



# Uttlesford District Council

Chief Executive: Dawn French

## Licensing and Environmental Health Committee

**Date:** Wednesday, 12th September, 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**

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To consider the minutes of previous meetings held on 16 July, 31 July, 14 August and 21 August 2018.

#### **3 Statement of Principles Gambling Act 2005**

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To consider the Statement of Principles Gambling Act 2005 report.

**4 Enforcement Update - April to June 2018** 89 - 92

To receive an update on Enforcement activity between April and June 2018.

**5 Environmental Health (Commercial) Activity Report** 93 - 98

To receive the Environmental Health (Commercial) Activity report.

**6 Environmental Health (Protection) Update - Verbal report**

To receive a verbal update on Environmental Health (Protection) activity.

**7 Determination of a private hire/hackney carriage driver's licence** 99 - 110

To determine a private hire/hackney carriage driver's licence.

**8 Exclusion of public and press**

Consideration of reports containing exempt information within the meaning of section 100I and paragraphs 1 and 2 part 1 Schedule 12A Local Government Act 1972.

**PART 2**

**Exclusion of Public and Press**

**9 Determination of a private hire/hackney carriage driver's licence** 111 - 126

To determine a private hire/hackney carriage driver's licence.

**10 Determination of a private hire/hackney carriage driver's licence** 127 - 148

To determine a private hire/hackney carriage driver's licence.

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

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# Agenda Item 2

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on MONDAY, 16 JULY 2018 at 10.00 am**

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

Officers in attendance: A Bochel (Democratic Services Officer), M Chamberlain (Enforcement Officer), J Jones (Licensing Officer), E Smith (Solicitor) and S Williams (Enforcement Officer).

Also present: The applicants in relation to Items 3, 4 and 5, the manager of the applicant in relation to Item 4, the driver in relation to Item 7, the witness in relation to Item 7 and the aunt of the witness in relation to Item 7.

## LIC16 **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.*

## LIC17 **DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE**

Because witnesses had agreed to be present for Item 7, the Chairman agreed to move the item forward in proceedings.

The procedure for determining a private hire/hackney carriage licence was read to those present.

The panel considered the Enforcement Officer's report.

The driver's private hire/hackney carriage driver's license was referred to members to consider whether or not he remained 'fit and proper'. There had been allegations by a customer about his poor behaviour during the course of their journey. Amongst other things, he had requested that she make payment for the journey by way of paying for fuel and had also repeatedly asked for her English telephone number, rather than him taking her to a cash point/ATM machine.

The aunt of the witness said her niece was staying with her over the summer. Her niece had recounted to her the information summarised in the report.

The witness said she had found the driver's behaviour to be very inappropriate. She had only found out how much the driver expected her to pay for fuel at the petrol station, and did not recall being asked about any refund.

The Solicitor said the witness' statement complied with the requirements of S9 of the Magistrates Courts Act 1980, and as such had full probative value.

The driver said the witness had said she would pay by card but he could not process this payment because he had forgotten his phone. He then said she could pay for fuel, because the cost of the fuel would be cheaper than the cost of the journey she was wanting to make. He realised after she had paid for fuel that she was unhappy and therefore stopped attempting to make conversation. He had not stopped far from the Post Office and had had to find a safe place to pull over. Neither of them had known where the nearest cash machine would be.

In response to a question from the Enforcement Officer, the driver said he had not known that he was required to keep the meter running throughout the duration of the journey, despite the fact he had negotiated an alternative price.

The driver said taxi work was his only profession and he was relying on the money he earned from it.

At 10:55, the Committee retired to make its decision.

At 11:30, the Committee returned.

The decision was read to those present.

### **Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PH/HC0665 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31<sup>st</sup> May 2019. The driver is also the proprietor of a private hire vehicle and has been licensed by the Council since June 2016

We have had the opportunity of reading the officer's very detailed report in this case, a copy of which has been served on the driver, and we have also seen, as has he, the background documents annexed thereto. They include:-

- a. Uttlesford District Council licensing standards for drivers.
- b. Uttlesford District Council conditions of licence for drivers.
- c. Notes of meeting between Sonia Williams and the customer.
- d. S.9 statement of the customer (the customer's name has been redacted).
- e. Email from the driver dated 07 June 2018.
- f. Notes of meeting with the driver dated 25 June 2018

We have also heard from the customer today, in the presence of the driver, and we thank her for agreeing to attend and tell her story to us. We note that the agreement between her and the driver had been in respect of a journey from Saffron Walden to Great Dunmow Post Office and then on to an address in Thaxted. At some point during this journey it is alleged that the driver stated he

would accept £35.00 worth of petrol as fare, and the customer has produced evidence of a payment in this sum to Cowell and Cooper of Thaxted.

At this point, we can conveniently deal with the question of whether the driver used his meter during the journey. A check of the driver's vehicle has confirmed there is one installed but the customer does not believe it was used. However, we note that both in interview and in an email to the Council dated 7<sup>th</sup> June 2018 said he agreed a price with her, namely the £35.00 of petrol referred to previously. If he failed to use the meter, then the driver may have potentially overcharged the customer which is an offence under Section 67(2) Local Government (Miscellaneous Provisions) Act 1976. Furthermore, agreeing to a payment over the metered fare within the Licensing District is an offence under Section 55 Town Police Clauses Act 1847. These are serious matters.

To resume, throughout the journey to Great Dunmow the customer claims the driver asked her a series of personal questions, in respect of her name, nationality, employment, residence, whether she lived alone, whether she had friends to go out with in the evening, whether she had a boyfriend. Full details are in her statement, and we note it complies with the requirements of S9 of the Magistrates Courts Act 1980. The customer also says that the driver repeatedly asked for her local telephone number and she refused to give this. She also told the Enforcement Officer that the driver told her several times that he wanted to take her out for lunch or dinner so that they could talk and became very insistent on this. She therefore felt very unsafe and afraid and she felt she had to accept to protect herself. As a result she terminated the contract in Dunmow and completed her journey by public transport. Since then she has given up her UK employment, is afraid to leave her home and has brought forward her return to Italy.

We have read the papers before us and we have heard from the customer, her aunt and the driver. We note that he contacted the Council on 7<sup>th</sup> June by email to self-report the incident, but having considered the complainant's statement made pursuant to S9 MCA 1980 she goes into considerably more detail as to the events of the journey. The driver, when speaking before us, concentrated upon the meter issue and the financial aspects of the transaction, which of themselves cause us some concern- a licensed driver should at all times be prepared for the taking of card payments, or otherwise be in a position to take a customer to the nearest ATM – rather than upon the other, seriously unprofessional, aspects of the transaction.

We are not a court of law, but we nevertheless do have a quasi-judicial function. We have weighed up with care what the customer and her aunt have said, and we have listened to the driver. On a balance of probability, we find the two ladies to be more credible witnesses.

The allegations against the driver are very serious indeed. The primary function of this Committee is the protection of the public; the holder of a private hire/hackney carriage licence is in a position of great trust and we therefore have to be very sure that a driver is a safe and suitable person to be placed in this position and if we have any doubt then the protection of the public, some of whom may be very vulnerable, must come first. In this case we consider that we

have no alternative but to revoke the driver's licence under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold it and because of the risk we consider he poses to the safety of the public, that revocation takes effect immediately

There is a right of appeal against this decision which must be exercised within a period of 21 days. Normally, during this period the licence remains in force, but since we have revoked the driver's licence with immediate effect for the protection of the public this period of grace does not apply and he may not drive. The driver will receive a letter from the Legal Department explaining this.

## LIC18 **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 panel considered the Licensing Officer's report.

The applicant did not meet the Council's licensing standards as point 3 of the Licensing Standards – Drivers states that "where a driver has been disqualified from driving for any reason a licence will not normally be granted for 3 years after the disqualification has expired or 12 months after the date the driver's licence is re-issued whichever is the later".

The applicant said the judge had been sympathetic to his case as the speed restrictions were not well sign-posted. He had informed the insurance company immediately and received a two week ban.

At 12:05, the Committee retired to make its decision.

At 12:15, the Committee returned.

The decision was read to the applicant.

### **Decision:**

The applicant's application dated 6<sup>th</sup> March 2018 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of part-time employment from CSL Ltd at Takeley, driving a Mercedes Vito car for VIP clients. He would undertake this alongside working in his own business as a security consultant.

Question 10 on the Council's application form asks whether applicants have been disqualified from driving or had their licence revoked. The applicant answered 'yes' to this question. Question 11 asks applicants whether their licence has been endorsed for a fixed penalty offence within the last 4 years. The applicant answered 'yes' to this question, but clarified that he was convicted of an SP30 offence and had his licence endorsed with 6 points. He had then applied for a review of his case under S142 MCA 1980 and had agreed to take a



14 day suspension instead and have the points removed from his licence. The Council's Drivercheck dated 7 March 2018 confirmed a SP30 offence on 12 January 2016 with a conviction date of 17 August 2016 and no points.

The applicant does not meet the Council's licensing standards as paragraph 3 of Appendix A to the Licensing Standards states that:-

"Where a driver has been disqualified from driving for any reason a licence will not normally be granted for 3 years after the disqualification has expired or 12 months after the date the driver's licence is re-issued whichever is the later". The applicant attended the Council offices on Friday 4 May 2018 for an interview with the Licensing Officer to discuss his application. He brought with him his notice of Appeal to the Crown Court from the Magistrates and a copy of the covering letter setting out his grounds for the appeal/review. Those documents are in our papers and we have read them carefully as they set out in detail the circumstances surrounding the offence.

He had applied for a review of the original penalty as he felt it too severe and that proper regard had not been given to the mitigating circumstances. The case was reconsidered on 16 December 2016, the applicant attended, the result being that the 6 points came off his licence and he consented to a 14 day driving ban to be served immediately (over the Christmas holiday period). The applicant is a very experienced driver and has a motor cycle licence, a full car licence, undertaken advanced driving courses and is applying for a race licence. This is his only motoring conviction. He has addressed us today and we are satisfied that he is a fit and proper person to hold a licence. Accordingly we grant this application, and he will receive the paperwork in due course.

## LIC19 **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.

The applicant did not meet the Council's licensing standards because although his 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 had been young and part of a bad crowd during the time he committed the offences. He had never stolen the mail-order catalogues for gain, but he did not deliver them as he was supposed to, and it was therefore classified as theft.

The boss of the applicant said he was pleased with the applicant's work as a passenger assistant and he was a valued member of the team.

At 12:25, the Committee retired to make its decision.

At 12:30, the Committee returned.

The decision was read to the applicant.

**Decision:**

The applicant's application dated 20<sup>th</sup> April 2018 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from 24 x 7 Ltd. His manager from that company also attended today.

The applicant's application disclosed a historic conviction for GBH in 1975. However, an enhanced DBS check dated 1<sup>st</sup> May 2018 confirmed that he does not meet Point 5 of the Council's Licensing Standards, which state that a driver must have:-

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

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

1. 6<sup>th</sup> December 1971 – Drunk in Licensed Premises, Possession of Offensive Weapon x 3, ABH - Towcester JJ – 3 months Detention Centre per offence, to run concurrently.
2. 6<sup>th</sup> September 1977 – Theft – Northampton JJ – Fined £25.

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

In support of his application, the applicant says that all these offences took place many years ago and he was part of a group of people at the time. The last of these convictions was in 1977 and since then he has by and large, managed to remain in work, including as a CCTV engineer, which requires police clearance: he is currently working for 24 x 7 Ltd as a passenger assistant on school runs and they have encouraged him to apply for a driver's licence.

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

However, we have listened to what the applicant has to say and note that he has the support of his employer. We are satisfied that he has turned his life around, and accordingly we grant this application, and he will receive the paperwork in due course.

## **LICENCE**

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

The panel considered the Licensing Officer's report.

The applicant did not meet the Council's licensing standards as although his points expired on 17 March 2018 point 2 of the Licensing Standards-Drivers states that applicants must have "no convictions or fixed penalty notices endorsed on a drivers licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence. As the applicant's conviction was on 29 October 2015 he would not therefore meet our standards until 29 October 2018

The applicant confirmed that all the necessary information was provided in the report.

At 12:40, the Committee retired to make its decision.

At 12:50, the Committee returned.

The decision was read to the applicant.

### **Decision:**

The applicant's application dated 1<sup>st</sup> May 2018 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has applied for employment with 24 x 7 Ltd.

The application form asks for a list of all convictions (including motoring offences) both spent and unspent and any police cautions. The applicant declared 2 offences of drink driving: one in 1979 for which he received a 12 month ban and one in 1989 for which he received an 18 month ban. He also disclosed an offence of failing to give information as to the identity of a driver (MS90) for which he received a fine of £560 and a 6 point endorsement. This offence took place in March 2015 and the applicant provided a DVLA licence summary showing that he currently has no endorsements and the MS90 offence on 17 March 2015 with an expiry date of 17 March 2018. The Council's DriverCheck enquiry dated 15 May confirmed the MS90 offence on 17 March 2015, with a conviction date of 29 October 2015.

The applicant therefore does not meet the Council's licensing standards as although his points expired on 17 March 2018, paragraph 2 of Appendix A of the Licensing Standards-Drivers states that applicants must have "No convictions or fixed penalty notices endorsed on a driver's licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence".

As the applicant's conviction was on 29 October 2015 he would not therefore meet that standard until 29 October 2018.

A telephone interview took place between the Licensing Officer and the applicant on 25 May 2018. The applicant explained he had purchased a car for his

daughter and the finance company asked for his name on the log book. As his daughter was involved in an abusive relationship, she moved frequently on advice, and she changed her address on the registration document without the applicant's knowledge.

When she committed a speeding offence in Essex the Police sent the paperwork to her last known address in Broadstairs. The applicant was unaware of the speeding offence and did not receive any paperwork; the first he knew of the offence was when he went to hire a van from Enterprise, and they ran a check on his driver record which revealed 6 points and a large fine.

However, we have listened to what the applicant has to say and accept what he has had to say in mitigation. Accordingly we grant this application, and he will receive the paperwork in due course.

LIC21 **DETERMINATION OF PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The case relating to this item had been deferred. There was therefore no consideration of this item.

LIC22 **DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE**

The driver in relation to this item was unable to attend for personal reasons. The Committee therefore agreed to defer this case.

LIC23 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The driver in relation to this item had given no indication that he intended to attend this 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 every three years after that. These checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver's last group 2 medical expired on 11 March 2018 and his DBS check expired on 31 March 2018 and he had failed to supply new ones to the Council.

At 1:15 the Committee retired to make its decision.

At 1:25 the Committee returned. The decision was read to those present.

**Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence in accordance with S61 (1) (b)

Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 1<sup>st</sup> April 2016 and his current licence is due to expire on 31<sup>st</sup> March 2019. His last known driving role was with 24 x 7 Ltd.

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 every three years after that. These checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver last group 2 medical expired on 11 March 2018 and his DBS check expired on 31 March 2018.

Normal practice at UDC is to send out reminder letters to drivers for DBS checks that are due to expire on the first working day of the month which precedes the month when the check expires. The reminders for medicals are typically sent out on the 15<sup>th</sup> day of the month preceding the expiry of that check. Further, 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 DVLA mandate expired on 02 March 2018 He has failed to respond to all of these reminders.

On 20 March 2018, the licensing team sent a letter to the driver with a reply form to determine whether he wanted to keep or surrender his licence. No response was received. The licensing team left two further phone messages for the driver on 10 and 17 April 2018 but received no response.

The Enforcement Officer followed this up on 24 April 2018 by letter explaining that medical, DBS and DVLA mandate had all expired and that if the driver wanted to remain licensed then he must provide these documents by 10 May 2018. He has not done so.

Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet "...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied. This Committee considers that 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 has not received any criminal convictions in the period since their last DBS check. Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied that the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is because of failure to supply a medical certificate in the interests of public safety, this period of grace will not apply. He will receive a letter from the Legal Department explaining this.

The meeting ended at 1.30pm.

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at  
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON  
WALDEN, ESSEX CB11 4ER, on TUESDAY, 31 JULY 2018 at 10.00 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), J Jones (Licensing Officer), A Mawson (Democratic Services Officer) and E Smith (Solicitor)

**LIC24 CHAIRMAN'S STATEMENT**

The Chairman was informed that only one driver of six had arrived to the Committee hearing. He said this was unacceptable and requested that a letter be sent to all drivers informing them of the quasi-judicial nature of the Licensing and Environmental Health Committee and to stress the importance of attending when an individual's licence/application had been referred.

**LIC25 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.

**LIC26 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chairman moved item six forward in proceedings as the driver for this item was present.

The panel considered the Enforcement Officer's report.

Compliance checks being carried out by officers from Braintree District Council found the driver of a private hire vehicle to be 'plying for hire'. When asked if he was working, the driver confirmed he was working and accepted the request to transport them to Tesco in Princes Road, Chelmsford. At the end of the journey a fee of £5 was paid. The Enforcement Officer also reported in his statement that he could not see the driver's identification badge.

When the officers began writing in their pocket notebooks following the journey, the driver approached them and repeatedly asked what they were doing. The officers told the driver that they were checking for individuals 'plying for hire' and attempted to withdraw into the store but the driver followed and requested that the officers forget what had happened. The driver continued to confront the

officers and when they made their way to a colleague's vehicle and attempted to leave, the driver tried to grab the door/wing mirror.

Members were asked to consider whether the driver remained a fit and proper person as he had transported passengers in a licensed vehicle for hire and reward in a journey that was not pre-booked via an operator. Members were also advised that the failure to wear a private hire driver's badge was an offence under section 54(2) Local Government (Miscellaneous Provisions) Act 1976.

In response to a Member question regarding the statement of the Braintree District Council Officer, the Solicitor said the evidence could be relied upon and would stand up in a Magistrates court.

At the request of the Chairman, the driver gave his account of events on 23 May 2018.

The driver said he had been struggling with money and had much on his mind when he was approached by the two officers on Moulsham Street. He said he was not thinking straight and knew he had done something wrong as soon as the officers departed his vehicle. He said he had not tried to grab the wing mirror as the officers drove away, but instead was trying to give the money back. He had now been suspended for twelve weeks and had not driven for another operator.

In response to a Member question, the driver said he had his badge in the vehicle but he was not wearing it on his person at the time of the event.

The Enforcement Officer asked the driver what training had been provided by the Operator prior to taking the job.

The driver said he had a quick session at the Operator's office and he was given the 'green book of rules,' which he had read briefly. He said he had not fully realised the implications of collecting passengers that had not pre-booked via an operator.

At 10.35, the panel retired to make its decision.

At 11.10, the panel returned.

The Chairman read out the decision.

**Decision:**

The application before the Panel today is for the suspension or revocation of a joint private hire/hackney carriage licence in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31st December 2020: it is the driver's first licence and was granted this January. He is currently suspended from his employment.



We have had the opportunity of reading the officer's very detailed report in this case, together with the statement of an Enforcement Officer with Braintree District Council, which was made pursuant to the provisions of S9 Magistrates Court Act 1980 and which may yet be used in Court proceedings. Copies of these, and the other documents listed below, have been served upon the driver. These are:-

- a. Uttlesford District Council licensing standards for drivers.
- b. Email and witness statement from the Enforcement Officer.
- c. Email with employer dated 29-31 May 2018.
- d. Notes of telephone interview with the driver dated 11 June 2018.
- e. Emails between the driver and employer dated 18-19 June 2018.

Briefly on 23 May 2018, Officers from Braintree District Council were working in partnership with Officers from Chelmsford City Council in Chelmsford for the purposes of carrying out compliance checks on licensed drivers and vehicles. At approximately 22.20 hours, two Braintree District Council officers were in Moulsham Street and approached an Uttlesford licensed private hire vehicle that was parked up, and the only person inside was the driver. The vehicle was a licensed private hire vehicle 1050, and the employer subsequently confirmed who the driver was.

The Environmental Health Manager at Braintree District Council knocked on the window and asked the driver if he was working. He said he was, whereupon a journey to Tesco in Princes Road, Chelmsford was requested, to which request the driver agreed. The Enforcement and a colleague were duly transported there at a cost of £5. The driver did not appear to be wearing an identification badge.

When the Officers exited the vehicle they started to complete their pocket notebooks, at which point the driver got out of the vehicle and repeatedly asked them what they were doing. He was told that they were checking for individuals plying for hire and he asked what that meant. He then asked the Officers to "forget" what happened and not to take any action, and subsequently attempted to impede their departure.

All private hire work undertaken by licensed drivers in a licensed private hire vehicle must be booked through a licensed private hire operator. This "trinity" of authorisations must be in place, otherwise an individual may be committing an offence of plying for hire under section 54 Town Police Clauses Act 1847, which carries a maximum fine of up to £2500. Further, failure to wear a private hire driver's badge is an offence under section 54(2) Local Government (Miscellaneous Provisions) Act 1976, which carries a fine of up to £1000 upon conviction. These are not trivial offences.

Information was received from the employer on 29 May 2018, to report that the driver had admitted to him that on the early hours of 24 May 2018, he

transported passengers in a licensed private hire vehicle (PHV84) from Moulsham Street, Chelmsford to Tesco, Wood Street, Chelmsford and this was not pre-booked. The employer took a serious view of this and suspended the driver from his employment. It is not clear whether this is a different incident to the one reported by the Braintree Officers.

The Enforcement Officer interviewed the driver by telephone on 11 June 2018. The driver stated that he had started his shift about 6pm that night and it had been very quiet as he had only completed one or two jobs. The driver accepted that the journey in question had not been booked through his employer and he confirmed the details of the trip. He claimed that this was the first time that he had done this, he had only been licensed driver since February, that he had only had basic training and that he did not know the rules. He confirmed that he reported the matter to his employer at the first available opportunity, but in fact, he could have made this report by telephone or email rather than waiting to do so in person.

We have heard from the driver and have considered carefully the S9 statement of the Braintree District Council Enforcement Officer. In particular, we note that the latter states that the discussions between the parties took place within Tesco store, so therefore the driver must have followed the Braintree officers into the shop. He has skated over these aspects of the interaction between them all, but on a balance of probability, we prefer the statement of the Enforcement Officer.

We are also mindful that the two potential offences disclosed by our papers are serious ones. The fact that a private hire driver in a private hire car may not pick up a passenger in a street is fundamental, and ignorance of the law is no defence and all UDC licensed drivers receive a copy of the green booklet which explains the law and rules very clearly. The driver admits receiving a copy but says he did not read it properly: this is no excuse.

The primary function of this Committee is the protection of the public; the holder of a private hire/hackney carriage licence is in a position of great trust and we therefore have to be very sure that a driver is a safe and suitable person to be placed in this position and if we have any doubt then the protection of the public, some of whom may be very vulnerable, must come first. In this case we consider that we have no alternative but to revoke the driver's licence under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold it. The S54 offence is absolutely fundamental and even the most inexperienced PHV driver should know that they may not pick up a passenger on the street. Because of the risk we consider he poses to the safety of the public, that revocation takes effect immediately

There is a right of appeal against this decision which must be exercised within a period of 21 days. Normally, during this period the licence remains in force, but since we have revoked the driver's licence with immediate effect for the protection of the public this period of grace does not apply and he may not drive. The driver will receive a letter from the Legal Department explaining this.

## **LICENCE**

The driver had not arrived for the hearing. Under the advice of the Solicitor, the Panel deferred the case to allow the driver to make representations in person.

LIC28

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

The driver in relation to this item had not attended the hearing, although the case had already been deferred twice due to the driver's non-attendance on 4 June and 16 July.

The panel considered the Enforcement Officer's report.

Members discussed whether the driver no longer met the Council's licensing standards due to the six penalty points the driver had received for a single offence, and, subsequently, whether the driver remained a 'fit and proper' person to retain his licence. Members considered the driver's previous Council caution and appearance before the Committee in November 2013, as well as his failure to notify the Council of his conviction in June 2017.

At 11.30, the panel retired to make its decision.

At 11.50, the panel returned.

The Chairman read out the decision.

### **Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PH/HC0748 dated autumn 2015, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31st October 2018. The driver is also the holder of the private hire operator licence for a chauffeur service and is the proprietor of a private hire vehicle. He has been licensed by the Council since 2012 and we note that he has appeared before us on a previous occasion.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the driver, and we have also seen, as has he, the background documents annexed thereto. They include:-

- a. Uttlesford District Council licensing standards for drivers.
- b. Email dated 17 May 2013 with a copy of "Taxichat" notifying changes to the Council's licensing policies.
- c. Certificate of caution for the driver dated 26 October 2013.
- d. Minutes of Licensing and Environmental Health Committee dated 19 November 2013.
- e. Emails between the driver and the licensing department on 16 May 2016.

- f. Drivercheck of the driver's DVLA records on 29 January 2018.
- g. Emails with the driver between 17-27 April 2018.

As part of the licensing department's due diligence procedures, a check on the driver's DVLA records on 29 January 2018 showed that he committed an SP50 offence (exceeding speed limit on a motorway) on 18 October 2015 for which he was convicted on 10 May 2016 receiving three penalty points. Further, he had again been convicted of an SP50 offence on 13 June 2017 occurring on 10 November 2016. For this latter offence his licence was endorsed with a further six penalty points which means he now has a total of nine penalty points on his licence. The maximum penalty points for this offence is six penalty points. As a result of receiving six penalty points for a single offence, the driver no longer meets the Council's Licensing Standards for drivers. Paragraph 2 of Appendix A thereof states:

"No convictions or fixed penalty notices endorsed on a driver's licence within the last three years where six or more points have been endorsed in respect of a single offence."

Additionally, licensed drivers are required by condition 18c of Appendix G of the Standards to notify UDC in writing of:-

"Any convictions, cautions or fixed penalty notices...within 7 days of the conviction, caution or the issue of a fixed penalty notice."

We note the driver had contacted a member of the licensing department to report his May 2016 conviction for which he had received three penalty points. However, there is no record of the driver submitting a written report of the more serious conviction in June 2017.

The driver was contacted on 17 April 2018 regarding the DVLA check and the consequences of the information contained therein, namely that he no longer met the licensing standards for drivers. He was also informed that he would need to appear before this Committee for consideration as to whether he remained a 'fit and proper' person. The driver responded by claiming that he had notified the Council of the penalty points but has not provided proof of this. The driver was invited to attend an informal meeting with the Enforcement Officer to discuss the matter. Instead, he sent in the following written submission:

*I was traveling in a private capacity late one Sunday night on the M25. I allowed my speed to increase in excess of the 70 mph limit and activated a roadside camera. I received the letter requesting the details of the driver. I returned it. I then received the conditional offer to admit guilt. I signed it admitting guilt and sent it off. I received notification of the points and the fine. I duly paid the fine and notified the council of the conviction*

We have read the papers before us and we have also read the statement and references the driver has put before us. This is the third time this matter has been in our list and after two deferrals to enable him to attend we are prepared to deal with this matter in his absence. Every deferral extends the time for which the driver can continue to drive.

The primary function of this Committee is the protection of the public and we consider that we have no alternative but to revoke the driver's licence under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold it.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licence remains in force. The driver will receive a letter from the Legal Department explaining this.

We also note that he is the proprietor of a licensed private hire vehicle, a BMW 730 licence number 491. The driver should bear in mind that once the revocation of his drivers' licence becomes operative he will no longer be permitted to drive this vehicle and he should contact the Enforcement Team regarding this without delay.

LIC29

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

The driver in relation to this item did not attend the meeting. The Chairman said the case needed to be heard in the driver's absence due to the primacy of public safety.

The panel considered the Enforcement Officer's report.

The Council had been notified by the driver's employer on 08 May 2018 that the driver had been dismissed due to allegations relating to the use of illegal drugs whilst driving a licensed vehicle; four complaints had been received from customers in over one week, and during an inspection of the vehicle, cannabis was found on the driver's seat by the employer. Members noted the driver's imprisonment for 21 months in 2011 for the supply of drugs.

In May 2018, a DVLA drivercheck also revealed the driver had received a SP30 offence in October 2017. The driver had not notified the Council of this fixed penalty notice which had led to him accruing 9 points on his licence, a clear breach of the conditions of his licence.

Members considered whether the driver remained a 'fit and proper' person to hold a licence, having been dismissed by his employer for allegedly possessing illegal drugs whilst driving a licensed vehicle, as well as breaching the conditions of his licence for which he had yet to be sanctioned. Members discussed the nature of the offence and revocation on the grounds of public safety.

At 11:55, the panel retired to make its decision.

At 12:05, the panel returned.

The Chairman read the decision to those present.

**Decision:**

The application before the Panel today is for the suspension or revocation of a joint private hire/hackney carriage licence number PH/HC2303 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31st August 2020. The driver had been employed until his dismissal in May 2018. It was the employer who advised the Council of this.

The driver has not responded to correspondence from the Council's Licensing Dept and has not attended before us today. Given the potential risk he poses to the public we are dealing with this matter in his absence as we are satisfied he has been given every opportunity to attend.

We have had the opportunity of reading the officer's very detailed report in this case, a copy of which has been served on the driver, and we have also seen, as has he, the background documents annexed thereto.

They include:-

- a. Uttlesford District Council licensing standards for drivers.
- b. Uttlesford District Council conditions of licence for drivers.
- c. The driver's application for a driver's licence dated 29 May 2017.
- d. Emails between the employer and the Enforcement Officer between 08-10 May 2018.
- e. DVLA driver check for the driver dated 11 May 2018.
- f. Email to The driver dated 06 June 2018.

On 08 May 2018 the employer notified the Council that they had dismissed the driver the previous weekend due to a number of allegations from customers relating to the use of illegal drugs. On inspection of the vehicle nothing was found save for smell of cannabis and the employer claimed to have found a small amount of cannabis on the driver's seat during a routine inspection of the vehicle the previous week. At this point we pause to note that the driver's application form for a driver's licence shows he served a custodial sentence in 2011 for the supply of drugs.

Contact was made with the driver, who claimed that he left his employer as he was not being paid enough money. An email was subsequently sent to him on 06 June 2018 giving him seven days to contact the Enforcement Officer to arrange a mutually convenient time to discuss the allegations. The driver did not respond.

In the meantime, the Council carried out a DVLA drivercheck on the driver's driving licence on 11 May 2018. This check revealed that he received three penalty points on his licence for an SP30 offence (speeding) on 11 October 2017. He now has a total of nine penalty points. He failed to notify the Council of this fixed penalty notice.

Condition 18c of Appendix G to the Council's Licensing Standards requires a driver to notify, in writing:-

“Any convictions, cautions or fixed penalty notices .....within 7 days of the date of conviction, caution or the issue of a fixed penalty notice.”

In aggregate, the allegations against the driver are very serious indeed, particularly since he has already been given a chance by the Council in the granting of his licence. He has failed to engage with the Licensing Dept. The primary function of this Committee is the protection of the public; the holder of a private hire/hackney carriage licence is in a position of great trust and we therefore have to be very sure that a driver is a safe and suitable person to be placed in this position and if we have any doubt then the protection of the public, some of whom may be very vulnerable, must come first. The driver has abused that trust. In this case we consider that we have no alternative but to revoke The driver’s licence under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold it and because of the risk we consider he poses to the safety of the public, in terms of the number and nature of the complaints made to his former employer, that revocation takes effect immediately

There is a right of appeal against this decision which must be exercised within a period of 21 days. Normally, during this period the licence remains in force, but since we have revoked the driver’s licence with immediate effect for the protection of the public this period of grace does not apply and he may not drive. The driver will receive a letter from the Legal Department explaining this.

LIC30      **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Committee was informed that the driver in relation to item 7 had surrendered their licence and there was nothing for the panel to consider.

LIC31      **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

Members were informed that the driver was unable to attend due to work-related reasons. Under the advice of the Solicitor, the panel deferred the case to allow the driver to make representations in person.

The meeting ended at 12.10pm.

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**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at  
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON  
WALDEN, ESSEX CB11 4ER, on TUESDAY, 14 AUGUST 2018 at 10.00 am**

Present: Councillor R Chambers (Chairman)  
Councillors J Davey and D Jones (In place of E Hicks)

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

**LIC32 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.*

**LIC33 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chairman introduced the Panel and explained procedure to the driver.

The Panel considered the Licensing Officer's report.

The Council's Licensing Standards state 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 driver did not meet the criteria. Members were therefore asked to consider whether the driver was a fit and proper person to hold a licence despite the fact he did not meet licensing standards.

In response to a Member question, the driver said the marriage to his first wife had not survived. Her relationship with her father had completely broken down and she later would have problems with drugs. The driver said he had been given custody of the children following their divorce.

The Solicitor asked whether the wife had given evidence for the prosecution against the driver.

The driver said she had not.

The Solicitor asked whether the European Court prosecution was brought by the father, or by the police.

The driver said it was a private legal action and the police had no involvement in bringing the case to court.

*At 10.20am, the panel retired to make its decision.*

*At 10.40am, the panel returned.*

The Chairman read out the decision.

**Decision:**

The driver's application dated 5th April 2018 is for a Private Hire/Hackney Carriage Driver's licence. He is already employed by Dollar/Thrifty as a delivery driver and if successful, his responsibilities could be expanded to cover all aspects of that company's operations.

One of the questions on the Council's application form asks applicants to list all convictions (including motoring offences) both spent and unspent and any police cautions. The driver did not complete this, but told the Licensing Officer that there had been a conviction, but that it was of a sensitive nature and he was not sure how it would be described on the DBS certificate or whether it would come up. He provided the Licensing Officer with full details of the offence and given the circumstances it was agreed that the Council would wait for the DBS certificate to come back, though the driver was advised that given the nature of the offence it was likely that his application would be referred to Committee.

The certificate disclosed two historic convictions, namely a Forgery and Counterfeiting Act conviction in January 1991 for which the driver received a conditional discharge, and one for intercourse with a girl under 16 under S6 Sexual Offences Act 1956 dated 5th March 1999 for which he received a sentence of imprisonment of 9 months suspended over 2 years. This meant that he does not meet Point 5 of the Council's Licensing Standards, which state that a driver must have:-

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

The driver was unable to attend a meeting with the Licensing Officer on 19 June due to a family illness, but did submit a written statement in support of his application which is before us and which we have read carefully. In his statement the driver explains that the offence took place in 1990 when the driver was 19 years old and his girlfriend was two weeks from her 16th birthday. He was in the Royal Navy at the time and would spend his leave at his girlfriend's house with her father's permission. He and his girlfriend had sexual intercourse against her father's wishes and when he found out he decided to press charges.

The case was dismissed by the Magistrates Court on the basis that the father had allowed them to co-habit. The driver and his girlfriend married and had two children, but in 1997 his father-in-law informed them that he would be pursuing the case and in 1998 he applied to the European Court which led to the conviction in 1999. At no time did the driver's then wife support her father's actions and the two are completely estranged as a result. The information we

have around the precise legalities of the events of 1999 is limited but we understand that the plea of autrefois acquit would have been available to him; the 1999 Court action was privately brought and the authorities were not involved having presumably accepted the Magistrates' original verdict. After leaving the Navy in 1992 the driver returned to further education and obtained a BTEC Diploma in IT which led to him gaining employment in security installation as an operations manager. Since then he has worked in a series of positions of trust and is currently studying a BSc (Hons) in computing and IT. The Rehabilitation of Offenders Act 1974 does not apply to all scenarios, and included among these is the holding of Private Hire and Hackney Carriage Drivers licences. However, we have heard from the driver and he has answered our questions frankly. These are serious matters and although they are historic and the driver accepts attitudes have changed, plus we also accept he has held positions of trust since, nevertheless the Rehabilitation of Offenders Act 1974 does not apply to proceedings before this Committee.

However, we have listened to what the driver has to say and note that on its facts, this is an unusual case and accordingly we grant this application, and he will receive the paperwork in due course. We are giving him his chance, and we hope that he will take full advantage of it and not abuse our trust. We do not expect to see him before us again.

LIC34

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

The drivers in relation to items four and five had not arrived for the meeting. The Chairman therefore took item six as the next item.

The Chairman introduced the Panel and explained procedure to the driver.

The Panel considered the Enforcement Officer's report.

Members were reminded that standard 11 of the Council's licensing standards for drivers' states, 'not to have had a hackney carriage and/or private hire driver's licence revoked within the last three years.' The driver would therefore not have met the Council's licensing standards at the time of his application. Members were asked to consider whether the driver remained a fit and proper person in light of his revocation from Watford Borough Council, which had occurred within the last three years, and the false statement used to obtain a licence from this authority.

The driver said he had made a mistake; he had driven taxis for the past thirteen years and had not received any complaints. He had made a false statement on his application as he was desperate for work and was providing for a disabled son and his disabled mother. He said he had only used cannabis for medicinal purposes following complications of a hair transplant he had undertaken in Turkey. He tabled a letter from his GP stating that he did not use drugs for recreational purposes and that the results of his drug tests were clear. He apologised to the panel for his mistake.

In response to a question from the Chairman, the driver said he had not re-applied for a licence at Watford Borough Council but he had been told he could reapply. He said he had not reapplied as the competition in Watford was high and working there would not be as lucrative as it had been previously. He was currently working for Lockett's of Watford Ltd on school contract work and produced a character reference from his employer for the panel. The driver had also applied for a private hire driver's licence with Transport for London, although this had yet to be granted.

*At 11.10am, the panel retired to make its decision.*

*At 11.30am, the panel returned.*

The Chairman read out the decision.

**Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PH/HC2301 dated 26<sup>th</sup> September 2017, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31st August 2020. We understand he currently works for Locketts of Watford on school contract work.

On 18 June 2018, the Council received an email from the Business Compliance Officer at Watford Borough Council, advising us under S115 Crime and Disorder Act 1998 that the driver had had a hackney carriage licence revoked with immediate effect on 21 July 2017.

The file was immediately referred to the Enforcement Officer and Watford Council (WBC) confirmed that the driver held a dual driver's licence from 25 August 2005 until it was revoked on 21 July 2017.

The reason was that on 20 July 2017, the driver was issued with a warning by Police for possession of a class B controlled substance. The revocation letter from Watford Borough Council contained the following reason for the revocation: 'In accordance with Watford Borough Council's Guidelines on the issuing of licences, sections 1.11 and 10.7 your licence is revoked with immediate effect on grounds of risk to public safety following your warning for possession of class B cannabis received from Police on 20<sup>th</sup> July 2017 in Market Street, Watford.'

The driver did not appeal this decision.

Standard 11 of Appendix A of UDC's Licensing Standards for Drivers states:\_'Not to have had a hackney carriage and/or private hire driver's licence revoked within the last three years.'

The driver would therefore, not meet the Council's licensing standards until 22 July 2020, and we are mindful question 4 of UDC's application form specifically asks 'Have you ever been refused or had revoked or suspended a hackney carriage or private hire driver's licence?'

The driver answered no to this.

Wilfully or recklessly making a false statement to obtain a licence is an offence under section 57(3) Local Government (Miscellaneous Provisions) Act 1976. The limitation period for this offence has expired and hence the driver is only before us today under section 61(1)(b).

The driver attended the Council Offices, Saffron Walden for an informal meeting with the Enforcement Officer on 25 July 2018. The driver was asked if he remembered having his licence revoked by Watford Borough Council and he confirmed that he did. He could not afford to appeal. The driver explained that prior to the offence he had received treatment in Turkey for a hair transplant. This caused him to have difficulties sleeping so he used cannabis for medicinal purposes at home to help him sleep. The driver was aware that cannabis was illegal.

In relation to the offence he explained that on the date in question he was at the rank in Watford and a male approached his taxi and attempted to sell him cannabis. The driver explained that he refused to buy any. The man then threw his bag containing cannabis into the vehicle but the driver threw it back. However, the man was under surveillance by the Police and searched the driver's vehicle, where they found two old cannabis cigarettes. This resulted in the warning.

The driver was shown his application form and he confirmed that he completed it. He was asked why he failed to disclose the revocation of his previous licence by Watford Borough Council and he explained that he was desperate and needed to provide for his family. He also stated that he did not read the declaration on the rear of the application form. The driver also admitted that he did not notify Lucketts of Watford of the cannabis warning when he applied to them. He has also applied to TFL for a private hire driver's licence and admitted that he did not disclose the revocation to them upon application.

We have read the papers before us and we have listened to what the driver has had to tell us this morning. We have also read a letter from his doctor dated 1<sup>st</sup> March 2018 and one from Lucketts dated 13<sup>th</sup> August 2018.

However, what we have been told today reveals a course of deliberately dishonest actions by the driver in applying to both this Council and TfL for licences knowing that neither authority would grant such a licence if in possession of the full facts. TfL are aware he appears before us today, and they will receive a copy of this decision notice. Furthermore, though the Police did not prosecute under the Misuse of Drugs Act, on his own admission the driver is a habitual user of drugs and this substance abuse impacts upon driving ability. The primary function of this Committee is the protection of the public and we take an extremely serious view of this case. We therefore consider that we have no alternative but to revoke the driver's licence under S61 (b) of the 1976 Act with immediate effect as he is no longer a fit and proper person to hold it. We take this view because of the risk habitual drug use poses to the safety of the public, to say nothing of his dishonest applications to both UDC and TfL. There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licence normally remains in force. However, since we have revoked the licence with immediate effect on public

safety grounds, this period of grace does not apply. The driver will receive a letter from the Legal Department explaining this.

LIC35 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

Item eight was brought forward in proceedings at the request of the driver in relation to this item.

The Chairman introduced the Panel and explained procedure to the driver.

The Panel considered the Enforcement Officer's report.

Members were asked to consider whether the driver remained a fit and proper person to hold a licence as he had breached three criteria of the Council's licensing standards: failure to notify the Council of his change in address; failure to notify the Council of his conviction; and receiving six penalty points for a single offence.

The driver said his former employer had deliberately not informed him of the DVLA correspondence to ensure he could not go and work for a competitor. He said he could not provide his change of residence as he had moved in with a friend following his eviction and part of that agreement was he would not use the address. He also said he was unaware that he was required to inform the Council of a change of address within seven days of the move.

The Chairman asked whether the driver had read the 'Green Book' of rules that Uttlesford provided for drivers.

The driver said he had not.

*At 12.00pm, the panel retired to make its decision.*

*At 12.15pm, the panel returned.*

The Chairman read out the decision.

**Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PH/HC0696 dated 10<sup>th</sup> August 2016, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31<sup>st</sup> July 2019. We understand he currently works for West End Cars, having been dismissed from his employment with Happicabs in May 2018 as hereinafter appears.

The Council received an email on 10 May 2018, from the director of Happicabs, to advise that they had dismissed the driver after discovering that he had received six penalty points on his licence for a single offence. A subsequent

Drivercheck of the driver's licence on 06 July 2018 as part of the due diligence process revealed six current penalty points endorsed in respect of an MS90 (failure to give information as to identity of driver) which took place on 28 September 2017. The driver was convicted on 28 November 2017. The driver did not notify the Council of this conviction and is therefore in breach of his private hire/hackney carriage driver's licence (Condition 18c) for which he is yet to be sanctioned. I return to this later.

The driver attended a meeting with the Council's Enforcement Officer on 23 July 2018. The driver explained that he moved from Flat 20, Thorndon Court, Great Warley, Brentwood over a year ago after he was evicted, and has been staying with friends for the past year. He never informed the DVLA, Happicabs or the Council of this change in circumstance. He moved to his current address at the beginning of June 2018. This failure too is a breach of Licensing Standards. In relation to the offence which led to the conviction, the driver believes that this was initially for an offence of speeding. The driver stated that when Happicabs responded to the DVLA to state that the driver was driving the vehicle at the time of the offence, Happicabs did not notify the driver so he did not know he had committed an offence and was unaware of the penalty points that had been issued. The driver explained that he left Happicabs around April 2018, and worked as a care assistant before going home to Romania. On returning to the UK a month later he started working for West End Cars.

As a result of receiving six penalty points for a single offence, the driver no longer meets the Council's Licensing Standards for drivers. Paragraph 2 of Appendix A thereof states:

"No convictions or fixed penalty notices endorsed on a driver's licence within the last three years where six or more points have been endorsed in respect of a single offence."

Furthermore, licensed drivers are required by conditions 18 a and c respectively of Appendix G of the Standards to notify UDC in writing of:-

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

"Any convictions, cautions or fixed penalty notices...within 7 days of the conviction, caution or the issue of a fixed penalty notice."

Ignorance of the Council's requirements is no defence: all licensed drivers receive a copy of the Green Book setting out their obligations and those obligations are personal to them. Their employer is not obliged to secure their compliance to the extent they have no personal responsibility.

We have read the papers before us and we have listened to what the driver has had to say. He has told us of a dispute with Happicabs, but he also admits to not having read the Council's Green Book or to familiarising himself with his obligations.

These are serious matters when taken together and it is the consistent failure to notify either the Council or his employers that has tipped the balance. The primary function of this Committee is the protection of the public and we consider that we have no alternative but to revoke the driver's licence under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold it.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licence remains in force. The driver will receive a letter from the Legal Department explaining this.

LIC36 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chairman introduced the Panel and explained procedure to the driver.

The Panel considered the Enforcement Officer's report.

The driver tabled a document stating that he had booked a medical examination.

The Chairman said the panel could not determine whether the driver was medically fit, this would be determined by the medical examination, but they would consider whether the driver was a 'fit and proper' person in light of his attempt to cheat his previous medical examination.

The driver said he had made a mistake at the examination when the doctor had asked him to place his hand over his eye. This was not the method he was used to. At the last optician's test he had been told his eyes were healthy.

Councillor Jones asked whether an eye patch or piece of card was offered as an alternative to his hand.

The driver said no alternative was offered.

Councillor Jones asked whether the driver had peered through his fingers in order to cheat the test.

The driver said he had.

*At 1.05pm, the panel retired to make its decision.*

*At 1.30pm, the panel returned.*

The Chairman read out the decision.

**Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence no PH/HC 1293 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 12<sup>th</sup> August 2015 and his current licence is due to expire on 31<sup>st</sup> July 2019. He is also the owner of a vehicle licensed by the Council under number HCV 117. His last driving role was with Sadlers.

Licensed drivers are legally obliged to produce a group 2 medical certificate when they apply for a licence and every three years after that. The driver's



group 2 medical certificate was due to expire on 31<sup>st</sup> July 2018 and he booked in for a new medical on 26 July 2018 at Cotswold Medicals Ltd. A doctor from Cotswold Medicals Ltd emailed the Licensing Officer on 26 July 2018, that same day, and we have a copy of that email among our papers, which have also been served upon the driver.

The Licensing Officer was advised that a doctor had conducted a medical with the driver that day but had aborted the meeting as he was cheating. During the eye test the driver was struggling to see the smaller print and had started to look through his fingers which were meant to be covering an eye. He was made to recommence. Again, the driver was observed looking through his fingers. The doctor advised that in his opinion the driver should undergo a full sight test and that they would not offer him another medical.

The driver attended an appointment with the Licensing Officer on 30 July 2018, to complete his enhanced DBS application and supply his driver mandate form which he duly provided. The Enforcement Officer assisted the Licensing Officer in this meeting and enquired about the medical. The driver initially alleged the appointment had been cancelled but when challenged admitted to looking through his fingers during the sight test, but that he had booked another appointment.

The Environmental Health Manager – Protection then came into the meeting. The driver explained that he has reading glasses but they are not needed for driving and that he had seen an optician last December. The driver then showed his glasses to the Officers.

The Environmental Health Manager – Protection decided to exercise his delegated powers and suspended the driver's private hire/hackney carriage driver's licence in the interest of public safety with immediate effect under section 61(2B) Local Government (Miscellaneous Provisions) Act 1976. The driver was told that the suspension could be lifted provided he submitted an optician's certificate to a doctor in the course of a further group 2 medical examination. In order to enable the driver to drive his hackney carriage vehicle licence for social, domestic and pleasure purposes he surrendered the vehicle licence (HCV117) with immediate effect.

Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet  
"...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied.

There are two issues before us today. They are the issue of the driver's behaviour on 26<sup>th</sup> July about which Cotswold Medicals Ltd were concerned enough to refer the matter to the Council that self-same day, and the question of his holding a Group 2 medical certificate. Though he has produced an optician's certificate and has an appointment for a medical later this week, depending on our findings on the first issue we may not need to determine the second issue.

The attempt to cheat on 26<sup>th</sup> July, which the driver has admitted to us today, is a very serious matter and is compounded by the fact the doctor whom he saw that day considered it serious enough to report to their manager, and in turn that manager thought it serious enough to formally report to the Council. S57 (3) Local Government (Miscellaneous Provisions) Act 1976 provides that it is an offence to knowingly or recklessly make a false statement for the purposes of obtaining a licence and we consider that by his conduct on 26<sup>th</sup> July, the driver did just that. Our findings on this issue mean we do not need to consider the driver's failure to have a current Group B medical certificate.

The primary purpose of this Committee is the protection of the public and we regard this matter as being very serious indeed. The driver's conduct on 26<sup>th</sup> July involved dishonesty but additionally, the consequences of driving without being able to meet the legally required eyesight standard could have been catastrophic. We consider the Environmental Health Manager – Protection did the correct thing in suspending the driver's licences pending his appearance before us today, and in the circumstances we revoke them under S61 of the 1976 Act as he is no longer a fit proper person to hold them, because of his dishonesty in attempting to conceal the fact that he might not meet the medical standards required for a licensed driver. In the interests of public safety that revocation takes effect immediately.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is based upon possible medical issues and hence in the interests of public safety, this period of grace will not apply. He will receive a letter from the Legal Department explaining this.

LIC37 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chairman introduced the Panel and explained procedure to the driver.

The Panel considered the Enforcement Officer's report.

The driver's hackney carriage/private hire licence had come before Members to consider whether the driver remained a fit and proper person to hold a licence following two breaches of the Council's licensing standards. The driver had received six penalty points for a single offence (IN10 – using a vehicle uninsured against third party risks) and had failed to notify the Council of the conviction.

The driver said he was unaware that he needed to inform the Council of the penalty points he had received on his licence.

The Chairman asked whether the driver had seen the 'Green Book' of rules before and had he acquainted himself with it.

The driver said he could not remember receiving the 'Green Book'.

The Enforcement Officer asked whether the driver had received the conditions of his licence when he received his badge.

The driver said he had.

In response to a question regarding the IN10 offence, the driver said he was using his own vehicle at the time but had not acquired business insurance. He said he was unaware that this was necessary.

The Solicitor said it was the responsibility of the driver to make themselves aware of licensing standards and the law. Ignorance of the law was no defence.

*At 2.10pm the panel retired to make its decision.*

*At 2.20pm the panel returned.*

**Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PH/HC2029 dated autumn 2015, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. This application has been deferred from 31<sup>st</sup> July 2018 to enable the driver to attend today.

The three year licence is due to expire on 30<sup>th</sup> April 2020 and was issued on 16<sup>th</sup> May 2017. The driver's last known employment was with Lucketts of Watford on school contracts but this ended in August 2017.

As part of the licensing department's due diligence procedures, the annual check against DVLA records was carried out on the driver on 03 April 2018. This revealed that the driver was convicted on 13 November 2017 of an SP30 offence (speeding) that occurred on 19 April 2017 for which his licence was endorsed with three penalty points. The check also revealed that the driver had been convicted on 24 January 2018 of an IN10 offence (using a vehicle uninsured against third party risks) that occurred on 07 June 2017 for which his licence was endorsed with six penalty points.

As a result of receiving six penalty points for a single offence, the driver no longer meets the Council's Licensing Standards for drivers. Paragraph 2 of Appendix A thereof states:

"No convictions or fixed penalty notices endorsed on a driver's licence within the last three years where six or more points have been endorsed in respect of a single offence."

Additionally, licensed drivers are required by condition 18c of Appendix G of the Standards to notify UDC in writing of:-

"Any convictions, cautions or fixed penalty notices...within 7 days of the conviction, caution or the issue of a fixed penalty notice."

The driver has not responded to communications from the Licensing Department.

We have read the papers before us and we have heard from the driver. He had emailed the Licensing Department at some time between 31<sup>st</sup> July and today, saying that when he started driving his licence had been clean but that he then received some letters about penalty points. He was not, he said, aware that he had to report such things to the Council.

He verbally repeated this to us today and was shown a copy of the Council's Green Book containing Uttlesford's condition of licence. He did recall receiving some information regarding these when he received his badge. However, ignorance of the law is no defence although, he explained, everything that had happened had done so inadvertently, and that had he known of the Council's requirements, he would have complied with them. He confirmed that though he is not currently driving for a living he would like to retain his joint licence in case he should need some extra income in the future..

However, the primary function of this Committee is the protection of the public and in the light of his admitted failures, we consider that we have no alternative but to revoke The driver's licence under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold it.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licence remains in force. The driver will receive a letter from the Legal Department explaining this.

LIC38 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The driver had not arrived to the meeting, nor had he responded to any correspondence sent by the Council.

The Solicitor said the case warranted to be heard in the driver's absence as he had failed to provide a medical certificate proving he was fit to drive. The driver, therefore, was a threat to public safety.

The Panel considered the Enforcement Officer's report.

The driver's group 2 medical, DVLA mandate and enhanced DBS check had all expired on the 30 April 2018 and the driver had repeatedly failed to respond to the Council's request to supply this information.

In response to a Member question, the Enforcement Officer confirmed that the Council had attempted to contact the driver by telephone, email and post. The driver had not responded to any of this correspondence.

*At 2.30pm the panel retired to make its decision.*

*At 2.35pm the panel returned.*

The Chairman read the decision.

## **Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence no PH/HC 0942 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 20<sup>th</sup> May 2015 and his current licence is due to expire on 30<sup>th</sup> April 2019. His last known driving role was with Sky Transfers who surrendered their licence in June 2017.

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 every three years after that. These checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver's last group 2 medical and DBS check both expired on 30<sup>th</sup> April 2018. As part of the Council's due diligence licensed drivers are required to provide a DVLA mandate every three years, and the driver's mandate similarly fell due on 30<sup>th</sup> April.

Normal practice at UDC is to send out reminder letters to drivers for DBS checks that are due to expire on the first working day of the month which precedes the month when the check expires. The reminders for medicals are typically sent out on the 15<sup>th</sup> day of the month preceding the expiry of that check.

The driver was contacted in writing on 30<sup>th</sup> April, 3<sup>rd</sup> May and 28<sup>th</sup> June and on the last occasion was told that if he wanted to remain licensed then he must provide these documents by 16<sup>th</sup> July 2018. He has not done so. Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet "...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied. This Committee considers that 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 has not received any criminal convictions in the period since their last DBS check. Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied that the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is because of failure to supply a medical certificate in the interests of public safety, this period of grace will not apply. He will receive a letter from the Legal Department explaining this.

LIC39

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

The driver had not arrived to the meeting, nor had he responded to any correspondence sent by the Council.

The Solicitor said the case warranted to be heard in the driver's absence as he had failed to provide a medical certificate proving he was fit to drive. The driver, therefore, was a threat to public safety.

The panel considered the Enforcement Officer's report.

The driver's group 2 medical, DVLA mandate and enhanced DBS check had all expired on the 30 April 2018 and the driver had repeatedly failed to respond to the Council's request to supply this information.

The Enforcement Officer said he had spoken to the Operations Manager of the driver's last known employer, who confirmed that the driver was no longer in their employment. He also said the driver had moved from his previous residence and he was unaware of the driver's new address. Failure to notify the Council of a change of address was in breach of the driver's conditions of licence.

*At 2.40pm the panel retired to make its decision.*

*At 2.45pm the panel returned.*

The Chairman read the decision.

### **Decision:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence no PH/HC 0949 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 21st May 2015 and his current licence is due to expire on 30<sup>th</sup> April 2019. His last known driving role was with 24 x 7 (Northants) Ltd who advised the Council his employment with them had ended and that he was no longer at the address the Council had for him.

Failure to notify the Council in writing within seven days of a change of address is a breach of paragraph 18a of Appendix G of the Council's Licensing Standards.

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 every three years after that. These checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver's last group 2 medical and DBS check both expired on 30<sup>th</sup> April 2018. Further, as part of the Council's due diligence licensed drivers are required to provide a DVLA mandate every three years, and the driver's mandate similarly fell due on 30<sup>th</sup> April.

Normal practice at UDC is to send out reminder letters to drivers for DBS checks that are due to expire on the first working day of the month which precedes the month when the check expires. The reminders for medicals are typically sent out on the 15<sup>th</sup> day of the month preceding the expiry of that check.

The driver was contacted in writing on 13<sup>th</sup> April, 1<sup>st</sup> May and 28<sup>th</sup> June and on the last occasion was told that if he wanted to remain licensed then he must provide these documents by 16<sup>th</sup> July 2018. He has not done so. Attempts were also made to contact him upon his last known telephone number. Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet "...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied. This Committee considers that 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 has not received any criminal convictions in the period since their last DBS check. Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied that the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is because of failure to supply a medical certificate in the interests of public safety, this period of grace will not apply. He will receive a letter from the Legal Department explaining this.

The meeting ended at 2.50pm.

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**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at  
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON  
WALDEN, ESSEX CB11 4ER, on TUESDAY, 21 AUGUST 2018 at 10.00 am**

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

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

Also present: G Ashford and V Powell (Essex Police), H Chowdhury  
(Applicant), Z Chowdhury (Licensee), M Harmon (Solicitor for  
the Applicant and the Licensee).

LIC40 **APPLICATION FOR THE TRANSFER OF A PREMISES LICENCE - QUEEN  
VICTORIA GREAT DUNMOW**

The Chairman introduced the Panel and explained procedure to those present.

The Licensing Team Leader gave a summary of the report.

Mr Hadayouth Choudhury and Mr MD Anayet Chowdhury had applied to transfer premises licence Queen Victoria, 79 Stortford Road, Great Dunmow into their names from the current licence holders Mr Ziaul Chowdhury and Mr Omar Shorif. On 24 July 2018, the Licensing Authority received a notice under Section 42 (6) of the Act from Essex Police in objection to this application, including a detailed account of their reasons.

G Ashford and V Powell summarised the case made by Essex Police. A review of the Queen Victoria's licence was due to take place on 11 September 2018, due to the results of the immigration raid which took place on 6 July 2018. This raid found three people with no right to work in the UK working at the premises, two of whom had no right to remain in the UK. This was the fourth time since 2013 that illegal immigrants had been found to be working at the Queen Victoria.

Three days after this raid had taken place, the premises licence holders submitted an application to transfer the licence to Hadayouth Chowdhury and Anayet Chowdhury. It was contended that the application for the immediate transfer of a premises licence was an attempt to protect the business at the hearing for the review

Z Chowdhury said errors of judgement on his part had led to him employing illegal immigrants in the past, without completing proper checks on their identification. He was now employing CSS consultants to take him through a course to assess how to properly identify people with the right to remain and work in the UK. When the immigration raid took place on 6 July, the three people working illegally at the Queen Victoria had only been working there since earlier that evening. Z Chowdhury had only been at the premises for 11 minutes and so had only just begun vetting his new worker's IDs.

M Harmon said the application for a transfer of a licence was submitted, the family were not aware it would have implications for the review. The transfer had always been planned to take place and H Chowdhury had been working part time in the Queen Victoria to prepare for taking over the licence. The Queen Victoria was part of a family business and it was acceptable to keep it in the family.

H Chowdhury confirmed he was also studying the CSS course in order to prepare himself for taking over the licence of the Queen Victoria. There was a website available to employers which allowed them to input the potential employee's name and national insurance number to confirm if they had the right to work in the UK. He said that if in doubt about the right to work of potential employees, he would consult his father and his uncles. He felt he knew enough to be able to carry out the duty of care he would have as a licence holder.

At 11.15, the Committee retired.

At 12.45, the Committee returned.

The Chairman read the decision to those present.

The meeting ended at 1.00.

#### DECISION NOTICE – QUEEN VICTORIA PUBLIC HOUSE/INDIAN RESTAURANT

The application before the Panel today is for the transfer of the premises licence to the Queen Victoria, 79 Stortford Road, Great Dunmow, to Messrs H Choudhury and MDA Chowdhury, to which application Essex Police object. The matter has therefore come before us today pursuant to the provisions of S42 Licensing Act 2003. We have taken into account the provisions of the Act, the most recent Home Office Guidance, issued this year, and the Council's Statement of Licensing Policy.

Mr H Choudhury and Mr MDA Chowdhury have applied to transfer the premises licence of the Queen Victoria, 79 Stortford Road, Great Dunmow into their names from the current licence holders Mr Z Chowdhury and Mr Omar Shorif. This Premises Licence PLO113 was originally granted to Mr Z Chowdhury and Mr Omar Shorif on 9 November 2005. An application to transfer the licence under S42 LA 2003 was received by Uttlesford District Council ("the Licensing Authority") to Mr H Choudhury and Mr MDA Chowdhury on 9 July 2018 although

due to errors needing to be corrected on the form it was not officially valid until 12 July 2018. A copy of this document is before us.

An application for the transfer of an existing premises licence under Section 42 of the Act is normally a straightforward licensing procedure and is dealt with as an administrative matter. As part of the application process, notice of the application needs to be served on to the Police and also the Home Office if alcohol and or late-night refreshment is involved. Under Section 42 (6) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, (see post) he must serve notice upon the Licensing Authority within fourteen days of receiving the application. Under normal circumstances, a request to transfer has immediate effect and is administered by the Licensing Authority accordingly, since by virtue of Section 43 of the Act the premises licence has effect during the “application period” as if the applicant were the holder of the licence.

The application period begins when the application was received by the Licensing Authority and ends when the application is granted, or if it is rejected, at the time the rejection is notified to the applicant. Therefore, if a decision is made to appeal the Panel’s decision today to the Magistrates Court the “application period” will continue until the determination by that court.

However, when a valid objection under Section 42 (6) is received from the Police and the objection has not been withdrawn, S44(5) LA 2003 requires that the matter must be referred to the Licensing and Environmental Health Committee for a hearing to determine the application. That hearing must take place within 14 days. Notice under S42(6) was received from Essex Police on 24<sup>th</sup> July 2018 accompanied by a very detailed statement of reasons, to be found at Appendix 2 of the bundle of documents before us. A copy of this has been served upon the Applicants.

The Applicants, the Police and the previous licence holder have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 and Licensing Act 2003 (Hearings) (Amendment) Regulations 2005, together referred to as the Regulations. Information to accompany the notice of

hearing was provided to the Applicants, the Police and the previous licence holder in accordance with the Regulations.

Though the LA 2003 sets out four licensing objectives, namely:-

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

A Police objection to the transfer of a licence may only be made under Objective 1, the prevention of crime and disorder. The options before us today are also set out by law, and are:-

- To grant the transfer of this premises licence to Mr H Choudhury and Mr MDA Chowdhury or
- To reject the application for the transfer of the premises licence to Mr H Choudhury and Mr MDA Chowdhury if it considers it appropriate to do so for the promotion of the crime prevention objective

We are mindful that the premises are already the subject of a review application made by Essex Police on the crime and disorder ground, specifically immigration offences and we are aware of the provisions of paragraph 8.101 of the Home Office Guidance, which states that objections to transfers in such circumstances are likely to be rare, but will be based on evidence. For the sake of completeness, we add that the Act gives a right of appeal, by any aggrieved person, including the Police, to the Magistrates Court against any such review decision within 21 days.

We have read the papers before us and we have heard from Mr Ashford and Mrs Powell on behalf of Essex Police and from Mr Z Choudhury, the previous licensee, Mr H Choudhury, one of the Applicants, and from Mr Harman, their solicitor. We understand that when an application for the transfer of a licence is made with a request that the transfer have immediate effect, then the licence has effect during the application period as if the applicant were the licensee. Mr H Choudhury has thus been the licensee of the Queen Victoria since 9<sup>th</sup> July 2018.

We have listened to what he had to say and he was specifically asked to explain what he would do if a job applicant presented themselves at the premises. He said that he would ring the consultancy, CSS, first: that he knew that there were websites that he could consult and that there were people he could ask for advice – his father and his uncles. He admitted he would have to look into these matters, that he had only been working part-time in the business and that he had had no management responsibility. He did not appear to have at least a theoretical knowledge of his obligations at his fingertips and he appeared to be proposing to rely too heavily upon family members. Because of this, even though we believe it was planned that at some point he would take over management of this business, we do not believe he is ready just yet. He has a lot of homework to do.

Furthermore, he will remain an employee of a small family business. S16 of the Act provides that the applicant for a premises licence – or an intending transferee – should be a person who carries on, or proposes to carry on, a business involving the premises the subject of the application. There must be an intention to carry on a business. Mr H Choudhury will not be carrying on a business, he will remain employed in a business operated by family members, and on his own admission he has said that he would rely upon his father and his uncle, both of whom have used illegal labour in the operation of that business. We are also aware that the legislature has specifically chosen to include immigration offences among the matters the Police are entitled to bring before this Committee.

We have thought long and hard, and have debated our actual decision most anxiously. Ultimately, though, the fact remains that this business is owned and operated by a limited company and there are no immediate plans for Mr H Choudhury to obtain a substantial interest in that business. He has not used his seven weeks as de facto licensee to even acquire the necessary knowledge to answer our questions with any degree of fluency today. The responsibilities of a licensee are personal and we do not feel that Mr H Choudhury is yet ready to

assume those responsibilities, given the persons to whom he admits he will turn for help.

We therefore refuse this application for a transfer. This means the licence will revert to the original holder which in the circumstances of this particular case we feel is the most appropriate result.

Both the Applicants and the Police have a right of appeal against this decision which must be exercised within a period of 21 days. They will receive a letter from the Legal Department, with a copy of this decision notice, explaining this.

**Committee:** Licensing and Environmental Health

**Date:**

**Title:** **STATEMENT OF PRINCIPLES -  
GAMBLING ACT 2005**

12 September 2018

**Report Author:** Amanda Turner, Licensing Team Leader

## Summary

1. The draft Statement of Principles under the Gambling Act 2005 completed its period of public consultation on 13 August 2018.

The purpose of the report is to request that Members approve the Policy for consideration and adoption by Full Council at the meeting on 4 December 2018 with the Policy coming into effect 31 January 2019.

## Recommendations

2. Consider the representations and decide in light of these whether the draft policy should be amended, and recommend to Full Council that the final draft policy be adopted.

## Financial Implications

3. None arising from this report

## Background Papers

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

Draft Statement of Gambling Policy 2018-21 (showing proposed changes)

## Impact

- 5.

Communication/Consultation	The Licensing authority consulted on 2 July 2018 Statutory consultees, the Director of Public Health, all premises licence holders, town and parish Councils, 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
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Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

6. The Council's Gambling Policy Statement allows the Council, as Licensing Authority to outline the considerations it will make in determination of Gambling Act applications. This draft Policy was only for minor changes (as the existing policy was recently revised in 2017) therefore subject to a just a 6 week consultation exercise.
7. The public consultation exercise, as approved by the Licensing and Environmental Committee on 27 June 2018 was conducted between 2 July and 13 August 2018. Information was published on the council's website, and letters or emails sent to all statutory consultees, Director of Public Health, all premises & club licence holders, local businesses, gamblers anonymous, all District Councillors and town and parish clerks.
8. One response has been received to the consultation. This was from William Hill stating they did not agree with a full variation being required on the installation of privacy screens around gaming machines – section 22.4 in the draft statement of principles (Appendix 1). The reasons for their concerns are set out in (Appendix 2).
9. Officers' comments in respect of this representation are as follows:
  - a. The Gambling Commission's bulletin of January 2018 advised local authorities to consider including additional detail in their policy statement as to their requirements for plans.

The Gambling Act 2005(Premises Licences and Provisional Statement) Regulations 2007 set out the minimum requirements for the information that is to be shown on the plan. However, it is open to licensing authorities to ask for more detail if they consider that the minimum information would not be enough to satisfy them when trying to determine if the application is in accordance with the licensing objectives, the Guidance and the Commissions' codes of practice (in particular the social responsibility codes) and the statement of policy.



The Commission's guidance at paragraph 7.46 acknowledges that additional detail may be required.

Therefore, paragraph 15.21 of the draft policy now sets out the licensing authority's expectations in terms of the details included on a plan required to accompany an application. The Council expects that plans accompanying applications for licences would show positions of betting terminals, and privacy screens, amongst other things.

- b. With regards draft paragraph 22.4, Officers added the expectation that a full variation would be required where privacy screens were added. This was a result of the additional requirements expected for plans, as set out in draft paragraph 15.21, and revised guidance from the Gambling Commission.

The Gambling Commission's Licence Conditions and Code of Practice state that "facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times". The Gambling Commission issued advice about this in their November 2017 bulletin which is attached as Appendix 3.

Officers considered it would be reasonable for the Licensing Authority to take into account the position of the Fixed Odd Betting Terminals, and whether there are any privacy screens when determining if there is effective supervision of those facilities. If there were any changes to those arrangements, they should also be considered by the Licensing Authority.

The Gambling Commission's guidance in paragraph 7.51 in respect of when a variation application should be made, is that an application should be made if there are material changes to the premises. What constitutes a material change is a matter for local determination, and a common sense approach should be adopted.

The Licensing Authority's starting point is that any alternation to the position of privacy screens, or their addition, is likely to amount to a material change, as it would affect the licensing objectives.

- 10. A copy of the revised Policy (showing proposed changes) is attached as Appendix 1. Members are asked to approve the revised Policy and recommend to Full Council that it be adopted at the meeting on 4 December 2018 with the new Policy coming into effect 31 January 2019.

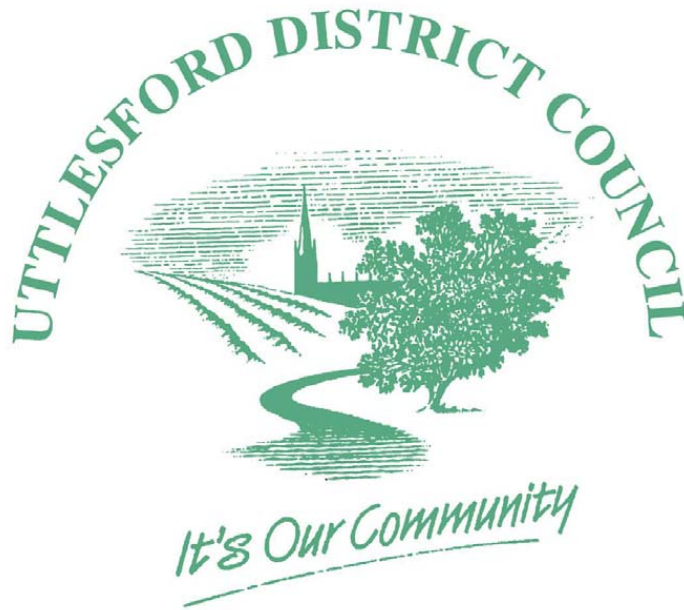
## Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
The Council is under an obligation to review the	1.	2.	The Council to carry out appropriate

<p>Gambling Act Policy every 3 years and ensure that the processes are followed in accordance with the legislation and guidance. Failure to achieve the timescale or demonstrate that appropriate consideration has been given to responses received during the consultation process could result in Judicial review. Although this policy was only reviewed in 2017, the Gambling Commission have requested all authorities review them again now to fall in line with the date of set date of 31 January 2019.</p>			<p>consultation and reasoned consideration of the responses.</p>
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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.



# 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](mailto: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](http://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](http://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 6<sup>th</sup> 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](http://www.gamblingcommission.gov.uk) Some of these organisations provide codes of practice on their particular interest area.

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**Amanda Turner**

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**From:** Brian Minihane [REDACTED]  
**Sent:** 09 August 2018 16:52  
**To:** Licensing  
**Subject:** Draft Gambling Policy 2019-2022 - consultation response

Good afternoon,

Further to the publication of your Draft Statement of Licensing Policy 2019-2022, we wish to respond to the consultation on just the following point:

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.

We would not agree that a full premises licence variation is required for the installation of privacy screens around gaming machines. When we install such a set-up, we would, as a responsible operator, adopt the initial approach you have suggested above, taking into consideration the suitable positioning of the machine within the premises, and the ability of staff to be able to monitor the machines fully, as well as the GC SR Code mentioned, and we would also document this in the Local Area Risk Assessment. Although we would be more than happy to discuss any concerns you may have with our approach in any individual shop, given that all shops are of various sizes and layouts, and of course be willing to consider further appropriate measures to alleviate these concerns if the situation arose, we certainly feel that the requirement for a full licence variation is unnecessary. The Gambling Commission's own current documentation states that 'Plans must include : the boundary of the premises, external and internal walls, points of exit and entry (plus a description of where exit leads to and entry leads from)'. So, even the position of the gaming machines is not actually a requirement. We do show the positions of our machines on licence plans, and also any privacy screens around them, as we feel this is beneficial to Local Authorities, but we do not agree there can be a need to make a full variation, for the movement of a fixture which need not be shown. If there is any concern, it can be discussed without such application having to be made.

I would appreciate it if you could give further consideration to these comments, before the final Policy is produced.

If you have any other questions relating to this matter, please get in touch.

Kind regards  
Brian



**Brian Minihane**  
National Licensing & Development Manager

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Featurenet: 7375

William Hill | Greenside House | 50 Station Road | Wood Green | N22 7TP

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# Licensing authority bulletin

## November 2017

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- **New** Commission drop in surgery at the IOL National Training Event (16 November)
- **New** – Strategy
- **New** Gala Interactive to pay £2.3m penalty package for social responsibility failures
- **New** Stan James Online to pay £80,000 penalty package for social responsibility and money laundering failures
- **New** Letter to operators about online adverts appealing to under 18s

#### Case studies

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#### Reference materials

- Updated list of Primary Authority gambling agreements
- Print friendly quick guides and template letters
- Licensing authority inspection outcome letters and inspection guidance
- Gambling Act statutory notices and forms
- Premises licence register
- Find operating licence holders
- Change of licensing personnel?
- Join our LinkedIn group



### News

#### Government's consultation on proposals for changes to gaming machines and social responsibility measures

LAs are strongly encouraged to read and respond to this DCMS consultation, either directly or through the LGA/WLGA/COSLA. The consultation closes on 23 January 2018, following which Government will consider its final proposals. The consultation covers a broad range of proposals to address social responsibility and problem gambling beyond just changing stakes and prizes on gaming machines.

Following a call for evidence last year, the Government has now published a [consultation](#) that covers proposals relating to:

- maximum stakes and prizes for all categories of gaming machines permitted under the Gambling Act 2005
- allocations of gaming machines permitted in all licensed premises under the Gambling Act 2005
- social responsibility measures for the industry as a whole to minimise the risk of gambling-related harm, including on gambling advertising, online gambling, gaming machines and research, education and treatment (RET).



# licensing authority bulletin

Tracey Crouch (Parliamentary Under Secretary of State at the Department for Digital, Culture, Media and Sport) said "We believe that the current regulation of B2 gaming machines is inappropriate to achieve our stated objective of protecting consumers and wider communities. We are therefore consulting on regulatory changes to the maximum stake, looking at options between £50 and £2, in order to reduce the potential for large session losses and therefore to the potentially harmful impact on the player and their wider communities.

While the industry proposes increases to the remaining stakes and prizes, and permitted numbers and allocations across other categories of machine (B1, B3, B3A, B4, C and D gaming machines), we believe retention of the current regulatory environment will better protect players from potential harm than industry's proposed increases.

We are aware that the factors which influence the extent of harm to the player are wider than one product, or a limited set of parameters such as stakes and prizes, and include factors around the player, the environment and the product. We are therefore also consulting on corresponding social responsibility measures across gaming machines that enable high rates of loss, on player protections in the online sector, on a package of measures on gambling advertising and on current arrangements for the delivery of research, education and treatment (RET). Within this package, we want to see industry, regulator and charities continue to drive the social responsibility agenda, to ensure all is being done to protect players without the need for further Government intervention, and that those in trouble can access the treatment and support they need."

## Commission's drop-in surgery at the IOL National Training Event

We presented along with Brighton & Hove Council on Thursday 16 November at the Institute of Licensing (IOL) training event in Stratford upon Avon. The focus of the presentation was gambling Statements of Policy which need to be reviewed and published by January 2019.



To coincide with the event we have published a [quick guide for councillors](#) on licensing committees and boards about the statutory requirement to review gambling statements every three years. We will be providing further information to LAs over the coming months as they prepare for their consultations.

We also had a gambling drop-in surgery for LAs where a number of gaming machines were available to explore and ask questions about.

## Our strategy 2018 - 2021

Our strategy – which will be of interest to consumers, gambling businesses and others - sets out our focus and commitment in five priority areas:

- protecting the interests of consumers - for example, the Commission expects operators to intervene to make play safe and to protect consumers at risk. There will also be tougher and broader sanctions on operators (including lotteries) who fail to treat customers fairly and make gambling safe.
- preventing harm to consumers and the public – for example, the Commission expects consumers to be provided with more information about gambling and its risks, and better controls to manage their gambling.
- raising standards in the gambling market – for example, the Commission expects effective and independent arrangements to resolve consumer complaints and disputes.

# licensing authority bulletin



"In the same way that this strategy challenges the industry, we also challenge ourselves – as the regulator – to deliver effective, targeted and innovative regulation.

"At the end of three years we expect to see an industry that strives continuously to raise their standards, treat customers fairly, and protect vulnerable people."

Read the [Gambling Commission Strategy 2018-2021 – making gambling fairer and safer](#).

## Gala Interactive to pay £2.3m penalty package for social responsibility failures

- optimising returns to good causes from lotteries – for example, the Commission will regulate in a way that delivers a healthy National Lottery for customers and good causes, and plan for the competition for a new licence to be awarded for 2023.
- improving the way the Commission regulates – for example, the Commission will improve the way it taps into consumer and public issues to inform action; it will help industry comply but take precautionary action where necessary, and will give independent and well evidenced advice to government on gambling and its impact.

A video explaining these five priorities in more detail is available on the [Commission's YouTube channel](#).

Gambling is a mainstream leisure activity with 63% of people having gambled in the last year, but the Commission needs to balance consumer choice and enjoyment against the risks and impact gambling can have for individuals and wider society.

The strategy builds on work the Commission has been doing to ensure consumers are protected and reveals the vision for further and faster progress in the five priority areas.

Gambling Commission Chair Bill Moyes (pictured) said: "This is an ambitious strategy to deliver fairer and safer gambling over the next three years. We can only be successful in this by engaging with consumers and by working closely with all our regulatory partners and the industry.

- Gala Interactive (Gala) have to pay £2.3m for breaching regulations which protect consumers.
- The action follows the discovery of significant flaws in Gala's dealings with two high-spending customers who gambled away around £1.3m of stolen money.
- Customer A lost £837,545 over 14 months and Customer B lost £432,765 over 11 months. Both lost the money playing Gala's online games.
- Our investigation revealed that Gala failed to effectively interact with the two customers who were displaying problem gambling behaviour. The operator also failed to have in place written policies and procedures that could have curbed the problem gambling behaviour.
- An aggravating factor was that during a [previous case](#) regarding similar failings, Gala told the Commission that customers of concern would be identified sooner and effectively handled. This assurance was made during the same time that Customer A and Customer B were gambling with Gala.
- Customer A was imprisoned for four years for stealing from an employer and Customer B was jailed for four-and-a-half years for acquiring, using or possessing criminal property.



# licensing authority bulletin

Gala's penalty includes:

- £1m payment to fund research relating to the causes of problem gambling
- Payment of £1.3m to the victims of Customer A and Customer B.

Gala acknowledged its failings and, in addition to the penalty package, has volunteered to pay a further £200,000 to fund research relating to the causes of problem gambling. Further details are available in [Gala's public statement](#).

## Stan James Online to pay £80,000 penalty package for social responsibility and money laundering failures

Following an investigation by the Commission, Stan James Online will pay a penalty package of £80,000 and take steps to improve its anti-money laundering and social responsibility processes.

The case concerned a customer who deposited stolen money with Stan James Online between November 2014 and October 2016. Our enquiries revealed that during this time the operator failed to spot problem gambling behaviour and failed to comply with financial requirements aimed at preventing money laundering.

Stan James Online will return £40,000 to the person whose money was stolen and gambled away and also pay £40,000 in lieu of a financial penalty. Further details are available in [Stan James Online public statement](#).

## Letter to operators about online adverts appealing to under 18s

[A joint letter](#) from the Commission, the Advertising Standards Authority, the Committee of Advertising Practice, and the Remote Gambling Association has been sent to online operators regarding amending or removing adverts featuring images that are likely to appeal particularly to under 18s.

## Case studies

### Arresting problem gambling in the UK prison system – Cheshire pilot

Beacon Counselling Trust, in conjunction with GamCare, Cheshire Constabulary and Mitie Care in Custody carried out a pilot to ascertain the levels of problem gambling amongst those being arrested. They used the Lie/Bet Screening tool in 3 custody suites across Cheshire to ascertain levels of problem gambling at the point of arrest, with appropriate training provided to staff using the screening tool.



From 760 individual screenings the pilot identified problem gambling levels at 13%. The pilot also identified a lack of awareness across the criminal justice system of problem gambling as an issue of significance, along with little or inadequate screening for problem gamblers across offending populations, resulting in low referral numbers for gambling support.

Key recommendations:

- validate this pilot with larger piece of work across the Criminal Justice System
- increase criminal justice staff understanding of problem gambling and awareness of problem gambling and awareness of treatment and support services
- introduce systematic problem gambling screening, assessment and service referral processes across the criminal justice system

# licensing authority bulletin

- improve offender's access to targeted interventions according to their level of criminal justice contact and treatment needed.

This pilot has won a Howard League for Penal Reform National Community Award in the Policing and Adults category. The awards celebrate initiatives that work to promote lasting solutions to crime and make communities safer.

LAs and police are encouraged to send case studies for inclusion in future bulletins. Please supply details to [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

## Advice and guidance updates

### Risk of privacy screens around gaming machines

LAs are advised that we have recently issued advice to operators regarding the privacy screens around machines, with some additional information for LAs.

A screen or pod around a gaming machine, designed to increase the privacy of the player, could be stopping staff in a gambling premises from effectively monitoring gaming machine play. It is an operator's responsibility to ensure staff are able to effectively monitor gaming machine play for a number of reasons that are part of the operator's licence conditions.

The [Licence conditions and code of practice](#) (LCCP) state: 'Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times'.

Age verification, customer interaction and self-exclusion policies all require operators to take into account the structure and layout of their gambling premises. Operators must be able to evidence to us and their local LA how they have considered the risk to the licensing objectives and implemented effective controls, prior to the introduction of any new machine arrangements.

Where operators are unable to demonstrate effective controls we, or the LA, can use regulatory powers to instruct the removal of any impediments to staff carrying out their responsibilities and investigate any regulatory breaches.

Commercial motivations should never take precedence over the requirement to provide gaming machines in a safe and responsible manner.

Where you encounter atypical gaming machine arrangements, you should consider the means by which gaming machines are supervised (eg line of sight to counter, effective CCTV, mirrors or floor staff) and consider whether that is appropriate for that premises.

Whether amendments to a premises amount to a 'material change' warranting an application to vary the premises licence under s.187 of the Gambling Act is a matter for local determination and it is expected a common sense approach should be adopted (see 7.51 of the [Guidance to licensing authorities](#)).

### Reminder re premises applications and plans

Following some recent queries in relation to this topic we are repeating the information previously shared in a Bulletin. Whilst the advice is primarily about new applications and applications to vary a premises licence it equally applies when considering what to take into account that requires a variation should you come across changes to a premises and the operator has not applied to vary.

We are aware that, on a limited number of occasions an operator has applied for a variation to a premises licence in which the accompanying plan of the premises has only contained an outline of the licensed premises and the exit points, without, for example, the location of the gaming machines and counter.

On each occasion that we are aware of, when this was queried with the operator, a more detailed plan has been submitted.



# licensing authority bulletin

Whilst the licensing of premises is primarily a matter for local determination and is something which we are unlikely to comment on, save where it is important to establish principle and precedent, we consider it beneficial for both LAs and operators to set out the issues involved and the options available.

The Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) and (Scotland) Regulations 2007 set out what the operator needs to supply as a minimum.

However, this minimum requirement may or may not satisfy a licensing authority in discharging its functions as set out at s153 of the Act which states: 'Principles to be applied:

(1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it

- (a) in accordance with any relevant code of practice under section 24,
- (b) in accordance with any relevant guidance issued by the Commission under section 25,
- (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
- (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

'This Part' in (1) relates to Part 8 - Premises Licences in the Act. Therefore it follows that in determining an application for a premises licence, or an application to vary a premises licence, the LA must establish whether the application is 'in accordance with the relevant code of practice' and this will include social responsibility codes. The LA must also determine whether the application is 'reasonably consistent with the licensing objectives' - such as protecting the young and vulnerable. Should the application and the accompanying plan be insufficient to satisfy these requirements the LA is entitled to ask for more information.

We are aware that at least some LAs have this as a regular requirement when premises applications are submitted.

The premises plan in itself is only one means by which the LA may seek reassurance that the requirements will be met. It may be that conditions attached to the premises licence regarding lines of sight between the counter and the gaming machines, staffing arrangements or security devices are a more effective method of doing so. Local circumstances and concerns and the layout of a particular premises may well determine what is most appropriate for an individual application.

LAs with concerns about premises applications and plans should contact [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

## Entertainment bingo & TUNs

LAs are reminded of information in the [May LA Bulletin](#) about participation fees for bingo played as equal chance gaming in pubs and other alcohol-licensed premises. LAs with concerns about alcohol licensed premises playing bingo with stakes and prizes exceeding the £2,000 weekly limit or where there is a possible fee to play, should contact their compliance manager in the first instance.

We are aware that a number of LAs have received notification of a Temporary Use Notice (TUN) for bingo events. For further details of TUNs you are advised to refer to [s14 of the Guidance to Licensing Authorities](#).

In short under a TUN it is required that the gaming is 'intended to produce a single overall winner' although this does not restrict the gaming to only one winner through the course of the tournament.

The qualifying rounds may produce winners whose prize is to progress to the next round. However, the event must be structured as a tournament. Cash games during the event are not permitted, and gaming machines cannot be made available in reliance on a TUN.

If you are in any doubt or receive contrary advice please contact your compliance manager.



# Agenda Item 4

**Committee:** Licensing and Environmental Health Committee

**Date:**

Wednesday, 12  
September 2018

**Title:** Enforcement Update

**Report Author:** Matthew Chamberlain, Enforcement Officer

mchamberlain@uttlesford.gov.uk

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## Summary

This report is to inform members of the enforcement activities between 01 April 2018 - 30 June 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 April - 30 June 2018, 76 cases were opened involving the licensed private hire and hackney carriage trade. Of these there were 16 relating to private hire vehicles, two relating to hackney carriage vehicles, eight relating to operators and 38 relating to drivers.
2. The number of licensed premises cases opened during this period was seven.
3. The number of tables and chairs cases opened during this period was four.
4. Six suspensions have been issued for failing to notify the Council of a fixed penalty notice within seven days (condition 18c of the conditions of licence). A summary of the suspensions issued by the Environmental Health Manager (Protection) by delegated powers in accordance with Appendix I of UDC's licensing policy is provided below:

Date of interview	Condition	Period of suspension
09/04/2018	18c	2
09/04/2018	18c	3
09/04/2018	18c	5
09/04/2018	18c	3
10/04/2018	18c	3
09/07/2018	18c	5

5. 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 breach of condition should be five 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 note that there have been no appeals against these decisions.
6. Two licensed private hire vehicles have been suspended by Enforcement Officers during this period. One was because the engine had blown, this vehicle licence was then surrendered by the proprietor. The other vehicle was suspended because it had a taxi meter, this was because licensed private hire vehicles should 'not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage.' By having this meter it could lead people to believe that it was a hackney carriage vehicle. The vehicle licence was surrendered by the proprietor.
7. Nine licensed drivers have surrendered their driver's licences due to the direct intervention from the Enforcement Officer. One operator surrendered their licence.

8. One revocation of a driver's licence under delegated powers took place during this period by the Environmental Health Manager (Protection). This licence was revoked as the driver had lost their DVLA driver's licence.
9. Enforcement Officers are continuing to carry out multi-agency stop checks across the District which are led by Essex Police. These stop checks bring about a number of benefits to the Council. It strengthens good working relationships with partner agencies such as the Police, TFL, DVSA etc. It offers a continuing a high-visibility presence in the District and lets people know that we are out there to enforce against offences or breaches that we discover.

10. These were the results:

25 April 2018:

Essex Police results

109 Seat belts, 4 MOT, 2 Mobile Phone, 2 Number Plate no conforming, 1 smashed windscreen, 1 Dangerous condition.

TFL stopped 116 vehicles, 14 were deemed unfit, 4 drivers were without ID.

The Council reported 4 drivers for no tax and seized 2 of the cars, they also issued a penalty notice to a taxi driver smoking in his taxi.

02 May 2018

Essex Police results

76 seatbelt, 9 Tints, 8 mobile, 5 MOT, 2 No insurance, 1 Bald Tyre

TFL checked 74 cars, dealt with 1 for no ID, 14 private hire were unfit, 15 advisory notices, 1 immediate unfit and 1 black taxi unfit.

The Council issued 2 fixed penalties for smoking in a smoke free vehicle and seized 1 car for no tax.

25 May 2018

Essex Police results

104 seatbelts, 2 index plate offences, 1 tyre offence, 3 no insurances, 1 no MOT and 1 no driving licence.

TFL dealt with 48 private hire vehicles of which 14 were unfit, 2 drivers had no badges, 1 was unable to produce his insurance and 3 advisory notices given. They also checked 2 taxis which were all in order.

The Council seized 1 vehicle for no tax and issued an FPN for smoking in a taxi.

DVSA issued 14 prohibitions 5 of which were category 1. They also issued £150 in fines.

04 June 2018

Essex Police results

70 seat belt tickets, 3 index plate offences, 4 no MOT's, 3 driving otherwise than in accordance with a licence, 3 no insurance, 2 bald tyres and 3 seizures.

TFL checked 66 private hire vehicles, 21 of which had differing issues.

The Council seized 1 vehicle for no tax.

DVSA completed 5 pieces of process and assisted the Police in prohibiting a vehicle.

There was another stop check on 25 June 2018 but we were unable to attend this.

11. No prosecutions took place in this period.

12. No cautions were administered in this period.

### **Risk Analysis**

There were no risks attached to this report.

**Committee:** Licensing and Environmental Health Committee

**Date:**

Wednesday, 12  
September 2018

**Title:** Environmental Health (Commercial) Activity Report

**Report Author:** Tony Cobden, Environmental Health Officer - Commercial

tcobden@uttlesford.gov.uk

Tel: 01799 510583

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## Summary

1. This report outlines to members the work of the Environmental Health (Commercial) Service as undertaken between 01 January and 30 June 2018

## Recommendations

2. That members note the contents of this report.

## Financial Implications

3. None arising from this report.

## Background Papers

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

Current codes of practice relating to Food Safety (FSA)

The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation – the Brand Standard

National Local Authority Enforcement Code (HSE)

Joint Action Plan for Outbreak Control (PHE and Essex Authorities)

## Impact

- 5.

Communication/Consultation	None
Community Safety	No direct impact on community safety
Equalities	No impact on equalities
Health and Safety	No impact on employee health and safety
Human Rights/Legal	All intervention work is carried out in

Implications	accordance with existing legislative framework and the Councils enforcement policy
Sustainability	Enforcement work undertaken in keeping with the principles of sustainability
Ward-specific impacts	No Ward specific impact
Workforce/Workplace	No impact

## Situation

6. The main focus Environmental Health (Commercial) Service is to improve consumer safety, working conditions and provide support to other areas of work aimed at creating a healthy population. Whilst primarily a statutory service we don't just enforce regulations, we educate, advise and mediate, in order to ensure that people are able to live and work in safe, healthy environments.

The Commercial team are responsible for a wide range of functions including food hygiene and safety, imported food control, occupational health and safety, infectious disease control and port health and the registrations of both premises and persons engaging in cosmetic practices such as skin piercing and tattooing. A breakdown of services delivered for the period covered by this report is provided below.

7. Performance is measured through formal performance indicators (PI) and service plan targets. A summary of the total service activity for the period 01 January to 30 June 2018 is provided below.

Members should note that during the period Environmental Health Team resource has been reduced due to resignation of two team members. As of 03 July the resourcing issue has been partially addressed by the recruitment of a part time Environmental Health Officer (EHO) and a trainee Environmental Health Technical Officer (EHTO) acting in a regulatory support role.

The current team resource is as follows 1 SEHO (f/t), 1 SEHO (p/t), 1 EHO (p/t) 1 SEHTO (f/t), 1 EHTO (f/t) 1 EHTO trainee (f/t) 1 admin support (f/t)

<b>Report of Service activity for Environmental Health (Commercial 4th Quarter 2017 /18 (01 Jan to 31 March 2018))</b>	
<b>Activity Type</b>	<b>No's</b>
<b>Food Hygiene and Safety</b>	
Total number of PI reportable routine food premises inspected.	83
Total number PI reportable of routine premises due.	91

PI achieved expressed as a percentage.	76%
Additional food interventions including alternative strategy and new businesses.	37
Premises receiving a requested rescore visit under FHRS	14
Food compliant investigations	18
Hygiene improvement notices served	0
<b>Food Hygiene Rating Scheme (FHRS)</b>	
Premises awarded a rating of 5 - Very Good	76
Premises awarded a rating of 4 - Good	21
Premises awarded a rating of 3 - Generally Satisfactory	08
Premises awarded a rating of 2 - Improvement necessary	02
Premises awarded a rating of 1 - Major Improvement necessary	03
Premises awarded a rating of 0 - Urgent Improvement necessary	0
<b>TuckIn premises</b>	
Total premises pledged to the initiative to date	17
Average across Essex Local Authorities	16
<b>Imported Food Control</b>	
Products of animal origin (POAO)	258
Destroyed POAO	62
Returned consignments	02
Food not of animal origin (FNAO)	134
Sampled consignments of Peas	05
Organic imports	06
Melamine/Polyamide imports	04
<b>Occupational Health and Safety</b>	
Face to face contact interventions	20
Other interventions	0
Visits to investigate incidents (RIDDOR)	0
Visits to investigate complaints	03
HS advice visit	04
Revisits following an earlier intervention	0
Immediate Prohibition Notices served	03
Improvement Notice served	01

<b>Infectious Disease Control</b>	
Campylobacter	11
Cryptosporidium	0
Giardia	01
Salmonella	03
E.coli	0
<b>Registration of premises</b>	
General enquiries	05
Registrations of premises	01
Registration of person : semi-permanent makeup	01
Registration of person : ear piercing	0
Registration of person : tattooist	0
Registration of Acupuncturist	0

<b>Report of Service activity for Environmental Health (Commercial)</b>	
<b>1<sup>st</sup> Quarter 2018 /19 (01 Apr to 30 June 2018)</b>	
<b>Activity Type</b>	<b>No's</b>
<b>Food Hygiene and Safety</b>	
Total number of PI reportable routine food premises inspected.	70
Total number PI reportable of routine premises due.	99
PI achieved expressed as a percentage.	69%
Additional food interventions including alternative strategy and new businesses.	29
Premises receiving a requested rescore visit under FHRS	05
Food compliant investigations	16
Hygiene improvement notices served	02
<b>Food Hygiene Rating Scheme (FHRS)</b>	
Premises awarded a rating of 5 - Very Good	62
Premises awarded a rating of 4 - Good	17
Premises awarded a rating of 3 - Generally Satisfactory	09
Premises awarded a rating of 2 - Improvement necessary	03
Premises awarded a rating of 1 - Major Improvement	09



necessary Premises awarded a rating of 0 - Urgent Improvement necessary	02
<b>TuckIn premises</b>	
Total premises pledged to the initiative to date	17
Average across Essex Local Authorities	18
<b>Imported Food Control</b>	
Products of animal origin (POAO)	242
Destroyed POAO	70
Returned consignments	02
Food not of animal origin (FNAO)	217
Sampled consignments of Peas	13
Sampled consignments of tea	03
Organic imports	12
Melamine/Polyamide imports	10
<b>Occupational Health and Safety</b>	
Face to face contact interventions	08
Other interventions	0
Visits to investigate incidents (RIDDOR)	0
Visits to investigate complaints	02
Revisits following an earlier intervention	03
HS advice visit	0
Immediate Prohibition Notices served	02
Improvement notice	01
<b>Infectious Disease Control</b>	
Campylobacter	11
Cryptosporidium	0
Giardia	01
Salmonella	03
E coli	0
<b>Registration of premises</b>	
General enquiries	04
Registrations of premises	05
Registration of person : semi-permanent makeup	04
	0

Registration of person : ear piercing	02
Registration of person : tattooist	02
Registration of Acupuncturist	

Quarterly updates will be provided to Licensing and Environmental Health Committee going forward.

### **Risk Analysis**

8. There are no risks attached to this report

**Committee:** Licensing and Environmental Health Committee  
**Title:** Determination of a private hire/hackney carriage driver's licence  
**Report Author:** Matthew Chamberlain, Enforcement Officer  
mchamberlain@uttlesford.gov.uk  
**Date:** Wednesday, 12 September 2018

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## Summary

This report has been submitted for members to consider suspension or revocation of a private hire/hackney carriage driver's licence. The suspension or revocation of the driver's licence is in accordance with section 61(1)(a)(i) Local Government (Miscellaneous Provisions) Act 1976.

## Recommendations

The committee determine whether the individual should have their private hire/hackney carriage driver's licence suspended or revoked.

## Financial Implications

None arising from this report.

## Background Papers

1. 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.
  - a. Licensing of driver's section of the policy.
  - b. Uttlesford District Council restrict driver conditions.
  - c. News article dated 14 August 2018.

## Impact

Communication/Consultation	None.
Community Safety	The Authority to licence driver's who are considered to be 'fit and proper.'
Equalities	None.
Health and Safety	None.
Human Rights/Legal	Under section 61 of the LG(MP)A 1976 District Council's may suspend or

Implications	<p>revoke a drivers licence for:</p> <p>(a) That since the grant of the licence he has-</p> <p>(i) been convicted of an offence involving dishonesty, indecency or violence; or</p> <p>(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of any part of the Act; or</p> <p>(b) any other reasonable cause.</p> <p>In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

1. Mr Andrew Logan currently holds a private hire/hackney carriage driver's licence (PH/HC0970) which is due to expire on 28 February 2019. He was first licensed by this Authority on 21 March 2014.
2. Mr Logan is a mechanic at a Council approved testing station so currently only holds a restricted private hire/hackney carriage driver's licence. This is because he did not transport members of the public but tested the licensed vehicles and only licensed drivers can drive licensed vehicles.
3. It has recently come to the Council's attention that Mr Logan has been imprisoned for 14 months after admitting the offences of threatening to damage or destroy property and causing criminal damage following an incident in Bishops Stortford on 23 April 2018.
4. Mr Logan rang up his ex-partner at 11.45pm that night telling and told her that he was two minutes away and that he had a knife and that he would 'burn her out.' A few hours later he arrived at the driveway of her father's house where she was staying, and started to beep his horn and flash the lights. He then attacked the house itself and damaged the front door.
5. When Mr Logan was sentenced he told the recorder that 'you will be judged too one day' and swore towards him and his former girlfriend. When he was taken to the cells he continued to shout and punch the walls.

6. According to licensing records Mr Logan was last known to be living at 2 High View, Dutton Hill, Dunmow, Essex, CM6 2DY. However, the newspaper article indicates that Mr Logan was living at an address at Woodfields, Stansted. Mr Logan appears to have also therefore breached one of his restricted drivers conditions of licence as he is required to notify the Council in writing of a change of address within seven days (condition 1a). Mr Logan has not been sanctioned for this.
7. Mr Logan's licence therefore comes before members to consider whether he remains a 'fit and proper' person to hold a private hire/hackney carriage driver's licence as he has been imprisoned for a violent offence.

## Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unsuitable person may be licensed to drive licensed vehicles.	1- Members has an awareness of what constitutes a fit and proper person.	4- Permitting unfit persons to drive a private hire/hackney carriage vehicle may put the public at risk.	Members consider whether the driver remains a fit and proper person as he has been imprisoned.

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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## **1. Introduction**

- 1.1. The law relating to the hackney carriage and private hire trades is largely contained in 2 statutes, the Town Police Clauses Act 1847 which is exclusively concerned with hackney carriages and the Local Government (Miscellaneous Provisions) Act 1976 which deals with both the hackney carriage and private hire trades. The object of the legislation is to ensure the safety and well being of the public.
- 1.2. The power to regulate the private hire trade under the 1976 Act is adoptive. The Council resolved to adopt those powers in 1992 and has regulated the private hire trade since.
- 1.3. Under the legislation the Council is responsible for licensing hackney carriages and private hire vehicles, drivers of those vehicles and operators of private hire vehicles.
- 1.4. The aim of this policy is to set out the approach the Council will take in dealing with the grant of licences; the Council's conditions and the approach taken with regard to enforcement of conditions and the legislation.

## **2. Licensing of Drivers**

- 2.1. The Council has a duty to grant a driver's licence to anyone who applies for a licence who holds a full driving licence (or is otherwise authorised to drive under the Road Traffic Act 1988) and who has held such a licence or authorisation for at least 12 months. However the Council must not grant a licence unless it is satisfied that the driver is a fit and proper person to hold such a licence.
- 2.2. In determining whether someone is a fit and proper person councils are entitled to have policies. The Council's policy in the form of its Licensing Standards - Drivers is attached as Appendix A. It sets out the standards expected of those who apply for, or hold, licences to drive hackney carriages and/or private hire vehicles.
- 2.3. The policy is not binding upon the Council. However applicants who do not meet all the licensing standards will only be granted a licence if there are good grounds for departing from the Council's policy. The burden of proof is

upon the applicant to satisfy the Council that he or she is a fit and proper person.

- 2.4. The fact that someone meets the licensing standards is not a guarantee that a licence will be granted. There may be reasons why an applicant may be considered not to be a fit and proper person even though he or she meets licensing standards. Conversely there will be cases where someone does not meet the licensing standards but nevertheless the Council is satisfied that he or she is a fit and proper person so that a licence can be issued. Each case is decided upon its merits. Where an applicant does not meet the Council's medical standards the application will be considered on a risk basis and a licence may be granted if the Council is satisfied that the applicant will be safe to drive.
- 2.5. Save for drivers who are prepared to accept conditions on their licence that (1) they may not carry passengers (2) they will drive hackney carriages/private hire vehicles only for the purposes of road testing or for the purpose of collecting the same from and returning it to an operator or proprietor before and after the vehicle has been submitted for the purposes of repair, servicing or testing (a "limited licence") all applicants for a driver's licence will be required to have an enhanced Disclosure and Barring Service ("DBS") check at the time of the first application for a licence and thereafter at 3 yearly intervals. Applicants will also be required to undergo a medical at the time of the first application for a licence and generally every 3 years thereafter although the Council may request medical certificates more frequently if there are reasons to be concerned about a driver's medical fitness to drive.
- 2.6. The Assistant Chief Executive - Legal has delegated authority to grant licences where applicants meet the Council's licensing standards. However there will be occasions when he feels that the decision would be better taken by Members (e.g. the number or nature of spent convictions; police intelligence revealed by the enhanced DBS check; false statements made by an applicant on the application for the licence etc.). In such cases he may refer the application to the Licensing and Environmental Health Committee for determination.



- 2.7. The Assistant Chief Executive - Legal also has delegated authority to refuse licences where applicants do not meet the Council's licensing standards. The Assistant Chief Executive - Legal cannot grant a licence in such cases but if he considers the circumstances are such that an exception to policy could be made he may refer the application to the Licensing and Environmental Health Committee for determination.
- 2.8 The Assistant Chief Executive - Legal may refer a driver or operator to the committee at any time for the committee to consider the revocation of a licence where in the opinion of the Assistant Chief Executive - Legal there are grounds to consider that the driver may not be fit and proper person. The Assistant Chief - Legal may take such action notwithstanding the fact that the driver meets the licensing standards set out in Appendix A to this policy.
- 2.9 Where a decision is taken to grant or refuse an application for a licence which is contrary to the Council's policy clear reasons for that decision will be given.
- 2.10 Where applications for licences are refused the applicants have a right of appeal against that decision. Details of the appeal procedure will be given to unsuccessful applicants along with the written notice of the decision.

### **3. Licensing of Operators**

- 3.1. Private hire vehicles are not permitted to ply or stand for hire and must be pre-booked through an operator. Operators are required to be licensed under the 1976 Act.
- 3.2. The only qualification for a private hire operator is that the Council must be satisfied that he or she is a fit and proper person to hold such a licence. Again the Council has a policy to guide it in its determination as to whether an applicant is a fit and proper person in its Licensing Standards - Operators which is attached as Appendix B.
- 3.3. The standards for operators are not as strict as for drivers. The policy does not take into account conditional discharges after they are deemed spent (whereas for drivers a conditional discharge will be taken into consideration even if spent for 12 months after the date of sentence) or cautions.





**CONDITIONS RELATING TO LIMITED VEHICLE TESTER'S LICENCES TO DRIVE  
HACKNEY CARRIAGES AND/OR PRIVATE HIRE VEHICLES**

Drivers will:-

1. Notify UDC in writing of:-
  - a. Any change of address within 7 days of the change of address occurring
  - b. Any change in the driver's physical or mental condition which may affect his or her ability to drive within 48 hours of the driver becoming aware of such change
  - c. Any motoring convictions, or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) within 7 days of the date of conviction or the issue of a fixed penalty notice
  - d. Any damage caused to a licensed vehicle or any accident the driver may have been involved in whilst in charge of a licensed vehicle within 72 hours of the damage or accident occurring
2. Not carry any passengers
3. To drive Hackney Carriage or Private Hire Vehicles ONLY for the purpose of road testing or for the purposes of collecting the same from and returning to an operator or proprietor before and after the vehicle has been submitted for the purposes of repair, servicing or testing.

**DRIVERS WHO FAIL TO OBSERVE THESE CONDITIONS MAY HAVE  
THEIR LICENCE SUSPENDED OR REVOKED**



# Thug who told ex he'd 'burn her out' is jailed

## Outburst in court as he is sentenced for threats and damage

By **Huw Wales**

huw.wales@reachplc.com

A STANSTED man who told his ex that he had a knife and a petrol can and was going to "burn her out" went on a foul-mouthed rant as he was jailed.

Andrew Logan, 42, of Woodfields, admitted threatening to damage or destroy property and criminal damage after the incident in Bishop's Stortford on April 23.

But as he was sent to prison for his actions, he told Recorder Giles Eyre: "You will be judged too one day" along with a series of swear words directed towards his former girlfriend.

In the corridor leading to the cells he continued to shout and could be heard hitting the walls.

On April 23 Logan, a car mechanic, rang up his ex at around 11.45pm, telling her that he was two minutes away, that he had a knife and a petrol can and that he would "burn her out".

The court heard that the sound of swishing liquid was also heard during the phone call.

### Car horn

Within minutes he had parked on the driveway of her father's house, where she was staying, and started to beep his car horn and flash the lights before launching an attack on the house itself and damaging the front door.

Recorder Eyre said: "This is a 42-year-old man who has behaved appallingly in relation to this matter.

"On the 23rd of April you rang and spoke with your former girlfriend who you had recently split up with and you suggested to her that you were two minutes down the road with a knife and a petrol can and you were going to burn her out.

"This was a terrifying ordeal and you need to understand how terrifying that was."

In mitigation, the court heard that Logan had been suffering from mental health problems and that he helped provide care for his elderly mother at the weekends.

Logan was sentenced to 14 months in prison and given a restraining order not to contact, directly or indirectly, his former girlfriend and not to go within 100 yards of anywhere she was living.

Andrew Logan was sentenced to 14 months in prison for threatening to destroy property and for causing criminal damage





By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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