert to the risk that they may face additional representations and the expense of a hearing as a result.

15.11 Duplication with other Regulatory Regimes:

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

15.12 Licensing Objectives:

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

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

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

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

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

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

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

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

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

being in close proximity to, gambling.

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

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

15.13 **Conditions & Plans:**

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

- relevant to the need to make the proposed premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

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

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

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

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

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

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

15.16 Door Supervisors:

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

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

15.17 Credit:

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

15.18 Betting Machines: (See Definitions)

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

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

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

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

15.21 In all applications where a plan is required to be submitted, The Licensing Authority expectation is that, it will be in a scale of 1:100 unless otherwise agreed in writing and that, as a minimum, it will show the following (as appropriate to the type of application):

- The extent of the proposed licensed area
- All entry and exit points (including fire exits)
- CCTV camera positions
- Positions of betting terminals, high pay out machines (including fixed odds betting terminals) and ATM's
- Any fixed or permanent structures including counters
- Privacy screens (see also section 21 of this policy)
- All unlicensed areas under the control of the licensee including any 'sterile area's' and toilet and kitchen facilities be they for staff or public use.

16. PROVISIONAL STATEMENTS

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

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

In deciding whether a premises licence can be granted where there are

outstanding construction or alteration works at a premises, this authority will determine applications on their merits, and in accordance with the Gambling Commission guidance.

17. REPRESENTATIONS AND REVIEWS

17.1 Representations and Applications for Review of Premises Licence may be made by Responsible Authorities and Interested Parties.

17.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is appropriate. For the purpose of exercising its discretion in these matters, the Authority has designated officers in accordance with the Scheme of Delegation as being the proper persons to act on its behalf.

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

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

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

18. ADULT GAMING CENTRES

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

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

19. (LICENSED) FAMILY ENTERTAINMENT CENTRES

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

for use.

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

20. CASINOS

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

20.2 Casinos and Competitive Bidding:

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

20.3 Betting Machines:

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

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

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

20.5 Credit:

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

21. BINGO PREMISES

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

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

21.3 Credit:

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

22. BETTING PREMISES

22.1 Betting Premises are defined in the Definitions.

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

22.3 Fixed Odds Betting Terminals (FOBT's)

In respect to nationally expressed concerns that exist in relation to the potentially adverse impact FOBT's may have on vulnerable groups of adults, The Licensing Authority will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, setting out minimum staffing levels to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players, particularly in relation to players who are deemed to be vulnerable and to prevent under 18 year olds accessing gambling facilities.

22.4 The Licensing Authority expects FOBT's to be positioned in such a way that they can be appropriately monitored by staff particularly where those staff are positioned at a counter away from the machines. In general the Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Particular attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially code 9.11.1. Where an existing licensee adds 'privacy screens' a variation application will be required

23. TRACKS

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

24. TRAVELLING FAIRS

The Licensing Authority will determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize

gaming without a permit are to be made available for use.

25. PUBLICITY FOR APPLICATIONS

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

PART C PERMITS/TEMPORARY OR OCCASIONAL USE NOTICES/REGISTRATIONS

26. GENERAL

The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

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

27. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

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

27.2 The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority. Full details can be found in section 15.13

27.3 Statement of Licensing Principles

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

- A basic DBS or equivalent criminal record check for the applicant and the person having day to day control at the premises
- How the applicant proposed to ensure that children will be protected from harm whilst on the premises
- Proof of age schemes
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises, or

- children causing perceived problems on/around the premises.
- Suspected truant children
- Safeguarding awareness training

28. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

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

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

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

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

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

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

29. PRIZE GAMING PERMITS

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

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

29.2 Statement of Licensing Principles

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

- A basic CRB or equivalent criminal record check for the applicant and the person having day to day control at the premises
- Proof of age schemes

- How the applicant proposed to ensure that children will be protected from harm whilst on the premises

- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises, or
 - children causing perceived problems on/around the premises.
 - Suspected truant children
 - Safeguarding awareness training

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

30. CLUB GAMING AND CLUB MACHINE PERMITS

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

30.2 Commercial clubs may apply for a club machine permit, subject to restrictions.

30.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions.

(a) in respect of gaming machines

No child or young person may use a category B or C machine on the premises.

That the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.

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

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

31. TEMPORARY USE NOTICES (TUN)

- 31.1 The persons designated to receive TUNs and to issue objections are specified in the Scheme of Delegation available from the Authority.
- 31.2 A TUN may only be granted to a person or company holding an operating licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State prescribing the activities to be covered. Under current regulations a Temporary Use Notice can only be issued for equal chance gaming.
- 31.3 For the purpose of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 31.4 The definition of “a set of premises” will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of “a set of premises” the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 31.5 The Licensing Authority will object to Notices where it appears that there effect would be to permit regular gambling in a place that could be described as one set of premises.

32. OCCASIONAL USE NOTICES

- 32.1 Occasional Use Notices, apply only to tracks, which are described as being premises on any part of which a race or other sporting events take place, or is intended to take place. Tracks need not be a permanent fixture.
- 32.2 OUN’s are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a Betting Premises Licence for the track.
- 32.3 The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 32.4 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.
- 32.5 The person designated to receive the OUN’s and assess validity is specified in the scheme of delegation

33. SMALL SOCIETY LOTTERIES

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

ANNEXES

ANNEX 1 - DEFINITIONS

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

Betting – making or accepting a bet on:-

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

Betting Premises – Premises licensed to accept bets

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

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

Gambling – includes gaming, betting or lottery

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

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

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) Has business interests that might be affected by the authorised activities;
- c) Represents persons who satisfy a) or b) above

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

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

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

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

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

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

ANNEX 2 – RESPONSIBLE AUTHORITIES

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

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

ESSEX POLICE : The Licensing Department (Alcohol), Essex Police, PO Box 12306, Police Station, Newland Street, Witham. CM8 2AS.

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

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

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

ESSEX COUNTY COUNCIL CHILDREN'S SAFEGUARDING SERVICE: Head of Child Protection, Licensing Applications, 70 Duke Street, County Hall, Chelmsford, Essex CM1 1JP

HM CUSTOMS AND EXCISE: The National Registration Unit, HMRC, National Registration Unit, Betting & Gaming, Cotton House, 7 Cochrane Street, Glasgow. G1 1HY

ANNEX 3 - USEFUL CONTACTS

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

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Agenda Item 5

Committee:	Licensing and Environmental Health Committee	Date:	Wednesday, 27 June 2018
Title:	Cross Border Operations		
Report Author:	Matthew Chamberlain, Enforcement Officer mchamberlain@uttlesford.gov.uk	Item for decision:	N

Summary

This report is to inform members of the cross border operations work this service is undertaking with Essex Police and Transport for London and the Driver Vehicle Standards Agency.

Recommendations

That members note the contents of this report

Financial Implications

None arising from this report.

Background Papers

None

Impact

Communication/Consultation	None
Community Safety	No direct impact on community
Equalities	No impact on equalities
Health and Safety	No impact on employee health and safety
Human Rights/Legal Implications	All intervention work is carried out in accordance with existing legislative framework and the Council's enforcement policy
Sustainability	None
Ward-specific impacts	No ward specific impact
Workforce/Workplace	Environmental Health

Situation

1. Members are reminded that since the summer of 2017, Enforcement Officers from Uttlesford District Councils Environmental Health Protection Team have been actively forging strong working relationships with other partner agencies. These agencies are Essex Police, Transport for London (TFL) and most recently the Driver Vehicle Standards Agency (DVSA).
2. All of these agencies have varying different powers and come together jointly to work together in the interests of public safety. All agencies have found it to be a great success. Consequently the number of stop checks have increased each month.
3. From 1 January 2018-31 March 2018, Enforcement Officers took part in four stop checks in and around Stansted Airport on 29 January, 14 February, 08 March and 23 March.
4. The main objectives of the stop checks are provided below:
To check for compliance within the licensing of private hire and hackney carriages vehicle and drivers.
 - To enhance public safety and re-assurance.
 - To detect and report drivers and vehicles who are non-compliant
 - To engage and work proactively with partner organisations to meet common goals.
 - To demonstrate to the Private Hire and hackney carriage trade that UDC, TFL and Essex Police take non-compliance seriously.
 - To ensure compliance with the smoking ban and associated requirements
 - To seize any untaxed cars under UDC's DVLA devolved powers.
5. Each agency collects and reports on relevant matter to their own authority and statutory powers. A summary of the outcomes arising from the most recent stop checks are provided below.
6. Outcomes for Essex Police:

Offence	Number of fines			
	29 January	14 February	8 March	23 March
Failure to wear a seat belt	61	88	89	76
Failure to hold a MOT	11	12	7	8
Driving without insurance	3	1	0	2
No insurance vehicle seizure	0	1	0	2
Use of mobile phone whilst driving	0	1	8	2
Defective tyres	1	0	1	1
Defective vehicles	3	0	2	0
Roadside Fines for Foreign Nationals	32	23	1	0
Driving without a licence	0	0	1	2
Intel reports	0	0	3	0
Dangerous condition and prohibition	0	0	1	0
Drug driving arrest	0	0	1	0
Cannabis warnings	0	0	1	0

7. Outcomes for Transport for London:

Offence	Number of fines			
	29 January	14 February	8 March	23 March
Private hire drivers inspected	77	50	Unable to attend	58
Private hire vehicles inspected	77	50	Unable to attend	58
Driver reported for not having his insurance	0	1	Unable to attend	0
Driver not having his badge	1	0	Unable to attend	1
Vehicle unfit notices issued	5	8	Unable to attend	11
Vehicle advisories issued	12	8	Unable to attend	5
Taxi drivers inspected	3	2	Unable to attend	0
Taxis inspected	3	2	Unable to attend	0

8. Outcomes for the Uttlesford District Council

Offence	Number of fines			
	29 January	14 February	8 March	23 March
Untaxed vehicles seized	0	2	0	2
Fixed penalty notices issued – smoking in a smoke free vehicle	0	1	0	1
Possible unlicensed private vehicle	0	0	0	1
Private hire vehicles and hackney carriages inspected	12 (from UDC and other Councils)	10 (from UDC and other Councils)	Records not kept	Records not kept

9. Although the UDC figures are lower than the other agencies this should not undermine the Enforcement Officers contribution. Officers work alongside the Policy and TFL inspecting vehicles and identifying offences in the interest of public safety. Members should be aware that Uttlesford Licensed Vehicles are few when compared to licensed vehicles from other authorities.

Risk Analysis

There are no risks attached to this report.

Agenda Item 6

Committee: Licensing and Environmental Health Committee

Date:

Wednesday, 27
June 2018

Title: Enforcement Update

Report Author: Matthew Chamberlain, Enforcement Officer
mchamberlain@uttlesford.gov.uk

Item for decision:
N

Summary

This report is to inform members of the enforcement activities between 01 January to 31 March 2018.

Recommendations

That members note the contents of this report.

Financial Implications

None arising from this report.

Background Papers

None

Impact

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

Situation

1. Between 01 January-31 March 2018, 66 cases were opened involving the licensed private hire and hackney carriage trade. Of these there were 6 relating to private hire vehicles, three relating to hackney carriage vehicles, 2 relating to operators and 55 relating to drivers.
2. The number of licensed premises cases opened during this period was seven.
3. Seven suspensions have been issued by for failing to notify the Council of a fixed penalty notice within 7 days (Condition 18c of the Conditions of Licence). A summary of the suspensions issued by the Environmental Protection Manager by delegated powers in accordance with the procedures given in the Licensing Policy is provided below:

Date of interview	Condition	Period of suspension
24/01/2018	18c	3 days
24/01/2018	18c	4 days
24/01/2018	18c x 3	9 days
30/01/2018	18c	2 days
30/01/2018	18c	3 days
30/01/2018	18c x 2	6 days
01/02/2018	18c	5 days

4. Members should note that, in accordance with Para 8.10 of the Council's Licensing Policy, the starting point for a suspension for a first case of breach of condition should be 5 days. Variations in the number of days of suspension relate to differences in the aggravating or mitigating factors in each case of non-compliance. It should be noted that there have been no appeals against these decisions.
5. Two licensed vehicles have been suspended by Enforcement Officers under delegated powers. One vehicle was suspended as it was considered unsafe. The other vehicle was suspended as it had not undergone a Council compliance test, the driver failed to provide an MOT or insurance certificates and the vehicle was untaxed. This licence has subsequently been deemed as revoked as the driver failed to comply with Council requirements to lift the suspension.
6. 23 licensed drivers have surrendered their licences due to the direct intervention from the Enforcement Officer. These range from drivers with expired medicals and DBS checks to individuals who have received six points for a single offence within the last three years. Direct intervention leading to the surrendering of licences often avoids the need for matters to be referred to committee for revocation.

7. Revocations were issued three times under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976; twice on 02 February and once on 20 February 2018. One of these was for a driver who had accrued more than six points within two years of obtaining a DVLA licence, so was automatically disqualified from driving. Another case involved a driver who had lost their DVLA licence through drink driving. The other driver had lost their DVLA licence as they had accrued 12 or more points under the totting up procedure. All these cases were found through officers' annual driver checks.
8. No prosecutions have taken place in this period.
9. No cautions were administered in this period.

Risk Analysis

There are no risks attached to this report.

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