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Uttlesford District Council

Chief Executive: Peter Holt

Licensing and Environmental Health Committee

Date: Tuesday, 12th July, 2022

Time: 7.00 pm

Venue: Council Chamber - Council Offices, London Road, Saffron Walden,
CB11 4ER

Chair: Councillor P Lavelle

Members: Councillors M Caton, A Dean, G Driscoll, R Freeman (Vice-Chair),
P Lees, J Lodge, L Pepper, G Smith and M Tayler

Substitutes: Councillors A Armstrong, S Barker, A Coote, A Khan, M Lemon and
B Light

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. Please register your intention to speak at this meeting by writing to committee@uttlesford.gov.uk. A time limit of 3 minutes is allowed for each speaker. Please refer to further information overleaf.

Public speakers will be offered the opportunity for an officer to read out their questions or statement at the meeting but are encouraged to attend the meeting to read out their questions or statement themselves. For further information, please see overleaf. Those who would like to watch the meeting live can do so by accessing the live broadcast here. The broadcast will be made available as soon as the meeting begins.

There is a capacity limit for attendance in person in the Chamber and seats will be available on a first come first serve basis, so please do get in touch as soon as possible if this is of interest. For further information, please see overleaf.

AGENDA

PART 1

Open to Public and Press

- 1 Apologies for Absence and Declarations of Interest**
To receive any apologies for absence and declarations of interest.
- 2 Minutes of Previous Meetings** 5 - 35
To consider the minutes of previous meetings.
- 3 Taxis and Private Hire Vehicles (Disabled Persons) Act 2022** 36 - 38
To note the report on wheelchair access vehicles.
- 4 Gambling Principles Policy 2022-2025** 39 - 122
To consider adopting the updated policy.
- 5 Enforcement Update** 123 - 125
To note the Enforcement Update report.
- 6 Review of Driver Training Course Deferral** 126 - 127
To receive an update on the Green Penny course deferral.
- 7 CCTV in Vehicles** 128 - 138
To consider holding an 8-week public consultation on the draft CCTV consultation document in Hackney Carriage and Private Hire vehicles.
- 8 Revised Policy Relating to the Hackney Carriage and Private Hire Trade** 139 - 302
To note the revised Hackney Carriage and Private Hire Trade policy.
- 9 Taxi and Private Hire Vehicle Fees** 303 - 307
To consider the report regarding Taxi and Private Hire Vehicle Fees.

MEETINGS AND THE PUBLIC

In light of the Government lifting covid restrictions and in line with the Council's risk assessment Council, Cabinet and Committee meetings have returned to in-person and are held in the Council Chamber. However, due to social distancing precautions and capacity considerations, those wishing to listen to or watch meetings will continue to be encouraged to access the live broadcast until further notice.

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Members of the public and representatives of Parish and Town Councils are permitted to speak or ask questions at this meeting and will be encouraged to do so in person. If you wish to make a statement you will need to register with Democratic Services by midday two working days before the meeting. There is a 15 minute public speaking limit and 3 minute speaking slots will be given on a first come, first served basis.

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Guidance on the practicalities of participating in-person or via Zoom will be given at the point of confirming your registration slot, but if you have any questions regarding the best way to participate in this meeting please call Democratic Services on 01799 510 369/410/467/548 who will advise on the options available.

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

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

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LICENSING PANEL HEARING held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY, 23 MARCH 2022 at 10.00 am

Present: Councillor P Lavelle (Chair)
Councillors S Barker and R Freeman

Officers in attendance: C Gibson (Democratic Services Officer), J Jones (Licensing and Compliance Officer) and E Smith (Solicitor)

LIC37 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

LIC38 **EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items 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.

LIC39 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Licensing and Compliance Officer gave a summary of her report which requested that members determined whether the driver should have their private hire/hackney carriage driver's licence suspended or revoked.

A representative of the driver's employer spoke on behalf of the driver. He said that the driver had previously had a clean driving licence for 19 years. He explained the circumstances under which the driver had subsequently received six penalty points; he had been driving a private own vehicle at the time and not that of his employer. He had been passing the mobile phone to a colleague on the back seat of his vehicle.

The representative provided a very positive reference for the driver, who had worked throughout the pandemic providing a service to both children and adults in need. He had also transported NHS staff. He said that this employment was the driver's only source of income and that he had five children in f/t education to provide for.

In response to various questions the representative said that the employer had around 500 registered drivers of which around 100 were registered with UDC. He said that there had been no court case and that the driver had accepted the six penalty points and a fine but that he had expected to receive three points.

The Council's Solicitor said that Points 2.27 and 2.41 of the Policy were applicable but that the Panel were entitled to disallow these points.

The driver and his representative left the meeting at 10:25 am and the meeting was adjourned; the Panel retired to make its decision.

The driver and his representative re-joined the meeting at 10:50am and the meeting reconvened.

The Chair read the driver the main points of the decision notice.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence No PH/HC2535 held by the driver since January 2018. He drives for his employer on the Special Education Needs Transport Team and though it is they who have brought the matters before us today to our attention, as they are required to do by the terms of their operators' licence, they support the driver and wish to retain his services. A representative of his employer has attended before us today and addressed us on behalf of the driver and he tells us that it is a wholly exceptional course of action for the company to do this.

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. We have also had the opportunity of hearing from the Case Officer and from a representative of his employer, and have read the papers before us most carefully.

On 19 September 2021 the Licensing Department received an email from his employer notifying them that the driver had received a letter the previous day advising him that his DVLA licence would be endorsed with 6 points for handling a mobile phone. The driver told his employer that he was not using the phone, but that he picked it up to hand to his friend who was in the rear of the vehicle. They asked us to make a note on the driver's record.

On 20 September 2021 a reply was sent to his employer advising them that once his licence had been endorsed there would likely be further action because he would no longer meet the standards of the UDC suitability policy for drivers. The annual check of the driver's DVLA licence which was carried out on 27 January 2022 showed a conviction for a CU80 offence on 28 July 2021 and a 6 point endorsement.

Point 2.27 of the 'Policy on deciding the suitability of applicants and licensees in the hackney and private hire trades' states

'Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later'.

Furthermore point 2.41 of the policy states,

*'As public trust and confidence in the overall safety and integrity of the system of taxi licensing is vital, where a licence holder has received a conviction for any category of offences detailed above, their licence(s) **will be revoked**'.*

Accordingly, on 3 February 2022 the driver was advised by email that his licence would be referred to Committee to consider possible suspension or revocation as he no longer met the suitability standards. He was invited to submit a statement explaining what had happened and why he felt he was still a 'fit and proper person' to hold a licence.

A statement from his employer on 7 February in support of the driver, together with a statement from the driver which the employer's Head of Compliance, HR and Local Government, advised had been drawn up with their support and sent to UDC by them on the driver's behalf. On 9 February 2022 the employer provided a signed witness statement from the passenger in the vehicle at the time of the offence. We have read these documents carefully.

In his statement the driver explains that on the day of the offence he was driving his own private vehicle and giving his friend a lift. His friend was in the rear passenger seat and his mobile phone was charging in the front of the vehicle. When his friend's phone rang the driver passed it to him. The vehicle was stopped by a police officer and the driver says he explained the situation and was told that he would receive a fine and three points. He signed a form to confirm this.

The driver no longer meets the suitability standards for licensed drivers. He says he has had a blemish free licence for the past fourteen years and is dedicated to his work and serving vulnerable people. He accepts that he should not have passed the mobile phone to his passenger, but says this was a momentary lapse which he will not repeat. In his witness statement, his friend confirms that the driver was giving him a lift and simply passed the phone to him from the front of the car when it rang. His friend confirms that when he returned to the car having spoken to the police officer the driver was under the impression that he had been told the maximum penalty would be a fine and possible three points.

In his letter of support and again before us today, the employer's representative, who is the Head of HR states that the driver has been a valued member of staff for five years and has an exemplary employment record. His employer has invested significantly in his training and he is a popular driver valued by the passengers he assists. They believe that he has demonstrated sincere contrition and they are confident that he has learnt his lesson over the six months since the date of conviction.

The primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not an applicant is a fit and proper person to continue to hold a HC/PHV licence and if we consider that he is not, then our duty is clear – we should revoke the licence.

The handling of a mobile phone while a vehicle is in motion is regarded as a serious matter in this country. Parliament recently substantially increased the penalties for offences of this nature and the forthcoming changes were given considerable attention, including an advertising campaign, in the media.

We have been told that the driver has 5 children in full time education and is the sole wage earner, and that his work for his employer involves transporting vulnerable children, adults and wheelchair users to schools, respite care and day care. We note this information but this is not something we may take into account in arriving at our decision – public safety is paramount.

However, we have listened to the driver's representative and regard this case as being one in which there are mitigating circumstances. The driver was driving his own car, the handling of the phone was momentary and the passenger was an adult and known to him. Given the seriousness with which Parliament regards mobile phone offences, however, we cannot allow this matter to pass unsanctioned. We therefore suspend the driver's licence for a period of seven days. Those days will run from 14th – 20th April inclusive and therefore encompass the Easter Bank Holiday.

The driver has a right of appeal to the Magistrates Court against this sanction and this right must be exercised within 21 days of the date of our decision. It is for this reason that the suspension does not begin until the period for lodging an appeal has passed, and the driver will receive a letter/email from the Legal Department explaining this.

The driver and his representative both thanked the Panel and officers for their time and left the meeting at 10.55 am.

LIC4 **REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chair said that in the absence of the driver the Panel would proceed.

The Licensing and Compliance Officer gave a summary of the report which requested that members reviewed an existing Private Hire and Hackney Carriage Driver Licence – PH/HC0141 and determined whether the individual was considered 'fit and proper' to continue holding the licence.

There were no questions from the Panel.

The meeting was adjourned at 11.00; the Panel retired to make its decision.

The meeting reconvened at 11.05.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence held by the driver. Her previous employer has brought the matters before us today to our attention, and they are required to do by the terms of their operators licence. They have already summarily dismissed her from their

employment. The driver has not appeared before us today and given the seriousness of the matters before us we are proceeding in her absence.

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 she, the background documents annexed thereto including the statement of a Passenger Assistant also employed by the previous employer, who witnessed the entire incident. We have also had the opportunity of hearing from the Licensing Officer and have read the papers before us most carefully.

The facts of the case are that on 25 November 2021, the Uttlesford District Council Licensing Team were notified via email by the HR and Compliance Manager for her previous employer, of an accident and subsequent incident involving the driver.

In summary, on the previous day, the driver was travelling along Whielden Grange, Harlow, driving a Peugeot Expert motor vehicle, index WV19KNA. The driver was then informed by the PA on board, that she had forgotten to collect a child and she therefore stopped at a junction before beginning to reverse. However, she failed to notice another vehicle behind her and collided with this car. The driver of the other vehicle then got out of her car, as did The driver. A verbal altercation took place before the driver punched the other driver in the face. This was witnessed by the Passenger Assistant, and her account is also before us. Both parties then left the scene.

The other driver subsequently contacted licensing officer David Cole at Uttlesford District Council. She stated that she had been assaulted by a licensed driver, plate number 5922 earlier that day, and that she had suffered reddening to her cheek and had reported the incident to the police (The other driver subsequently informed Mr Cole that she had told police that she did not wish to take the matter any further).

The driver informed her previous employer of the incident on the day of the incident, and the statement taken by them is before us. She was immediately suspended from work. A Gross Misconduct hearing took place on 6th December 2021. Evidence from The driver and the Passenger Assistant was presented to the hearing. The driver was found to have assaulted the other party and was dismissed without notice. This is a decision her previous employer was entitled to make but their conclusions are in no way binding upon us. We decide for ourselves upon the basis of the evidence we have heard this morning. The driver has not attended before us and nor has she written in with any mitigation.

The primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not the person before us is a fit and proper person to continue to hold a HC/PHV licence and if we consider that she is not, then our duty is clear – we should revoke the licence.

This was an incident of violence following a road traffic accident, The driver was the guilty party in the accident and she was the aggressor in the subsequent altercation. This took place in the course of her employment as a school

contract driver, which is a fully regulated activity under the Safeguarding Vulnerable Groups Act and there was a child passenger in the car. Only the most disabled have a Passenger Assistant allocated to them.

There is no excuse. This was an unprovoked incident of violence in the presence of a witness and there was a vulnerable child in the car. Even though ultimately the driver did not face criminal charges, for which she should count herself fortunate, she was summarily dismissed from her employment and we do not consider her to be a fit and proper, i.e. safe and suitable, person to undertake work of this kind.

Accordingly we revoke her licence and we do so with immediate effect on the grounds of public safety. The driver has a right of appeal to the Magistrates Court which must be exercised within 21 days and ordinarily the licence would remain in being pending the determination of such an appeal. However, in this case we consider she poses an unacceptable risk, which is why we have taken the decision we have and she does not have this period of grace. She will receive a letter from the Legal Department explaining the position.

The meeting concluded at 11:10am.

LICENSING PANEL HEARING, LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on TUESDAY 12 APRIL 2022 at 11:00am

Present: Councillor P Lavelle (Chair)
Councillors S Barker and M Caton

Officers in attendance: S Bartram (Licensing Support Officer), K James (Licensing and Support Officer), A Lindsell (Democratic Services Officer), S Mahoney (Senior Compliance and Licensing Officer) and E Smith (Solicitor)

Also present: The driver in relation to agenda item LIC43
The driver in relation to agenda item LIC44
Councillor G Driscoll (Observing)

LIC41 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC42 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items 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.

LIC43 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENSE

The Panel and Officers present introduced themselves to the driver.

The Solicitor clarified that Councillor Driscoll was attending the meeting for training purposes and would not participate in the meeting.

The Licensing Support Officer gave a summary of her report which requested that Members determine whether the applicant is considered 'fit and proper' to be granted a Private Hire Driver licence with this Authority

The driver confirmed that she had not intentionally misled the council and had honestly thought that the convictions that occurred forty years ago were spent and irrelevant. She apologised to the Committee.

In response to questions from Members the driver confirmed:

- She has worked throughout her adult life, including forty years as a legal secretary.
- She did some irresponsible things when she was twenty years old which resulted in her spending four weeks in prison.
- She had subsequently put this period behind her and moved forward with her life, family and career.
- She confirmed that the driving she undertook was school contract work.
- She again apologised for her mistake and bad judgement.

The driver left the meeting at 11:11am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 11:23am and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 11:26am.

DECISION NOTICE

The matter before the Panel today is an application for the grant of a new HC/PHV driver's licence to the driver. If successful she has an offer of employment with Lucketts of Watford.

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 she, the background documents annexed thereto and we have had the opportunity of hearing from the Case Officer and from the driver.

Briefly, the enhanced DBS certificate submitted as part of the licence application discloses two historic convictions for shop theft in 1980 and 1981. These convictions are over forty years old, but unfortunately, the driver failed to declare this information on his application form. The Rehabilitation of Offenders regime does not apply to the licensing of HC/PHV drivers. Question 6 of the UDC

application form clearly asks “Do you have any spent convictions?” the box ticked is “No” (copy attached). We are entitled to take into account spent matters.

Clause 2.3 of the Council’s Driver Conditions policy states as follows:-

“Any dishonesty by any applicant or other person on the applicant’s behalf which is discovered to have occurred in any part of any application process (eg failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution”

We have heard from the Case Officer and from the driver. She told us that she did not intend to mislead the council and that that she genuinely believed the convictions to be spent. She told us that she had little recollection of the matters after forty years, that she was very sorry and that she did not realise that there were three convictions and not two. She apologised to the Panel.

However, the primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not an applicant is a fit and proper person to hold a HC/PHV licence and if we consider that she is not, then our duty is clear – we should refuse the application.

We have heard what the driver has had to say, and we appreciate her position, She has consistently been employed in positions of trust and genuinely believed that she was a fully rehabilitated person. There are few occupations exempted from the regime and HC/PHV driving is one of them: she was extremely apologetic, deeply remorseful and we do not consider her to pose any risk to the public.

We are therefore prepared to grant her a licence but would urge her to read forms very carefully before signing them in future.

LIC44 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER’S LICENSE**

The Panel and Officers present introduced themselves to the driver.

The Licensing Support Officer gave a summary of her report which requested that Members determine whether the applicant is considered 'fit and proper' to be granted a Private Hire Driver licence with this Authority

The driver confirmed:

- The omission of the three penalty points on her driver application form was a genuine mistake and noted that when she received the fixed penalty she wasn't asked to surrender her license for the points to be added.
- She forgot to notify the District Council that she had received the three penalty points, partly due to the pressure she was under whilst supporting elderly parents who had Covid at the time.
- Driving was her sole income and she has had to borrow money during the period she has not been driving, awaiting the result of this hearing.
- She noted that her license would have been renewed if she had notified the District Council of the penalty points.
- She again apologised to the Panel.

In response to questions from Members the driver confirmed that she did not realise that she was being allocated penalty points alongside the fine, particularly as she did not have to send her license off for endorsement.

The driver left the meeting at 11:39am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 12:08pm and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 12:10pm.

DECISION NOTICE

The matter before the Panel today is an application for the renewal of the HC/PHV driver's licence held by the driver. She is employed by 24 x 7 Ltd as a Home to School Transport (HtST) driver.

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 she, the background documents annexed thereto and we have had the opportunity of hearing from the Case Officer and from the driver

Briefly, the documents submitted alongside the renewal application, a copy of which is before us, shows that the driver acquired 3 points on her DVLA licence for a TS10 on 30th April 2021. Unfortunately, she failed to declare this information on her application form. The Rehabilitation of Offenders regime does not apply to the licensing of HC/PHV drivers. Question 4 of the UDC application form clearly asks "Do you have any endorsements on your DVLA Licence" the box ticked is "No" (copy attached). The UDC application form also clearly states that "You must include all Driving Licence Endorsements within the last 7 years".

Clause 2.3 of the Council's Driver Conditions policy states as follows:-

"Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (eg failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution"

Furthermore Condition 19c of an Uttlesford HC/PHV drivers' licence clearly states the following:-

"Drivers will

Notify UDC in writing of...

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

Taken together these requirements are clear and the only explanation the driver was able to offer the Licensing Department was that she had forgotten the point. A copy of her email to them is included in the papers before us.

We have heard from the Case Officer and from the driver. She explained that she had received a letter from the Court which she did not read properly: she just paid the fine and did not appreciate that she had also received penalty points and as a consequence did not notify the Council. She understands that she is before us because she did not notify us, and her existing licence expired on 28th February: she has not worked or earned for well over a month and has had to borrow money in order to live.

However, the primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not an applicant is a fit and proper person to hold a HC/PHV licence and if we consider that she is not, then our duty is clear – we should refuse the application.

We have heard what the driver has had to say. She is not before us today because she has acquired three points on her DVLA licence, she is here because she did not tell us and that raises questions as to probity. We find it difficult to believe that she did not know that she had points on her driving licence though the requirement to submit a paper counterpart for physical endorsement is long since repealed, and we also note that she was under considerable personal stress at the time. We also note that she has not worked for some seven weeks and has incurred personal debts which will not doubt take her some time to repay. We have taken this into account.

If the driver were the holder of a current licence and was before us for a review, we would have been minded to deal with her by way of a period of suspension. Her failure to disclose the penalty points is a serious matter and could not have gone unsanctioned.

However, it has considerably delayed the issue of a new licence and the cost to her of this delay will in the circumstances of this case serve as a sanction: a suspension would have been for less than the seven weeks she has been prevented from driving and hence earning. We note her contrition and are

therefore prepared to renew her licence but would urge her to read the Council's conditions of licence, and do not expect ever to see her before us again.

The meeting concluded at 12:11pm.

LICENCING PANEL HEARING: LICENCING AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY 18th MAY 2022 at 10:00am

Present: Councillor P Lavelle (Chair)
Councillors Freeman and G Smith

Officers in attendance: K James (Licencing and Support Officer), A Lindsell (Democratic Services Officer), E Smith (Solicitor) and P Wright (Licencing and Compliance Officer)

Also present: The driver in relation to agenda item LIC47
E Filby (Green Penny representative)
The driver in relation to agenda item LIC49
The driver in relation to agenda item LIC50
Councillor G Driscoll (observing), K Jenkins (Licensing Officer – observing) and S Nemeth (Licensing Officer – observing)

Remote attendance: The driver in relation to agenda item LIC51
D Cole (Licencing and Compliance Officer) and J Livermore (Senior Licencing and Compliance Officer)

LIC45 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC46 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items 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.

LIC47 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE APPLICATION

The Panel and Officers present introduced themselves to the driver.

The Solicitor clarified that Councillor Driscoll was attending the meeting for training purposes and would not participate in the meeting.

The Licensing Support Officer gave a summary of their report which requested that Members determine whether the applicant is considered 'fit and proper' to be granted a Private Hire Driver licence with this Authority.

In response to questions from Members the driver confirmed:

- That they were fully rehabilitated following serving their prison sentence for theft in 1983 and have been in no subsequent trouble with the Police.

- They have a family and were retiring next month as a scaffolding driver. The provision of this licence would enable them to boost their pension with a role ferrying disabled children to school.
- They regretted their actions of nearly forty years ago, and mitigated their actions confirming that they had left school with no qualifications and that their father had passed away when they were young, leaving them lacking in parental guidance.

The driver left the meeting at 10:15am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 10:25am and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 10:26am.

DECISION NOTICE

The matter before the Panel today is an application for the grant of a new HC/PHV driver's licence. If successful the applicant has an offer of employment with Reacher's Cars.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the applicant, and we have also seen, as has the applicant, the background documents annexed thereto and we have had the opportunity of hearing from the Case Officer and from the applicant.

Briefly, the enhanced DBS certificate submitted as part of the licence application discloses a number of convictions for offences of theft, and obtaining property by deception in 1983, for which the driver served a custodial sentence. These convictions are nearly forty years old, but unfortunately, the applicant failed to declare this information on their application form. The Rehabilitation of Offenders regime does not apply to the licensing of HC/PHV drivers. Question 6 of the UDC application form clearly asks "Do you have any spent convictions?" the box ticked is "No" (copy attached). We are entitled to take into account spent matters.

Clause 2.5 of the Council's Driver Conditions policy states as follows:-

"Generally, where a person has more than one conviction this will raise serious questions about their safety and suitability. The Licensing Authority is looking for

safe and suitable individuals and once a pattern or trend of repeated offending is apparent a licence will not be granted or renewed.”

We have heard from the Case Officer and from the applicant.

However, the primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not an applicant is a fit and proper person to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should refuse the application.

We have heard what the applicant has had to say. They told us that the convictions were nearly forty years ago and since then they have settled down and raised a family. They have been in employment in the construction industry ever since, retires in June and would like to supplement their pension and do their bit for the community. The applicant expressed regret for what had happened and said they had not been in trouble since. The applicant appears to be a fully rehabilitated person, and we are therefore prepared to grant the driver a licence.

He will receive the necessary paperwork in due course.

LIC48 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE APPLICATION**

The driver did not attend the meeting.

The Senior Compliance and Licensing Officer gave a summary of their report which requested that Members determine whether the applicant is considered 'fit and proper' to be granted a Private Hire Driver licence with this Authority.

The Senior Compliance and Licensing Officer confirmed that the Green Penny training was mandatory.

A member of Green Penny's staff also attended via Zoom and confirmed the accuracy of the statement contained within the documents pack.

The meeting was adjourned at 10:36am, the Panel retired to make its decision.

At 10:49am the meeting reconvened.

The Chair read the decision notice.

DECISION NOTICE

The matter before the Panel today is an application for a new HC/PHV driver's licence by the applicant. The applicant's previous licence was dated 24th May 2019 and expired on 30th April 2022. The applicant is therefore currently unlicensed and we are determining this application upon that basis. The applicant has not appeared before us today and has not responded to communications from Licensing Officers. We have also heard from the representative of Green Penny via Zoom.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the applicant and we have also seen, as has the applicant, the background documents annexed thereto. We have also had the opportunity of hearing from the Licensing Officer, and from Green Penny, and have read the papers before us most carefully.

The facts of the case are that as part of the licence renewal process, the applicant had booked onto and attended a Green Penny driver training course on the 26 April 2022. This is a mandatory requirement on renewals. However, the Licensing Authority was subsequently contacted by Green Penny staff who advised that the applicant did not complete the course as the applicant was asked by the tutor to leave during the test. The email which contains the tutor's statement is before us, and states that the applicant was found to be disruptive to other attendees and made attempts to fraudulently complete the test.

The applicant is here because of the latter. Cheating in tests and examinations goes to probity, particularly when it leads to the obtaining of an advantage, in this case the renewal of a drivers' licence. Any instance of dishonesty brings into question the 'fit and proper' status of an applicant and this Committee is charged with the determination on whether the applicant should be granted a Private Hire Driver licence or have their application refused.

We note that following the full Licencing and Environmental Health Committee decision of 16 November 2021, the applicant would have until the 30 October 2022 to successfully complete the Green Penny driver training course as the

applicant was an existing licence holder given a six month deferral period. All other application requirements have been completed, and we cannot prevent the applicant from reapplying to do the course. All we can do is provide Green Penny with a copy of our decision and recommend they implement special measures, including sitting the test subject to individual invigilation, in respect of the applicant.

The primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not the person before us is a fit and proper person to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should refuse the licence application.

We have not heard from the applicant. The Senior Compliance and Licensing Officer has told us that the applicant has evaded his attempts to contact them and Green Penny tell us that the applicant behaved in a disruptive fashion, which impacts upon the other candidates upon the course. This is not acceptable and cheating in exams is dishonest. We repeat, this was an incident of dishonesty committed with a view to gain. A dishonest job application is specifically included within the offence of obtaining a pecuniary advantage by deception and most people would regard cheating in a test in a similar light. Had the applicant been a disabled person as defined by the Equality Act then they might have been entitled to the making of reason adjustments, and the test itself is calibrated to the candidate's understanding of English. There can be no excuse and we do not consider the applicant to be a fit and proper person to hold an Uttlesford licence.

Accordingly we refuse this application. The applicant has a right of appeal to the Magistrates Court which must be exercised within 21 days. The applicant will receive a letter from the Legal Department explaining the position.

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

The Panel and Officers present introduced themselves to the driver.

The Licensing and Compliance Officer gave a summary of the report which requested that Members determine whether the applicant is considered 'fit and proper' to continue holding their licence.

The driver confirmed;

- They loved their job and had a great rapport with the children they transport and their parents.
- They were sincere in their apologies and promised that the error would not be repeated.
- They wanted to continue driving to provide continuity for the children they transport to school, some of whom have disabilities and benefit particularly from continuity of care.

In response to questions from Members the driver acknowledged that the children in the car or on the crossing could have been injured due to their actions.

The driver could not provide any reason for their driving errors.

The driver left the meeting at 11:14am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 11:35am and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 11:40am.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence held by the driver. The driver is employed by 24 x & Limited on the Home to School Transport side of the business and we understand they are currently suspended from their duties and a decision regarding their future will be made following our decision today. 24 x 7 Ltd are not here today in support of the driver. The driver has appeared before us today and we have listened carefully to what they have had to say to us.

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 the driver, the background documents annexed thereto and viewed the video footage provided by the complainant together with the workplace disciplinary report subsequently prepared by 24 x 7. We have also had the opportunity of hearing from another Licensing Officer, the case officer being unavailable due to technical issues, and have read the papers before us most carefully.

The facts of the case are that on the 17 March 2022, the Uttlesford Licensing

Team were in receipt of a complaint from a member of the public regarding an incident that had occurred earlier the same day. The complainant alleged that the driver of vehicle registration EU71 AXX was driving “aggressively” on a pelican crossing where school children were crossing while on a red light in Histon, Cambridgeshire. A 49 second video clip of the incident was supplied by the complainant, and we have viewed this carefully.

Licensing Officers contacted the vehicle proprietor, 24x7 Ltd, who identified the driver. 24x7 had already asked the driver for a statement of the events and this is also before us. The video footage appears to show the vehicle intermittently moving forwards while young pedestrians and cyclists were attempting to cross the road at the red light, putting them at risk of harm. We note that the reaction from at least two of the pedestrians appears to show their concern at the vehicle’s movement. This would seem to contradict the driver’s statement to their employer in which they refer to the vehicle being “stationary”.

Once 24x7 were provided with the video footage, they confirmed to the Licensing Team that they had decided to suspend the driver with immediate effect. That workplace suspension was subsequently rescinded. An interview was held between Licensing Officers and the driver on the 1 April 2022. The notes of this are before us, and it was explained that while being ‘stuck’ on the crossing was beyond the driver’s control, moving the vehicle forwards while pedestrians were crossing immediately in front of it was unacceptable and below the standards expected of a professional licensed driver. The driver recognized this and apologised to officers.

We have listened to what the driver has had to say and have viewed the video footage. The driver was patently distressed, and we recognise that the children they drive need continuity and routine. However, we consider the video conclusive. This is not an acceptable standard for a professional driver: The driver should not have put themselves and their passengers into this position and nor could they extricate herself from it. The driver failed to anticipate the impact their behaviour might have on the children on the crossing and in the car, and in answer to our questions the driver accepted that in the worst-case scenario they could have injured a child. The video does not support the

driver`s version of events: they were driving aggressively, and this is never acceptable. In a professional driver, undertaking a fully regulated activity it is even less acceptable.

The primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not the person before us is a fit and proper person to continue to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should revoke the licence.

This was an incident of aggressive driving which took place in the course of the driver`s employment as a school contract driver, which is a fully regulated activity under the Safeguarding Vulnerable Groups Act and there were child passengers in the car. It was captured on video and there is no excuse. This was unwarranted misbehaviour in the course of employment, there were children in the car, and others on the crossing, who were, we think, put into genuine fear of harm. Sadly, we do not consider the driver to be a fit and proper, ie safe and suitable, person to undertake work of this kind.

Accordingly we revoke the driver`s licence and we do so with immediate effect on the grounds of public safety. The driver has a right of appeal to the Magistrates Court which must be exercised within 21 days and ordinarily the licence would remain in being pending the determination of such an appeal. However, in this case we consider the driver poses an unacceptable risk, which is why we have taken the decision we have and they do not have this period of grace. They will receive a letter from the Legal Department explaining the position.

LIC50 **REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER`S LICENCE**

The Panel and Officers present introduced themselves to the driver.

The Senior Licensing and Compliance Officer gave a summary of their report which requested that Members determine whether the driver is considered `fit and proper` to continue holding their licence.

The driver apologised for their actions.

The driver confirmed:

- They received an urgent call from relatives in Bangladesh regarding their elderly infirm parents who were unwell with covid.
- They have no qualifications and their partner was unwell, could not work and was dependent on the driver`s income.
- They drew Member`s attention to their previously clean driving license and noted their forty two years in England with no convictions.

In response to questions from the Chair the driver confirmed that they answered the phone whilst in a queue approaching a roundabout. They told the caller they would call them back, hung up and called them back once they had parked their vehicle.

The driver left the meeting at 11:52am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 12:21pm and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 12:27pm.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver`s licence No PH/HC2343 held by the driver since October 2017. They drive for Happicabs and has done so for all of the time they have been licensed with the Council. They have provided a factual reference for us, which we have read carefully, but they have not attended before us today or otherwise actively supported the driver.

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 the driver, the background documents annexed thereto. We have also had the opportunity of hearing from the driver and from the Case Officer and have read the papers before us most carefully.

On 28 March 2022 the driver advised the Licensing Department by email that they had received 6 points on their licence for an offence committed in 2021. The driver explained that they had been out of the UK since January and had only returned on 25 March 2022. On 29 March they further explained that the 6 point endorsement was because they had been handling their phone whilst driving.

A check of the driver's DVLA licence which was carried out on 4 April 2022 showed a conviction for a CU80 offence dated 11 February 2022 for an offence committed on 20 June 2021. When asked to explain the length of time between the offence and the conviction the driver said that they had made an on-line plea and had first received a response on 16 February. The driver informed the Licensing Department about the points when they returned to the UK at the end of March.

Point 2.27 of the 'Policy on deciding the suitability of applicants and licensees in the hackney and private hire trades' states

'Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later'.

Furthermore point 2.41 of the policy states,

*'As public trust and confidence in the overall safety and integrity of the system of taxi licensing is vital, where a licence holder has received a conviction for any category of offences detailed above, their licence(s) **will be revoked**'.*

On 30 March the driver was advised by email that their licence would be referred to Committee to consider possible suspension or revocation as they no longer met the suitability standards. They were invited to submit a statement explaining what had happened and why they felt they were still a 'fit and proper person' to hold a licence. The driver replied by email on 4 April in which they explained that their elderly parents, who have severe health issues, tested positive for Covid and that they had received a call from their brother informing them that their father had been taken into A&E.

The driver said that they answered their phone via loudspeaker and was caught by a camera on New Street in Chelmsford. They received a letter a couple of weeks afterwards and accepted that they had made a mistake, but felt they had no choice because of their concern for their father at the time. The driver was

asked whether they had a hands free system or whether they picked up the phone to answer and then put the phone down once they had activated the loud speaker. The driver explained in emails directed to the Licensing Department that they were stationary at traffic lights when the phone rang, they picked up the phone, put it on loudspeaker, then put the phone down. The driver accepted that they were guilty of the offence and confirmed their identify when they received the Notice of Intended Prosecution.

The driver no longer meets the suitability standards for licensed drivers. The driver accepts that they picked up their phone but realises that was a mistake and says that they only did it because of their concern over their parents' health issues at the time. The call was from Bangladesh. The driver is the only member of his household currently working and supports themselves and their partner. Should they lose their licence they will be unemployed and possibly will face eviction from their home. We are sorry to hear this but hardship to the driver is not something we are required to take into account – our role is to ensure members of the public are safe when travelling in licensed vehicles.

The driver has appeared before us today and was extremely apologetic. The driver knew that they had done wrong but the story they had told us today is not the same one volunteered to Licensing Officers by email. The driver told us that they were stationary but in a traffic queue not a red light. That means they were not stationary. The driver then admitted they had been closely proximate to a layby into which they pulled over and then they returned to call. The driver has told us the call was made from Bangladesh, but we attach no weight to this.

There are two major concerns here. The first is that some crucial elements of the driver's story have changed: they initially told officers they were stationary at a red traffic light, they now tell this Panel that they were in a traffic queue. A queue may be moving very slowly but it is still moving and using a mobile phone in moving traffic is a very serious matter. The driver tells us they then pulled off the road and returned the call – why did they not do that from the start?

The primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not an applicant is a fit and proper person to continue to hold a HC/PHV licence and if we consider that if they are not, then our duty is clear – we should revoke the licence.

The handling of a mobile phone while a vehicle is in motion is regarded as a serious matter in this country. Parliament recently substantially increased the penalties for offences of this nature and the forthcoming changes were given considerable attention, including an advertising campaign, in the media. We have heard what the driver has to say but hardship to the driver is not something we may take into account. They used a mobile phone in a moving vehicle, and together these actions make up the elements of the criminal offence to which they pleaded guilty.

We therefore have to consider whether the driver remains a fit and proper person to hold an HC/PHV driver's licence and we have to conclude that they do not. This was a moving traffic offence which is taken very seriously by the legislature, and the inconsistency between their two versions of events also goes to probity. We realise the hardship our decision may cause but nevertheless, we revoke the driver's licence.

The driver has a right of appeal to the Magistrates Court against this sanction and this right must be exercised within 21 days of the date of our decision. The driver will receive a letter/email from the Legal Department explaining this.

LIC51 **REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Panel and Officers present introduced themselves to the driver.

The Licensing and Compliance Officer gave a summary of their report which requested that Members determine whether the driver is considered 'fit and proper' to continue holding their licence.

The driver apologised for their lack of attention to detail.

The driver confirmed:

- The tracking issue highlighted in September was an advisory, which they had resolved in a timely manner.
- They regularly check the tread on their tyres, and that the tyres visually looked adequate.

- They are responsible for the maintenance of the vehicle.
- They weren't aware that they could check the inner edge of the tyre by turning the steering wheel whilst stationary to view.

The Licensing and Compliance Officer confirmed that it was possible that the tread on the tyres were adequate, it was the inner edge of the tyre that was damaged.

The driver left the meeting at 12:41pm and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 12:51pm and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 12:58pm.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence no PH/HC 1884 held by the driver and due to expire on 30th November of this year. They are a self employed driver and the owner of a Mercedes E220 hackney carriage vehicle registration number E2 SRK and licence plate number HCV 062.

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 the driver, the background documents annexed thereto including the inspection history of their car. We have also had the opportunity of hearing from the Licensing Officer and have read the papers before us most carefully. The driver has also appeared before us via Zoom today and we have listened to what they have had to tell us.

The facts of the case are that on the 23rd March 2022 the Authority received an email notification of an inspection failure report on the driver's hackney carriage from Takeley Performance Tyre and Exhaust one of the Council's approved garages. The report stated that the reason for the inspection failure was "*Nearside and offside front tyres worn to ply cord inner edge*". A copy of this is before us.

Further examination of records pertaining to the vehicle's history held by the Council revealed that on 21st September 2021, the driver's vehicle passed the inspection report but with an advisory note, "*Nearside rear tyre worn on inner edge nail in nearside rear tyre. Offside rear tyre tread depth low*". Again, this is before us and shows clearly the driver had notice of the potential problem.

On Wednesday 6th April 2022 the driver took part in a virtual video meeting with the Senior Compliance Officer and the Compliance Officer to discuss the circumstances of the failure. The driver explained that the vehicle inspector had told them that the tracking was out and that they would not have seen the fault in the tyres unless they were under the vehicle or had removed the wheel. The driver stated that they had not experienced any change of handling when driving the vehicle and thought they visually checked their vehicle properly on a regular basis, but apparently they do not run their hands around the inner edge of the tyres.

The driver admitted that he may have been complacent as the vehicle is checked every six months, that they have it serviced often although not at a Mercedes dealer as the last two years had been financially tough. The driver was deeply sorry but admitted that they had no excuse for the lapse. The driver could add nothing to this when they addressed us and thanked the case officer for the advice they had given.

On 14th April 2022 the driver was informed by email that their licence was being referred to the Licensing Committee for consideration of revocation or suspension. The driver was invited to submit a written statement to add anything further to what they had already stated.

Section 1, of Appendix B of the Council's Licensing Policy relating to the Hackney Carriage and Private Hire trades states that proprietors should

Keep the vehicle in a clean and well-maintained condition at all times.

The policy document is included within or bundle of papers and a copy has been served upon the driver.

By having two tyres with the cord ply exposed, the driver has failed to maintain his vehicle and therefore fallen short of the standards expected of vehicle proprietors as stipulated by the Council's policy. We find their attitude concerning: this is the second consecutive test when issues were raised regarding this vehicle's tyres, albeit not the same tyres, and it is clear the driver runs tyres down to the legal minimum tread. This is not acceptable.

The primary function of this Committee is the protection of the travelling public. This extends to the safety and roadworthiness of the vehicles in which they are transported, and it is a very serious matter to allow tyres to reach this condition. Mercifully there has not been an accident. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not the person before us is a fit and proper person to continue to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should revoke the licence.

There is no excuse. We have heard from the driver and we have taken what they say into account but the fact remains the driver had been warned on a previous occasion that their tyres were verging on the illegal and they only did the necessary minimum. The driver took no proactive action to check the other tyres. Even though ultimately, they did not face criminal charges, for which they should count themselves fortunate, and nor was there an accident, they knew they would probably need two more new tyres in the near future and were not proactive. They omitted to undertake the most elementary checks upon their vehicle and we do wonder how well this car is maintained. We add that each defective tyre would attract three penalty points and of course twelve amount to disqualification under the totting up procedure.

Accordingly we revoke their licence. The driver has a right of appeal to the Magistrates Court which must be exercised within 21 days and the licence remains in being pending the determination of such an appeal. The driver will receive a letter from the Legal Department explaining the position.

We also have to consider the question of the car. Only a licensed driver may drive a licensed vehicle and if the driver chooses not to appeal our decision then they will not be able to drive their Mercedes when the appeal window closes.

Accordingly, therefore, we revoke the vehicle licence under the same conditions as we do their drivers' licence and in reality they stand or fall together.

LIC52 **REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Licensing and Compliance Officer gave a summary of their report which requested that Members determine whether the driver is considered 'fit and proper' to continue holding their licence.

The driver had chosen not to attend the meeting.

The meeting was adjourned at 1:06pm; the Panel retired to make its decision.

The meeting reconvened at 1:15pm.

The Chair read the decision notice.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence held by the driver. They were previously employed by 24 x & Limited on the Home to School Transport side of the business and we understand they resigned their position when faced with disciplinary action by them.

The driver has not appeared before us today but they have sent in a written statement. We have read this with care.

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 the driver, the background documents annexed thereto and viewed the video footage referred to therein. We have also had the opportunity of hearing from the Licensing Officer and have read the papers before us most carefully.

On 25 March 2022, the East Riding of Yorkshire Business Manager for 24/7 Ltd, received an email from a Local Authority Contracts Manager. They informed them that they had seen a 24/7 schools contract driver smoking whilst driving their vehicle, a red Kia Sportage, index EU71 FGG, on 25 March 2022. The complaint and attached documents are before us.

The employer then carried out a review of cctv footage taken from the camera

located in the driver's vehicle, intending to locate evidence of smoking offences. During this search, footage was discovered that showed the driver driving his vehicle on 07 March 2022 at speeds in excess of 100mph. A young boy can be seen sitting in the front passenger seat and is heard to comment on the speed reached by the driver. We have viewed this CCTV footage, together with further footage of the driver smoking whilst driving on 25 March 2022

The driver was spoken to by their employer on 26 March 2022 and informed that they would be suspended by 24/7 Ltd pending an investigation. They resigned on the spot, with immediate effect. These two matters are criminal offences, and Licensing Officers have referred the matter to this Panel for its determination on whether the driver remains 'fit and proper' to be licensed by Uttlesford District Council as a Private Hire & Hackney Carriage driver.

We have viewed the CCTV footage. We make our decisions on the balance of probabilities and we are satisfied that the conduct complained of did occur. We read what the driver had to say and observe the presence of the CCTV camera in the car would have been part of his terms and conditions of employment. Even if the camera has not been properly calibrated, the margin of error is some 10% only and the speed at which scenery is passing suggests they were travelling very fast. The child sitting in the passenger seat is clearly terrified and should in any event have been sitting in the rear seat, and the driver has also been captured on film in the act of lighting a cigarette.

The primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not the person before us is a fit and proper person to continue to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should revoke the licence.

This case involves two criminal offences, one a road traffic offence and one under the Health Act which took place in the course of the driver's employment as a school contract driver, which is a fully regulated activity under the Safeguarding Vulnerable Groups Act, and at the time of the speeding offence the footage clearly shows a child in the car. There is no excuse. These are

criminal offences committed in the course of employment, there was a child in the car, on one occasion and the driver has already resigned from their job, no doubt pre-empting their dismissal from that employment. We cannot consider them to be a fit and proper, ie safe and suitable, person to undertake work of this kind.

Accordingly we revoke the driver`s licence and we do so with immediate effect on the grounds of public safety. The driver has a right of appeal to the Magistrates Court which must be exercised within 21 days and ordinarily the licence would remain in being pending the determination of such an appeal. However, in this case we consider they pose an unacceptable risk, which is why we have taken the decision we have and they do not have this period of grace. The driver will receive a letter from the Legal Department explaining the position. We note the driver is also licenced with Richmondshire Council and we instruct the Licensing Team to provide them with a copy of this decision notice.

The meeting concluded at 1:19pm.

Agenda Item 3

Committee: Licensing & Environmental Health

Date:

Title: Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

12 July 2022

Report Author: Jamie Livermore, Senior Licensing & Compliance Officer, 01799 510326

Summary

1.1. The purpose of this report is to brief Members on the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 and the steps taken by the Licensing Authority in meeting its requirements.

Recommendations

2.1. It is recommended that Members note the contents of this report.

Financial Implications

3.1. N/A

Background Papers

4.1. The following documents were referred to by the author in the preparation of this report and are available for inspection below

A. Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

[Taxis and Private Hire Vehicles \(Disabled Persons\) Act 2022](#)
(legislation.gov.uk)

Impact

5.1.

Communication/Consultation	None
Community Safety	None
Equalities	The legislation provides amendments to the Equality Act 2010
Health and Safety	None
Human Rights/Legal Implications	None

Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6.1. On 28 June 2022, the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 took effect in England, Scotland and Wales. It amended the Equality Act 2010 to introduce new, and amend existing, duties for local authorities, taxi and private hire vehicle drivers and operators. Its aim is to ensure that disabled people can use taxi and private hire vehicle services with confidence that they will not be discriminated against, and local authorities have an important role to play in ensuring the requirements are implemented successfully.

6.2. It requires licensing authorities to maintain and publish a list of licensed taxis and private hire vehicles they designate as being wheelchair accessible. The drivers of these vehicles are then subject to the duties under section 165 of the Equality Act on providing assistance to wheelchair users and refraining from charging extra for doing so. This list was first published on the Uttlesford DC website on the 20 June 2022 and will be updated at regular intervals as new vehicles are licensed and old vehicle licences expire. Where consent is given by operators, contact information will also be published in order to further assist users in accessing their services.

6.3. All taxi and private hire drivers and operators – regardless of whether the vehicle is wheelchair accessible – are now subject to the duties under the Equality Act. Drivers are required to accept the carriage of any disabled person, provide them with reasonable mobility assistance, and carry their mobility aids, all without charging more than they would for a non-disabled passenger. They must also provide any disabled passenger who requests it with assistance to identify the vehicle, at no extra charge. As the requirements now extend from applying to only wheelchair users to any disabled person, which by definition includes mental impairments as well as physical, it is extremely important for drivers and operators to understand and recognize the broad range of disabilities a person may have.

6.4. As this will not always be obvious, drivers are encouraged to ask any passenger if they require any assistance before commencing any journey. In line

with the changes, the Council's driver training course, provided by Green Penny, has been revised to emphasize the message to drivers that it is not relevant what type of disability or impairment a passenger has, but only what requirements they have because of their disability or impairment.

6.5. The Act, in full, can be seen as **Background Paper A.**

Risk Analysis

7.1.

Risk	Likelihood	Impact	Mitigating actions
Little or no risk or impact	N/A	1	N/A

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.

Committee: Licensing and Environmental Health Committee

Date:
12th July 2022

Title: Gambling Principles Policy 2022-2025

Report Author: Russell Way, Licensing and Compliance Manager

Summary

The purpose of this report is to enable Members of the Licensing and Environmental Health Committee to review and approve the updated Gambling Principles Policy. This is a statutory obligation.

Recommendation

That Members adopt the updated policy.

Financial Implications

There are no cost implications to the Council in undertaking this legal duty. There is regular minimal income coming into the council regarding gambling fees throughout the financial year.

Background Papers

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

Appendix

- A – Current Gambling Principles 2018 - 2021
- B - Proposed Gambling Principles 2022-2025
- C – 1 persons Consultation response

Impact

Communication/Consultation	A 28-day consultation took place. The following process was adopted <ul style="list-style-type: none">- Sent to Cllrs and Parish Cllrs- Advert placed in District wide newspaper- Emails and where not possible
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	<p>letters were sent to named individuals</p> <ul style="list-style-type: none"> - Listed on UDC website with social media use. - Emails sent to those with Gambling licences
Community Safety	The main priority for Gambling Principles policy is the safety of vulnerable individuals specifically the young.
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	This is a proportionate document to ensure as a licensing authority Uttlesford carries out its due diligence.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

- 1 It is a requirement under section 349 of the [Gambling Act 2005](#) for the Council to prepare, consult and publish a Gambling Policy Statement.
- 2 The Council's Gambling policy needs to be reviewed every 3 years. It was last reviewed and approved on the 4th December 2018
- 3 A 28-day consultation started on the 19th May and concluded on the 16th June. There was one response regarding the consultation - Appendix C
- 4 Members are asked to approve the new Gambling Principles for the District

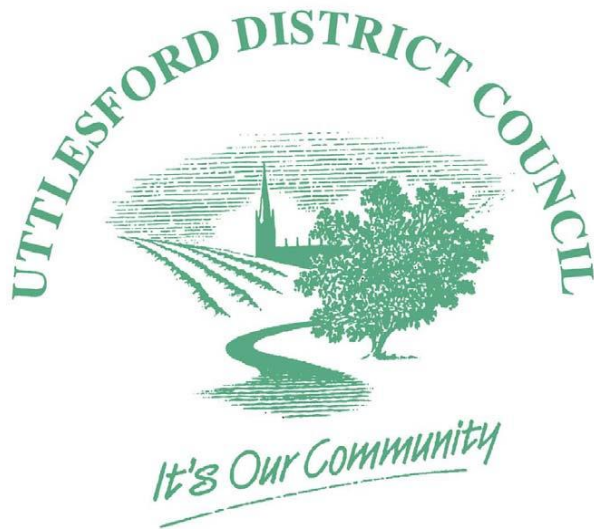
Risk Analysis

5

Risk	Likelihood	Impact	Mitigating actions
2 Some risk or impact –	1 little or no impact or risk.	1 little or no	3 = Significant risk or impact –

<p>action may be necessary</p> <p>There is a need for the council to ensure it has a gambling statement that is current.</p>	<p>Uttlesford has a low number of gambling establishments</p>	<p>impact or risk</p>	<p>action required</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

INDEX

Item	Page No.
PART A	
Introduction	
The Licensing Objectives	
Description of District	
Responsibilities under the Act	
Statement of Principles	
Consultations	
Approval of Statement	
Declaration	
Responsible Authorities	
Interested Parties	
Exchange of Information	
Public Register	
Compliance and Enforcement	
Delegation of Powers	
The Licensing Objectives	
PART B	
General Principles	
Provisional Statement	
Representations and Reviews	
Adult Gaming Centres	
Licensing Family Entertainment Centres	
Casinos	
Bingo Premises	
Betting Premises	
Tracks	
Travelling Fairs	
Publicity for Applications	
General Principles	
PART C	
General	
Unlicensed Family Entertainment Centre	
(Alcohol) Licensed Premises Gaming Machine Permits	

Prize Gaming Permits

Club Gaming and Club Machine Permits

Temporary Use Notices (T.U.N.s)

Occasional Use Notices (O.U.N.s)

Small Society Lotteries

Annexes

1. Definitions
2. Responsible Authorities
3. Useful Contacts

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 ~~26 January 2017 and 16 March 2017~~ 29 June and 11 August 2018

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

7. APPROVAL OF THE STATEMENT

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

8. DECLARATION

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

9. RESPONSIBLE AUTHORITIES

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

10. INTERESTED PARTIES

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

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

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

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

or

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

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

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

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

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

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

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

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

11. EXCHANGE OF INFORMATION

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

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

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

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

12.2 PUBLIC REGISTER

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

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

13. COMPLIANCE AND ENFORCEMENT

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

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

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

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

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

13.5 Bearing in mind the principle of transparency, the Licensing Authority's ~~enforcement/compliance protocols, or written agreements,~~ will Enforcement Policies be available on request to the Licensing

Authority. Details of the risk based approach to inspection will also be available upon request. Details of this information can also be found on the Council's website: www.uttlesford.gov.uk

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

14. DELEGATION OF POWERS

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

PART B PREMISES LICENSES

15. GENERAL PRINCIPLES

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

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

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

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

15.42 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

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matters).

15.53 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).

15.46 Demand:

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

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

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

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

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

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

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

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

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

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

Any premises where children congregate including bus stops, café's, shops and any other place where children are attracted

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

Recorded incidents of attempted underage gambling

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

F Other matters that the assessment may include:

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

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

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

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

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15.75 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.

15.6-11 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.

15.127- Licensing Objectives:

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

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

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

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

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

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

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

Protecting children and other vulnerable persons from being harmed

or exploited by gambling –

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

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

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

15.8-13 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.

15.9-14 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.

15.40-15 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.

15.44-16 **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.

15.42-17 **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.

15.13-18 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).

15.4419 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.

15.4520 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.

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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 **R**esponsible **a**uthorities and **I**nterested **P**arties.

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.

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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

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

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

28. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

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

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

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

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

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

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

29. PRIZE GAMING PERMITS

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

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

29.2 Statement of Licensing Principles

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

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

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

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

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

30. CLUB GAMING AND CLUB MACHINE PERMITS

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

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

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

(a) in respect of gaming machines

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

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

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

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

31. TEMPORARY USE NOTICES (TUN)

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

32. OCCASIONAL USE NOTICES

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

33. SMALL SOCIETY LOTTERIES

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

ANNEXES

ANNEX 1 - DEFINITIONS

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

Betting – making or accepting a bet on:-

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

Betting Premises – Premises licensed to accept bets

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

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

Gambling – includes gaming, betting or lottery

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

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

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

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

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

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

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

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

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

ANNEX 2 – RESPONSIBLE AUTHORITIES

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

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

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

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

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

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

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

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

ANNEX 3 - USEFUL CONTACTS

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



Uttlesford
District Council

Uttlesford District Council

Statement of Principles under the Gambling Act 2005

Policy for 2022-2025

Published TBC

CONTENTS

Subject	Page
Preface	4
Introduction	5
Authorised activities	7
Statement of Principles	7
<u>Types of licences and permissions</u>	8
The Gambling Commission	8
General Statement of Principles	9
Preventing gambling from being a source of crime and disorder	10
Ensuring gambling is conducted in a fair and open way	11
Protecting children and other vulnerable people from gambling	11
Background to Uttlesford	13
Local Authority Functions	15
Responsible Authorities	16
Child protection	18
Public health and well-being	18
Interested parties	19
Exchange of Information	21
Compliance and Enforcement	22
Gaming Machines	23
Local Area Profile (LAP)	24
Local risk assessments	25
Premises licences - Definition of "premises"	25
Access restrictions	26
Provisional Statements	27
Buildings to be complete	28
Plan	28
Location	29
Conditions	29
Duplication with other regulatory regimes	30
Access by Children	31
Door Supervisors	31
Types of Premises Licences - Adult Gaming Centres	33
(Licensed) Family Entertainment Centres	34
Casinos	35
Bingo premises	35
Bingo in clubs and alcohol-licensed premises	37
Betting premises	38
Primary Gambling Activity	39
Tracks	40
Gaming machines on tracks	41
Betting machines on track premises	41
Condition on rules being displayed	41
Travelling Fairs	42
Reviews	43

Subject	Page
Permits, Temporary & Occasional Use Notices	45
Unlicensed Family Entertainment Centre gaming machine permits	45
(Alcohol) Licensed premises gaming machine permits	46
Prize Gaming Permits	48
Club Gaming and Club Machines Permits	49
Lotteries	50
Temporary Use Notices	53
Occasional Use Notices	54
Administration, Exercise and Delegation of Functions	55
Contact Point	56

Preface

Under the Gambling Act 2005, a new regime for regulating gambling and betting was introduced throughout the United Kingdom from 1 September 2007. Apart from spread betting, gambling and betting (including the National Lottery) are regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

Uttlesford Council, along with other local licensing authorities, has a duty under the Act to license premises where gambling takes place, and to licence certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

The Gambling Act requires that the following parties are consulted by licensing authorities:

- 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
- 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.

Our consultation took place between 19th May 2022 and 16th June 2022, and we followed the guidance on Consultation principles issued by the Cabinet Office (last updated March 2018), which is available at [Consultation principles guidance](#). Further details can be found in Appendix 1.

Where either the relevant guidance or the legislation are amended this authority will seek to revise this document as swiftly to ensure consistency.

Introduction

The Gambling Act 2005¹ (the “Act”) was passed on 7 April 2005. The Act modernised the law on gambling and introduced a gambling regulator, the Gambling Commission. The Gambling Commission regulates the gambling industry, and the Act also gave responsibility for gambling premises licensing to Local Authorities.

The Act requires Uttlesford Council (the “licensing authority”) to publish a Statement of Principles that it applies when exercising its functions under the Act. The statement must be published every three years and the Licensing Authority will keep the statement under constant review and will consult statutory consultees as set out in the Act, and any other appropriate person, on any proposed new or revised Statement of Principles. The statement must then be re-published. This version of the Statement of Gambling Policy has been revised following the third 3 year review and is for the period 2022-2025.

This statement of principles supports Uttlesford Council’s corporate plan which has 4 key priorities:

- 1. Sustainability at the heart of everything we do;**
- 2. Enabling communities;**
- 3. Encouraging growth; and**
- 4. Digital by design**

Our vision for licensing is to support responsible premises and to encourage the development of a diverse and varied licensed offering across the District.

As long as premises management strive to act responsibly; run safe, well managed venues and facilities; and work together with the local community, they can make a positive contribution toward providing entertainment and satisfaction.

Of course, negative impacts can also occur if good management practices are not followed. We recognise that gambling related harm does negatively impact upon both public health and well-being.

Our policy, therefore, seeks to provide a necessary balance between providing a platform upon which responsible business operators may contribute towards a thriving economy while ensuring that the quality of life of those who use gambling facilities and live and work in the District is protected and enhanced through the licensing system. We believe these aims are achievable if all parties concerned work together.

This policy was drafted giving the guidance by the Gambling Commission due consideration and will broadly follow it.

The Act requires this Authority to carry out its various licensing functions so as to be reasonably consistent with the following three licensing objectives:

- 1. Preventing gambling from being a source or used or associated with criminality or disorder.**

¹ The Gambling Act 2005 can be accessed via: [Gambling Act 2005](#)

2. **Ensuring that gambling is conducted in a fair and open way.**
3. **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

As required by the Guidance issued by the Gambling Commission, in carrying out its licensing functions under the Act, particularly with regard to premises licences, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant code of practice issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the policy statement published by this Authority under section 349 of the Act.

This Statement of Principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005. In producing this statement the Licensing Authority has had regard to the licensing objectives issued by the Gambling Commission and responses to consultation on this statement

Authorised activities

'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery:

- 'gaming' means playing a game of chance for a prize
- 'betting' means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
- a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating.

Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.; Private gaming can potentially take place on commercial premises in very specific circumstances, and where the public have access, but organisers are advised to seek advice before organising events of this nature.

Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the council's licensing team where appropriate.

Statement of Principles

This Statement of Principles is intended to meet the council's obligations under section 349 of the Act. In carrying out its' functions in relation to premises licences and temporary use notices, the council will generally aim to permit the use of premises for gambling as long as it is considered to be:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any Guidance issued by the Gambling Commission. All references to the guidance refer to the Gambling Commission's Guidance to Licensing Authorities (published April 2021 and updated May 2021)
- reasonably consistent with the licensing objectives
- in accordance with this Statement of Principles.

Types of Licences and Permissions

Under the Act, the Gambling Commission is responsible for issuing operating licences and personal licences. The council in its' capacity as a licensing authority will:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences
- issue provisional statements
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- Issue club machine permits to commercial clubs
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- register small society lotteries below prescribed thresholds
- issue prize gaming permits
- receive and endorse temporary use notices
- receive occasional use notices
- provide information to the Gambling Commission regarding details of licences issued
- maintain registers of the permits and licences that are issued under these functions
- exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

The Gambling Commission

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides support and advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.

The Commission has issued guidance under section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

The Commission will also issue Codes of Practice under section 24 about the way in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities.

The Gambling Commission can be contacted at:
Gambling Commission
Fourth Floor
Victoria Square House
Victoria Square

General Statement of Principles

The council recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the council will have regard to any guidance issued by the Gambling Commission from time to time.

The council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met the council will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the council may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under-age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm from gambling, especially where it receives representations to that effect.

Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

However, the overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own individual merits. When applying these principles the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case. As with the Gambling Commission, the licensing authority will regulate gambling in the public interest.

Preventing gambling from being a source of crime and disorder

The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

Anyone applying to the council for a premises licence will have to hold an operating licence from the Commission before a licence can be issued, with the only exception being applications for track premises licences. Therefore, the council will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the council will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the council will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime.

There are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The council does not intend to (and indeed, cannot) use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using other powers.

Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance and it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if Police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

When making decisions in this regard the council will give due weight to any comments made by the Police.

Ensuring gambling is conducted in a fair and open way

The Gambling Commission does not generally expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.

Because betting track operators do not need an operating licence from the Commission the council may, in certain circumstances, require conditions on a licence relating to the suitability of the environment in which betting takes place.

Protecting children and other vulnerable people from gambling

Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.

In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

When considering whether to grant a premises licence or permit the council will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children

and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

In seeking to protect vulnerable people the council will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:

- betting shops cannot admit anyone under 18
- bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
- Adult Entertainment Centres cannot admit those under 18
- Family Entertainment Centres and premises with an alcohol premises licence such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over 18
- clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- tracks will be required to have policies to ensure that under 18s do not participate in gambling, except on category D machines.

The council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

In January 2018 Public Health England, the Local Government Association and the Gambling Commission wrote to Directors of Public Health in England outlining the links between Public Health and gambling; specifically, that problem gambling can have an impact on physical, mental and emotional health and wellbeing. The letter suggests that local Public Health teams have a critical role to play in developing licensing authorities' Statement of Principles as they have a good understanding of health issues within a local authority area.

Although Local Public Health Departments are not Responsible Authorities the licensing authority will seek advice from the local Public Health team in order to assess applications and this statement of principles. This approach will be taken to assist the licensing authority in exercising its own functions as a responsible authority, and reflects the comments made in the guidance

Background to Uttlesford

Uttlesford is one of the largest of the 14 districts in the ceremonial county of Essex. It covers about 247 square miles, and offers a blend of rural and town living. The benefits of this mixture are greatly appreciated by the 91,284 people who live in the district.

The district lies in the North West corner of Essex and borders Cambridgeshire to the North and Hertfordshire to the West.

The majority of the people who live in the district live in one of the four market towns of Saffron Walden, Stansted Mountfitchet, Thaxted and Great Dunmow. The remainder live in villages and hamlets and are scattered across the area.

Uttlesford is regarded as an attractive rural location for those moving out from (and commuting into) London because of its excellent transport links.

Uttlesford has a population of approximately 92,759 with a population change of 1.7% over the last 10 years.

Uttlesford has a low ethnic minority population of just 4.6%. The largest ethnic minority group is Asian/Asian British at 1.6% with Indian being the highest within that group. The second largest minority group is black ethnic groups at 1.1%.

Uttlesford has a further breakdown in age and sex demographics as

Male 45,552	Female 47,207
0-9 years	11,249
10-19 years	11,214
20-29 years	8,359
30-39 years	10,765
40-49 years	12,765
50-59 years	14,304
60-69 years	10,479
70-79 years	8,490
80 + years	5,003

As of May 2022 the numbers of premises issued with licences, permits or registrations within Uttlesford are as follows:

- 3 Bookmakers or betting shop;
- 1 Alcohol premises with gaming machines;

- 7 Registered clubs with gaming machines;
- 53 Small society lottery registrations;
- 0 Bingo premises;
- 0 Track betting premises;
- 0 Casinos; and
- 1 Adult gaming centres.

Local Authority Functions

Under the Act, the Gambling Commission is responsible for issuing operating licences and personal licences. The council in its capacity as a licensing authority will:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences
- issue provisional statements
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- Issue club machine permits to commercial clubs
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- register small society lotteries below prescribed thresholds
- issue prize gaming permits
- receive and endorse temporary use notices
- receive occasional use notices
- provide information to the Gambling Commission regarding details of licences issued
- maintain registers of the permits and licences that are issued under these functions
- exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

Private gaming in private dwellings and betting between inhabitants of the same premises on domestic occasions or between employees of the same employer is exempt from licensing or registration if:

- no charge is made for participating;
- only equal chance gaming takes place; and
- it does not occur in a place to which the public have access.

Private gaming can potentially take place on commercial premises in very specific circumstances, and where the public have access, but organisers are advised to seek advice before organising events of this nature.

The Authority will not be involved in licensing remote gambling - this is dealt with by the Gambling Commission via Operator Licences. The Financial Services Authority regulates spread betting and the National Lottery Commission regulates the National Lottery.

Responsible Authorities

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the council if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- the Gambling Commission
- the Police
- the Fire Service
- a competent body to advise the authority about the protection of children from harm
- the local planning authority
- Environmental Health
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated (that is, the council itself and also any adjoining council where premises straddle the boundaries between the two).

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- (i) The need for the body to be responsible for an area covering the whole of the licensing authority's area.
- (ii) The need for the body to be answerable to democratically elected persons, rather than any particular vested interested group.

This authority designates Essex Safeguarding Children Partnership for this purpose.

The Licensing Authority will not take into account irrelevant representations, such as:

- there are too many gambling premises in the locality (because need for gambling facilities cannot be taken into account)
- the premises are likely to be a fire risk (because public safety is not a licensing objective and there is other primary legislation regarding fire risk)

- the location of the premises is likely to lead to traffic congestion (because this does not relate to the licensing objectives)
- the premises will cause crowds to congregate in one area causing noise and nuisance (because other powers are generally available to deal with these issues. Unlike the Licensing Act 2003, the Gambling Act does not include as a specific licensing objective regarding the prevention of public nuisance. Any nuisance associated with gambling premises should be dealt with under other relevant laws).

Any concerns expressed by a responsible authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives.

Each representation will, however, be considered on its own merits and careful consideration will be given to any concerns raised by a responsible authority and where a representation is ultimately considered irrelevant the responsible authority will be given the reasons for reaching this decision.

Child protection

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

In accordance with the above principles, the licensing authority designates the Essex Safeguarding Children Partnership for this purpose.

Public health and well-being

Although Local Public Health Departments are not responsible authorities the licensing authority will seek advice from the local Public Health team in order to assess applications and its statement of principles. This approach will be taken to assist the licensing authority in exercising its own functions under various pieces of legislation.

Uttlesford has decided to try to understand and, where appropriate, incorporate public health and well-being concerns within its policies and its decision-making process.

Uttlesford Council's Environmental Health and the Licensing teams already work closely together. The service also incorporates Community Safety alongside its Public Health officers. The alignment of these different service areas has highlighted synergies,

which, with appropriate policies and partnership support, could see significant benefits for residents.

The Council has considered the potential role of Public Health within licensing and this Policy has considered the revised Gambling Commission guidance at length.

Uttlesford Council has taken the decision, with the full understanding and knowledge of the Guidance and relevant legislation, to engage with Public Health as a consideration in its decision making process. As a result, where a relevant representation is made regarding the undermining of the 'Protecting children and other vulnerable people from gambling' objective, and that representation relates to public health and well-being and is supported by evidence, that representation will be considered during the decision making process.

This includes considering information about the impact of gambling upon wider Public Health issues, such as the impacts on families where a parent is a problem gambler, and not just immediate impacts on that individual. The purpose of this is not to attempt to make Public Health the fourth licensing objective, rather using a wider definition of the licensing objective to help address evidence based gambling related harms within our communities.

While recognising that evidence based gambling related harms are a key concern, the Licensing Authority also recognises that gambling is just one component of the of the issues with which the licensing regime can address. The Licensing Authority will approach any Public Health representation within the wide framework of the regime and not exclusively on health and well-being considerations.

Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

A person is an interested party if, in the opinion of the licensing authority, 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 paragraph (a) or (b)'.*

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- Each case will be decided on its merits. This authority will not apply a rigid rule to its decision making. The benefit of doubt will be given to the party making the representation until the doubt can be resolved.
- Interested parties include trade associations, and residents' or tenants' associations, if they represent someone who would be classed as an interested

party in their own right. Councillors and MPs may also be interested parties. Elected Councillors may represent interested parties, but may not also sit on the Licensing sub-committee determining the application.

- In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities, or has business interests likely to be affected, the Council may take account of:
 - the size of the premises;
 - the nature of the premises;
 - the nature of the authorised activities being proposed ;
 - the distance of the premises from the person making the representation;
 - the characteristics of the complainant; and
 - the potential impact of the premises.

The licensing authority will not consider representations that are frivolous or vexatious, or which relate to demand or need for gambling facilities. Decisions on whether representations are frivolous or vexatious will be made by officers objectively and not on the basis of any political judgement. Where representations are rejected, the person making that representation will be given a written reason. A report will be made to the licensing sub-committee determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.

A vexatious representation is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally taken to be one that is lacking in seriousness, or is unrelated to the licensing objectives, the guidance issued by the Gambling Commission or this statement of licensing policy.

In deciding whether or not a representation is frivolous or vexatious the Licensing Authority will normally consider:

- Who is making the representation and whether there is a history of making representations that are not relevant.
- Whether the representation raises a relevant issue or not.
- Whether the representation is specific to the premises that are the subject of the application.

Interested parties should appreciate that moral objections to gambling, or the need for gambling premises, are not valid reasons to reject applications for premises licences.

Representations must be made in writing (which includes electronically) and must:

- indicate the name and address of the person or organisation making the

representation

- indicate the premises to which the representation relates
- indicate the proximity of the premises to the person making the representation. A sketch map or plan may be helpful to show this
- clearly set out the reasons for making the representation. Reference to a specific licensing objective may be helpful.

Exchange of Information

Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the General Data Protection Regulations and the Data Protection Act 2018 will not be contravened. The licensing authority will also have regard to Guidance issued by the Gambling Commission to Local Authorities, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil its' statutory objective of reducing crime in the area.

Details of applications and representations which are referred to a Licensing sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the licensing authority is asked to do so.

Compliance and Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to begin criminal proceedings in respect of the offences specified.

This licensing authority's principles are guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:

- Proportionate: intervening only when necessary, with remedies appropriate to the risk posed, and costs identified and minimised;
- Accountable: justifying decisions, and subject to public scrutiny;
- Consistent: with joined up rules and standards implemented fairly;
- Transparent: being open, with simple and user friendly rules; and
- Targeted: to focus on the problem, and minimise side effects.

This licensing authority will seek to work with other agencies in enforcing this legislation and work to create a joint protocol with all the relevant agencies to avoid duplication with other regulatory regimes as far as possible, following the Gambling Commission's guidance for licensing authorities.

This licensing authority will also, as recommended by the Gambling Commission's guidance for local authorities, adopt a risk-based inspection programme and will consider any risk models produced in conjunction with the Gambling Commission.

The main enforcement and compliance role for this licensing authority will be to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

The authority proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated and minor offence may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.

We continue to work actively with other responsible authorities in seeking compliance and enforcing licensing legislation. We share information about licence-holders and licensed premises under the Crime and Disorder Act 1998, and expect to be closely consulted when any enforcement action may be required.

The authority's approach to the carrying out of premises licence reviews is set out later in this document.

Gaming Machines

Within both the gambling legislation and this document, references are made to gaming machines as being within categories A, B, C or D, or in some cases, sub-categories such as B1, B2, B3 or B4.

Gaming machines are categorised according to the nature of their operation, the maximum charge to use, and the maximum prize available, and the legislation sets out the categories and sub-categories of machines that holders of each type of premises licence or permit are entitled to make available for use.

As both machine entitlements and the values applicable to each category are prescribed in secondary legislation, and may be changed at relatively short notice, it is not considered appropriate to include this information within this document.

Persons under the age of 18 years are not permitted to use any gaming machine other than a category D machine, which are generally low-value machines located in family entertainment centres. Holders of licences and permits which allow the provision of higher-category machines in premises where children are present should take

appropriate steps either to locate those machines in a segregated area with age-restricted access, or to locate the machines so that their usage can be monitored at all times – the appropriate action is dependent upon the nature of the premises and the authorisation held.

Some types of licence, permit or entitlement limit the number of gaming machines which may be made available for use in the authorised premises. The licensing authority notes the Commission's guidance on the meaning of 'available for use', including the provision that a greater number of machines may be located in the premises so long as there is a mechanism in place to disable machines and prevent the number of gaming machines which are actively available for use from exceeding the limit. Simply switching the gaming machine off at an adjacent power socket will not be acceptable to the licensing authority if a customer is able to reactivate the machine by switching it back on. Where an operator or permit-holder wishes to provide a greater number of machines on their premises than may be made available for use under the licence or permit, the onus will be on that operator or permit-holder to demonstrate to the licensing authority that they have a sufficiently robust mechanism in place to prevent a breach of the licence or permit.

All gaming machines which are made available for use in premises must adhere to the appropriate technical standards set by the Gambling Commission, including bearing the correct categorisation markings and any other signage required.

A number of premises which are not entitled to provide gaming machines (including fast-food outlets, taxi booking offices, shopping centres and transport hubs) provide other types of machines, which operate differently to gaming machines. These may include skill machines (where the likelihood of winning a prize is dependent solely on the player's skill or knowledge, and not on chance), and non-prize machines (where players play for a high-score or for amusement only, and no prize can be won as a result). Such machines fall outside of the scope of the 2005 Act, and are not subject to control by the licensing authority. However the authority will investigate complaints where it is believed that a machine purporting to be a skill game or a non-prize machine is actually a (licensable) gaming machine. In determining whether such complaints are accurate we may seek advice from machine suppliers, manufacturers, and from the Gambling Commission.

Local Area Profile (LAP)

As of 6 April 2016, it is a mandatory condition for holders of operating licences to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks.

We expect operators, both when applying for new premises licences and when reviewing their existing premises, to take account of the local area within their own local risk assessments (described below), and to implement suitable and sufficient measures to mitigate any risks identified which may arise as a result of the opening or continuation of trade at those premises.

It is not a requirement for licensing authorities to complete a Local Area Profile.

Although the council has not completed a Local Area Profile we encourage operators to contact the licensing authority to consider and identify potential areas of mutual concern affecting their business in a way that aims to permit gambling without presenting risks to the licensing objectives, as required by the Gambling Act.

Local risk assessments

We do not intend to specify a format or mandatory content for these local risk assessments, as we believe that these will be decisions for the operator to take, and will be dependent upon the location, size, and operational nature of the premises in question.

However, we would expect that operators have considered the individual circumstances of each of their premises when compiling the risk assessments – a single generic risk assessment covering every premises in an operator’s estate will not be considered by the authority to be suitable nor sufficient. We would also expect operators to take full account of our local area profile when compiling their risk assessments, and to reflect this in the control measures which they will implement.

Premises licences

Definition of “premises”

Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority attaches particular weight to the Gambling Commission’s Guidance for local authorities:

- the third licensing objective seeks to protect children from being harmed or exploited by gambling and premises should be configured so that children are prohibited from participating in gambling, such that they are not invited to participate in, have accidental access to, or closely observe gambling
- entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit. The council would expect the plan of the premises to clearly denote entrances and exits.
- customers should be able to participate in the activity named on the premises licence.

The licensing authority will take account of the following factors when considering whether premises are separate:

- do the premises have a separate registration for business rates?
- is the neighbouring premises owned by the same person or by someone else?
- can each of the premises be accessed from the street or a public passageway?
- can the premises only be accessed from any other gambling premises?

Access restrictions

The licensing authority notes that any premises subject to multiple discrete premises licences must be able to comply with the mandatory conditions restricting access to each licensed premises, as follows:

Premises Type	Access restrictions
Adult gaming centre	No direct access from any other licensed gambling premises, or from premises with a family entertainment centre gaming machine permit, a club gaming/machine permit, or an alcohol-licensed premises gaming machine permit
Betting (other)	Access from a street or another betting premises only No direct access from any other premises used for retail sale of goods or services
Betting (track)	No direct access from licensed casino or adult gaming centre premises
Bingo	No direct access from licensed casino, adult gaming centre or betting (other) premises
Family entertainment centre	No direct access from licensed casino, adult gaming centre or betting (other) premises

In the case of some divided premises, it appears that the intended primary use of a premises licence had not been offered, with operators seeking solely to make use of any additional machine entitlement (for example, holding a bingo premises licence but not making any facilities for playing bingo available in the licensed premises). The Gambling Commission consulted on this issue in 2008, and subsequently issued a revision to the Licence Conditions and Codes of Practice affecting Bingo, Betting and Casino operating licences. Holders of these licences are now mandated to provide suitable and sufficient facilities for their primary licensable activity (e.g. provision of facilities for non-remote betting in a betting (other) licensed premises), now referred to in the Guidance as offering an appropriate licensing environment.

Tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. This licensing authority will consider the impact of the licences on the third licensing objective and the need to ensure that entrances to each premises are distinct and that children are excluded from gambling areas where they are not permitted.

Provisional Statements

A person may apply to the Licensing Authority for a provisional statement in respect of premises:

- they expect to be constructed
- they expect to be altered or
- they expect to acquire a right to occupy

Such applications are dealt with in the same manner as applications for premises licences. Once the premises are constructed, altered or acquired the holder of a provisional statement may apply for the necessary premises licence.

Where the holder of a provisional statement applies for a premises licence, no further representations from responsible bodies or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which in the authority's opinion reflect a change in the operator's circumstances.
- (c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. In accordance with the guidance, there must be substantial changes to the plan in order for such a decision to be made, and each decision will take into account the merits of the individual application. The council will discuss any concerns of this nature with the applicants before making a decision

Buildings to be complete

A licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling: The Gambling Commission has advised that references to "the premises" are to the premises in which gambling may now take place. Thus an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

Plan

The Licensing Authority will expect compliance with the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 (as amended) in relation to the submission of plans with applications.

The Regulations state that plans shall contain the following information:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building

- where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.

Location

This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, and to gambling becoming a source of crime or disorder. No areas in Uttlesford have been identified as areas where gambling premises should not be located, but if this situation changes, this statement will be updated. Any such future policy will not prevent an application being made, and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

Should any specific policy be decided upon as regards areas where gambling premises should not be located, this document will be updated. It should be noted that any such policy would not preclude any application being made and each application would be decided on its merits, with the onus upon the applicant to show how the concerns can be overcome. Reference would also be made to the local area risk assessment prepared by the operator.

Conditions

Any conditions attached to licences will be proportionate and will be:

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

Decisions on individual conditions will be made on a case by case basis. Where there is a need this licensing authority will consider;

- the use of door supervisors,
- supervision of adult gaming machines, and a
- appropriate signage for adult only areas.

This licensing authority will expect the licence applicant to offer their own conditions, where appropriate, to ensure the licensing objectives can be met effectively.

The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

It is noted that there are conditions which the licensing authority cannot attach to premises licences:

- any condition on the premises licence which makes 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
- conditions in relation to stakes, fees, winning or prizes.

Duplication with other regulatory regimes

This authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Under section 210 of the Act the licensing authority is not entitled to have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building. The licensing authority will however consider relevant representations from the local planning authority about the effect of the grant of a premises licence on an extant planning permission where this relates to the licensing objectives, a Commission code of practice, or this statement of principles.

Access by Children

When considering applications for premises to which children may be admitted, in cases where the issue of a licence would authorise the provision of gaming machines of categories C or higher, the licensing authority will expect the operator to ensure that:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply equally to single premises and to buildings where multiple, discrete premises licences may have effect (for example, a multi-unit shopping centre, or a mixed use development with a number of retail and leisure units).

Door Supervisors

This licensing authority will consider whether there is a need for door supervisors to meet the licensing objectives of protecting children and vulnerable persons from being harmed or exploited by gambling, and also to prevent premises becoming a source of crime.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The licensing authority will make a door supervision 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.

The Gambling Act 2005 amended the Security Industry Act and door supervisors at casinos or bingo premises need **not** be licensed by the Security Industry Authority. However, the licensing authority strongly recommends that any door supervisors or security staff who are employed should be licensed by the SIA.

This Licensing Authority will require that premises licence holders undertake Criminal Records Bureau checks and evidence of suitable training for door supervisors, or are SIA licensed where this is possible, where this is imposed as a condition. This recognises the nature of the work which may include checking ages, searching individuals and dealing with aggressive persons. This Licensing Authority may require specific requirements for door supervisors, which are shown to be appropriate to individual premises and subject to any codes of practice.

Types of Premises Licences

Adult Gaming Centres

This licensing authority has specific regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and expects the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds cannot access the premises.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures or licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare.

(Licensed) Family Entertainment Centres

This licensing authority has specific 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 gaming machine areas.

This licensing authority expects applicants to offer their own measures to meet the licensing objectives; appropriate measures / licence conditions may include:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.
- Staff are trained to have a full understanding of minimum age limits on participation in gambling

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare will be considered in order to protect children and vulnerable persons.

The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

Casinos

Under the Act, licensing authorities in England and Wales have the role of issuing premises licences for casinos and monitoring those licences.

New casino premises licences issued under the Act will fall into one of two categories namely large casino premises licence or small casino premises licence. These are subject to separate regulations, involving a two-stage application process.

Licensing authorities whose areas have been chosen for the new casinos should set out the principles they intend to apply when determining the 'winner' of a premises licence competition, in their statement of policy so that it is available to potential applicants before the authority invites applications for the available casino premises licences. The unsuccessful applicants must be informed of the result of the competition.

At the time of publication of this document this district is not an area chosen for a new casino and should the Council decide in the future to adopt a 'no casino' policy under section 166 of the Gambling Act 2005 it will update this document with details of that resolution. Any such decision will be made by full council.

Bingo premises

Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

The holder of a bingo operating licence may provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from Uttlesford Council.

Amusement arcades providing prize bingo will require a prize gaming permit from Uttlesford Council.

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, and they are only allowed to game on category D machines. When considering applications of this type the council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the licensing authority will seek to ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance

- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

The licensing authority notes that the Gambling Commission's Guidance states:

- 18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.
- 18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that „licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises“ in order to prevent underage gambling.
- 18.9 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstance that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.
- 18.10 Equipment operated by a bingo operating licence for the purpose of playing bingo, for example what are currently known as mechanised cash bingo, electronic bingo terminal (EBTs) and video bingo terminals (VBTs), will be exempt from controls on gaming machines provided they comply with any conditions set by the Commission and, in the case of EBTs, do not hold gaming machine content.
- 18.11 An EBT that offers gaming machine content in addition to bingo content is considered to be a gaming machine and would count towards the total number of gaming machines or towards the offering of bingo. Any EBTs that do not offer gaming machine content would not count towards the number of gaming machines.

The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the

Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

Operators' attention is also drawn to paragraph 18.25 – 18.32 concerning primary gambling activity and the location of gaming machines.

Bingo in clubs and alcohol-licensed premises

Bingo may be provided on alcohol-licensed premises and in members' clubs and miners' welfare institutes either in accordance with a permit or providing that the limits in section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days to £2000, and require the Commission to be notified as soon as is reasonably practicable if that limit is breached. Stakes or prizes above that limit will require a bingo operator's licence and the corresponding personal and premises licences.

Betting premises

Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter licensed betting premises.

Betting premises may provide a limited number of gaming machines and some betting machines.

The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The Authority will make a door supervision 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.

The Council has the power to restrict the number of betting machines, their nature, and the circumstances in which they are made available. It will not generally exercise this power unless there are good reasons, taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

This licensing authority will, as per the Gambling Commission's Guidance, 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 gaming machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature or circumstances of betting machines an operator wants to offer

The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

Each application will be considered on its own individual merits.

Primary Gambling Activity

Operating licences issued by the Commission provides that gaming machines may be made available for use in licensed betting premises in combination with the named activity on the operating licence.

The licensing authority must be satisfied that the a premises applying for a premises licence to permit betting, or a premises which is already licensed to provide betting, is or will operate in a manner which a customer would reasonably expect to recognise as a premises licensed for the purposes of providing facilities for betting.. In this respect, the authority would expect such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn the outcome and collect any winnings. Where betting facilities are provided only by betting machines the number of betting machines must exceed the number of gaming machines made available for use.

The Licence Conditions and Codes of Practice (LCCP) sets out the full requirements on operators. To assist operators of betting premises the Commission has published a document setting out the indicators that are used to assess as to whether the requirements for betting being the primary gambling activity in any particular premises are being met.

Should the licensing authority receive an application to vary a premises licence for bingo or betting in order to extend the opening hours, the authority will satisfy itself that the reason for the application is in line with the requirements on primary gambling activity. (i.e. the need for operating licence holders to ensure that there are still sufficient facilities available to participate in the gambling activity appropriate to the licence type („the primary activity“ or „the principal activity“) at those premises and not replaced by the making available of gaming machines). Therefore, the applicant should be able to demonstrate that the extension of the opening hours is not designed solely to benefit from the machine entitlement and activity which is ancillary to the primary activity of the premises, namely betting or bingo.

Tracks

Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.

Track operators are not required to hold an 'operator's licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

Although there will, primarily, be a betting premises licence for the track, there may be a number of subsidiary licences authorising other gambling activities to take place on specific parts of the premises. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

In accordance with the Gambling Commission's guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Location of gaming machines
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- Staff are trained to have a full understanding of minimum age limits on participation in gambling

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.

Gaming machines on tracks

The licensing authorities needs to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to have four gaming machines, these machines are locate in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines at a track.

Betting machines on track premises

Licensing authorities have a power under the Gambling Act 2005 to 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.

This licensing authority will, in accordance with the Gambling Commission's guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

Condition on rules being displayed

It is a mandatory condition of premises licence that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks. The licensing authority will adopt the approach in line with guidance from the Gambling Commission that it may be disproportionate and unnecessary to display betting rules at each distinct betting location. The licensing authority will expect betting rules to be accessible to all customers, regardless of which area of the track they are in, and the track premises licence holder should make necessary arrangements to ensure to achieve this aim. This could include displaying rules at various parts of the track if certain areas are restricted to specific customers, or that other measures are taken to ensure that they are made available to the public, such as being could printed in the race-card or made available in leaflet form from the track office.

Travelling Fairs

Where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, it is a statutory requirement that the facilities for gambling are no more than an ancillary amusement at the fair. This licensing authority decides whether that requirement is met and whether the applicant falls within the statutory definition of a travelling fair.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

Reviews

Responsible Bodies and Interested Parties may apply to the Licensing Authority for a review of a premises licence.

However, it is for the licensing authority to decide whether to accept any application for review of a licence, after considering whether the application is:

- frivolous, vexatious, will certainly not cause this authority to wish to alter/revoke/suspend the licence, or substantially the same as previous representations or requests for review;
- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

In the interest of fairness, responsible authorities (including the licensing authority) are encouraged to give an early warning of concerns about problems identified at premises concerned and of the need for improvement, although it is recognised this is not always practicable or desirable. It is expected that a failure to respond to such warnings would lead to a decision to apply for a review.

Any enforcement action taken by the licensing authority, including considering a review, will be undertaken in accordance with our compliance policy.

The Licensing Authority may reject an application if it thinks that the grounds on which the review is sought:

- do not raise an issue relevant to the principles listed below;
- are frivolous or vexatious;
- will certainly not cause the Licensing Authority to wish to alter, revoke or suspend the licence;
- are substantially the same as previous representations or requests for review.

Licensing authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted.

The licensing authority may review premises licences of its own volition on the basis of any reason which it thinks is appropriate. This may be on the grounds that a premises licence holder has not provided facilities for gambling at the premises. A referral to a Licensing Sub-Committee of a set of premises for a review will be first approved by the Head of Housing & Health.

This can extend to a review of a class of licences where it considers particular issues have arisen. Reviews of a class of premises will be first agreed to by the Head of Housing and Health in consultation with the Executive Member for Neighbourhoods .

The purpose of a review is to determine whether the licensing authority should take any action in relation to the licence. If action is justified the licensing authority may:

- add, remove or amend a licence condition (other than a mandatory condition)
- exclude or amend a default condition imposed by regulations

- suspend the premises licence for a period not exceeding three months
- revoke the premises licence.

In determining the appropriate course of action the licensing authority must have regard to the principles set out in section 153 of the Act as well as any relevant representations.

The Gambling Commission will be a responsible authority in premises licence reviews.

The licensing authority must have reasonable grounds in order to take action to amend, refuse, suspend or revoke a licence. In every case, an evidentiary basis for the review will need to be laid before the licensing authority.

It is noted that as per the Gambling Commission's guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except when concerning any 'no casino resolution) and also that unmet demand is not a criterion for a licensing authority. This may not be the case with respect to gaming permits.

Permits, Temporary & Occasional Use Notices

Unlicensed Family Entertainment Centre gaming machine permits

Where premises do not hold a Premises Licence but wish to provide only category D gaming machines, it may apply to the licensing authority for this permit. It should be noted that under section 238 of the Gambling Act, the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. In preparing that statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25 of the Act.

Accordingly this licensing authority will also have regard to the licensing objectives when considering applications relating to unlicensed FEC permits.

An FEC gaming machine permit cannot be granted unless the chief officer of Police has been consulted, and no conditions may be imposed upon the grant of a permit. Therefore the licensing authority will wish to be satisfied as to the applicant's suitability before granting a permit. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued.

Statement of Principles

This licensing authority will expect the applicant to show that there are 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 efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures or training for staff to deal with suspected truant school children on the premises, measures or training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

This licensing authority will also expect, following Gambling Commission guidance, that applicants demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs.
- that they have no relevant convictions (those that are set out in Schedule 7 of the Act)
- and that staff are trained to have a full understanding of the maximum stakes and prizes.
- an awareness of local school holiday times and how to identify the local education office should truants be identified.

Compliance with any relevant industry Code of Practice for FECs issued by BACTA or other trade associations may be taken by the licensing authority as evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above.

Applicants must submit with their application with a plan of the premises, to a scale of 1:100, showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers.

The licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

(Alcohol) Licensed premises gaming machine permits

The Act provides that premises licensed to sell alcohol for consumption on the premises, are automatically authorised to have 2 gaming machines, of categories C and/or D. These premises merely need to notify the authority and the notification process is prescribed under the Gambling Act.

Under section 284 the licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (for example the gaming machines have been made available in a way that does not comply with the requirements on the location and operation of gambling machines)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

Should it be necessary to issue a section 284 order, the licence-holder will be given at least twenty-one days' notice of the intention to make the order, and consider any representations which might be made. The authority will hold a hearing if the licensee requests.

If a premises wishes to have more than 2 machines, then it must apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and 'such matters as they think relevant'.

Statement of Principles

This licensing authority considers that "such matters" will be decided on a case by case basis but generally there will be 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 gaming machines. The authority will take into

account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons this applicants may wish to consider the provision of information leaflets or helpline numbers for organisations such as GamCare.

A plan must accompany applications indicating where, and what type, of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the premises licence issued under the Licensing Act 2003.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an application for a new premises licence.

The licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions other than these cannot be attached.

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

Administrative matters

Notifications for two or less machines shall be dealt with by the officers of the licensing authority under delegated authority.

Applications for three or more machines will be referred to a Licensing Sub-Committee of Councillors.

Prize Gaming Permits

Prize gaming may be provided in bingo premises as a consequence of their Bingo Operating Licence. Any type of prize gaming may be provided in Adult Gaming Centres and licensed Family Entertainment Centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, as long as none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.

The Licensing Authority can only grant a permit if they have consulted with chief officer of Police. Therefore, the Licensing Authority will consider the suitability of the applicant in terms of any evidence provided by the Police that would make them unsuitable to hold a prize gaming permit.

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives, but may wish to do so, but must have regard to any Gambling Commission guidance.

Applicants should set out the types of gaming they are intending to offer and should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations
- and that the gaming offered is within the law.

It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions to a permit.

Applications may only be made by people who occupy or plan to occupy the premises, are aged 18 or over (if an individual), and no premises licence or club gaming permit under the Gambling Act 2005 may be in force.

Statement of Principles

The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This Licensing Authority considers that such matters will be decided on a case by case basis but generally there will be 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 unequal chances prize gaming. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

A plan must accompany applications indicating where, and what type, of prize gaming is to be provided.

Club Gaming and Club Machines Permits

Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit.

The licensing authority notes paragraphs 25.44 – 25.49 of the Commission’s Guidance as to matters to take into account when determining that a club meets the statutory qualifying requirements. These include:

- the clubs constitution;
- the frequency of gaming; and
- ensuring that there are more than 25 members.

The club must be conducted “wholly or mainly” for purposes other than gaming, unless the gaming is in bridge and whist clubs covered by regulations made by the Secretary of State. A members’ club must be permanent in nature, not established to make commercial profit and be controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.

The Licensing Authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant’s premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Commission or the police

There are statutory conditions on club gaming permits that no child 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.

Club gaming permit

A club gaming permit allows the premises to provide:

- up to three machines of categories B, C or D
- equal chance gaming and
- games of chance as set out in regulations.

Club gaming machine permit

A club gaming machine permit will enable the premises to provide up to three machines of categories B, C or D.

The licensing authority will wish to be satisfied that applicants for these permits meet the statutory criteria for members’ clubs contained in sections 266 and 267 of the Act. Clubs which hold a club premises certificate under the Licensing Act 2003 are entitled to benefit from a fast-track application procedure.

Lotteries

The Gambling Act 2005 regulates almost all forms of fund-raising lotteries promoted in the UK. With the exception of the National Lottery, which is not regulated under this Act, it is illegal to promote a lottery for private or commercial gain.

While the term ‘lottery’ is used within the legislation, these provisions are also likely to apply to raffles, prize draws, tombola’s, sweepstakes, scratch-card sales, and so on – in short, any arrangement in which a payment is made for a random chance of winning a prize. For the sake of simplicity, ‘lottery’ is used to define all of these.

Broadly speaking, there are two categories of lottery established under the Act –

- Licensed lotteries include those run by societies that aim to raise more than £20,000 in a single draw, or £250,000 in a calendar year, as well as any lotteries promoted by a local authority. An operating licence must be held by the promoter(s) of these lotteries.
- Exempt lotteries fall into one of four sub-categories, each with its own limits on the amounts that can be raised, the purposes for which it can be promoted, and the manner in which it must be run. These sub-categories comprise Incidental Non-Commercial Lotteries, Customer Lotteries, Private Lotteries, and Small Society Lotteries

Licensed Lotteries

The administration and enforcement of licensed lotteries is the responsibility of the Gambling Commission, although local authorities may provide information and intelligence to assist in the exercise of these functions.

Exempt Lotteries

Of the four sub-categories of exempt lotteries, only Small Society Lotteries require registration with a local authority – no authorisation is required for the other three categories. Both the Commission and local authorities may carry out compliance checks to ensure that any exempt lotteries are carried on in accordance with the relevant legal restrictions.

Registrations will remain in force indefinitely, incurring an annual fee in each year that they remain in force. Societies may request the cancellation of their registration, in writing, at any time. The licensing authority may also revoke a registration or cancel a registration for non-payment of annual fees. Revocation may only occur after the applicant has been given the opportunity to lodge representations.

Free prize draws & skill competitions

The Gambling Act 2005 does not include any measures to regulate prize draws where there is no charge to enter, nor any competition where the outcome relies significantly upon a participant's skill, judgement or knowledge. Generally, the licensing authority will not become involved in any matters relating to such schemes.

However, on some occasions, schemes that are presented as skill competitions will actually fall under the definition of lotteries or prize gaming, and would therefore need to comply with the statutory requirements. Alongside the Gambling Commission, licensing authorities are obliged to monitor the boundaries between lotteries and skill competitions, and will provide basic advice on ensuring that any competitions are run in compliance with the relevant laws. However, the licensing authority will not offer advice or approval of individual schemes, nor will it offer in depth advice as to the legality of a particular activity. It is ultimately the responsibility of the promoter to ensure that a scheme is compliant with statutory requirements, and to seek independent confirmation of this from a legal adviser where appropriate.

This licensing authority notes the criteria set out in section 14 of the Act relating to the characteristics of a skill competition, and will expect the promoter of any such scheme to ensure that the competition includes a suitable challenge of skill, judgement or knowledge that will:

- prevent a significant proportion of people who wish to participate from doing so; or
- prevent a significant proportion of people who participate from receiving a prize.

A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in Section 19 of the Gambling Act 2005. A society is non-commercial if it is established and conducted:

- for charitable purposes
- for the purposes of enabling participation in, or of supporting sport, athletics or a cultural activity: or
- for any other non-commercial purpose other than that of private gain.

All applications for registration must be in the form specified by the Secretary of State and accompanied by supporting documentation that the Licensing Authority will need to assess the application.

This Licensing Authority, when considering an application for registration may request additional information as deemed appropriate, this may include a declaration from the governing body of the society stating:

- the application is on behalf of a genuine non-commercial lottery
- that all persons connected with the promotion of the lottery have no relevant convictions or cautions against them
- briefly explaining the purpose of the society and; the reasons for the fund raising
- confirmation of the appointment of 2 members of the Society who have the authority to sign and complete the necessary returns
- and where a society intends to employ an external lottery manager, evidence that person holds an operator's licence issued by the Gambling Commission.

The licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exhaustive, could affect the risk status of an operator:

- submission of late returns (returns must be submitted within three months of the date that a lottery was drawn)
- submission of incomplete or incorrect forms
- breaches of the limits for small society lotteries.

If the Authority is minded to refuse an application, the applicant will be notified in writing the reasons why it is considering refusal and the evidence on which it has based the preliminary conclusion. The applicant will be given the opportunity to provide further evidence in support of the application or to make representation regarding these matters.

Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. A Temporary Use Notice may only be granted to a person or company holding a relevant operating licence.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. There can, however, be more than one competition with a single winner held at the individual event covered by a specific temporary use notice. The facilities may not be provided in circumstances where any person participating in the gaming does so by means of a gaming machine. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities and at paragraph 14.10 of the Guidance. As with “premises”, the definition of a “set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of a “set of premises”, the licensing authority need to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in place that could be described as one set of premises, as recommended in the Gambling Commission’s Guidance to Licensing Authorities.

Occasional Use Notices

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will need to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

Administration, Exercise and Delegation of Functions

The Licensing Committee will consist of between 10 and 15 councillors, sitting at least annually to discuss this Statement of Principles, review delegated decisions and administrative matters. The Council will review this Statement of Principles at least every three years. Any changes to the Statement of Principles will include full consultation of all interested parties and responsible authorities.

Sub-committee(s) of three Councillors will determine applications where representations have been received from interested parties and responsible authorities.

The Licensing Committee may also deal with other matters not associated with the Gambling Act 2005.

Each decision of the Licensing Committee or its Sub-Committee(s) shall be accompanied with clear reasons for the decision. A summary of the decision will be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory register required to be kept by the Council.

The Council's authorised officers will deal with all other licence/permit application where either no representation/objection(s) have been received, or where representations have been received and it is agreed by all parties that a hearing is not necessary.

Council officers will make decisions on whether representations or applications for reviews should be referred to the Licensing Committee or Sub-Committee(s) and upon whether representations are frivolous, irrelevant, vexatious or repetitious. Where representations are rejected, the person making that representation will be given written reasons.

Where appropriate the Council will seek to delegate decision making so far as possible in the interests of speed, efficiency and cost effectiveness.

The Council will seek to integrate this Statement of Principles with its various other strategies/policies, having regard to the licensing objectives and will utilise its collaborative and partnership working arrangements and networks that engage with responsible authorities, interested parties and key stakeholders.

Contact Point

For further information about this statement or to discuss an actual or future application, please contact:

Licensing Team
Uttlesford Council
Council Offices
London Road
Saffron Walden CB11 4ER

Telephone: 01799 510510

E-Mail: licensing@uttlesford.gov.uk

Thank You for your email

These additional demographics will be added into the proposed policy. This will be placed before committee next month.

Kind regards

Russell Way
Licensing Manager
01799 510448



Sent: 18 May 2022 21:08
To: Russell Way <RWay@uttlesford.gov.uk>
Subject: RE: Uttlesford District Council Gambling Policy review

Dear Russ

Thanks for this document

The needs assessment of the area or the local profile on page 14 is very weak.

You mention the BME cohort but no mention of broader population statistics, based on race, gender, disability, age profile etc.

Why is this information not included?

Look forward to hearing from you.

Regards

From: Licensing <Licensing@uttlesford.gov.uk>
Sent: 17 May 2022 18:18
Subject: Uttlesford District Council Gambling Policy review

Dear all

The Uttlesford District Council Licensing team are reviewing our Statement of Gambling Principles. It was last updated in 2018 and came into effect from 31 January 2019.

We start a 28-day consultation on Thursday 19th May. Final comments need to be submitted by Thursday the 16th June.

The link to the draft statement is here [Statement of gambling principles review - Uttlesford District Council](#)

You can feedback your comments to the consultation via the same link

Many thanks

Russ
Russell Way
Licensing Manager
01799 510448



Committee: Licensing & Environmental Health

Date:

Title: Enforcement Update

12 July 2022

Report Author: Jamie Livermore, Senior Licensing & Compliance Officer, 01799 510326

Summary

1.1. This Enforcement Update report is to inform the Committee of the enforcement activities carried out by Licensing Officers during the period of 12 February 2022 to 30 June 2022.

Recommendations

2.1. It is recommended that Members note the contents of this report.

Financial Implications

3.1. There are no financial implications arising from this report.

Background Papers

4.1. None

Impact

5.1.

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

Situation

6.1. During the latest period, the benefits of the new enforcement officer have been evidenced as proactive compliance and enforcement work has significantly increased, though still factoring in the limitations from the past couple of years. Through persistent efforts, the team are establishing relationships with the Local Education Authorities who issue contracts to Private Hire Operators licenced to Uttlesford in order to obtain the list of schools that our drivers and vehicles work at. At the time of writing, compliance checks have been carried out at 23 different schools across various county areas as well as Essex. During those checks, a total of 54 drivers and vehicles have been seen. A few advisories for minor issues were given for vehicles and one immediate suspension due a faulty side door.

6.2. Aside from school contracts, the team are frequenting Stansted Airport more regularly and are in the process of setting up large joint working operations with Essex Police and neighbouring Licensing Authorities, so that drivers and vehicles can be checked for compliance and any potential offences such as 'taxi touting' can be identified and dealt with appropriately. The team participated in 'Operation Henderson' at the airport, which was in relation to Child Sexual Exploitation awareness. Information leaflets were handed out to any taxi driver encountered.

6.3. With regards to licensed premises, we are still just slightly short of being able to confirm a Pub Watch scheme in Saffron Walden, though it should be very soon as on a recent round of visits between Police and Licensing Officers a potential chairperson for the group has been identified. The schemes in Great Dunmow and Stansted are running efficiently. 5 premises have been visited at least once following complaints received from residents, and at the time of writing all concerns are being controlled.

6.4. Several members of the Environmental Health team including two from Licensing attended and successfully passed an Essex Police Community Safety Accreditation Scheme (CSAS) course, meaning they now have specified low level powers to enforce against issues such as anti-social behavior, littering and dog fouling, amongst others. They can request the name and address of offenders and in some circumstances issue Fixed Penalty Notices. While these are not usually part of the day to day role, it enables more efficient joint working across the whole of the Community Safety Partnership.

6.5. There have been 4 Private Hire Operator inspections conducted during this period and any minor issues found were dealt with appropriately.

6.6. In respect of licensed hackney carriage and private hire drivers, there has been 9 licence revocations and 5 licence suspensions. These are broken down as follows;

- 3 revocations were made with immediate effect under delegated powers by the Chair of the Licensing & Environmental Health Committee and Licensing Manager. All were as a result of significant safeguarding concerns that needed urgent action. The remaining 5 revocations were made by the Licensing Sub-Committee in May.

- 3 suspensions were as a result of Medical and/or DBS certificates not being received from the driver by the required date, or for identified medical conditions.
- 1 suspension was due to a driver who had failed to provide evidence of having taken a driving proficiency test in line with the Council's suitability policy for drivers with an accumulation of 9 or more points on their DVLA licence.
- The 1 remaining suspension was imposed by the Licensing Sub-Committee in March.

6.7. In respect of licensed hackney carriage and private hire vehicles, there have been 45 licence suspensions.

- 25 vehicles were suspended following the failure of their compliance tests. 15 vehicles were suspended as they had not taken a compliance test by the required deadline, and 3 suspensions were issued following accidents and associated damage, all of which have now been repaired.

6.8. A total of 35 complaints have been received during this period. These are broken down as follows;

- 21 complaints relating to drivers. The complaints mostly relate to either driving standards or driver behavior, with most being dealt with at Officer level.
- 9 complaints relating to vehicles. These mostly consist of parking matters.
- 5 complaints relating to premises, referenced at 6.3.

Agenda Item 6

Committee: Licensing & Environmental Health

Date:

Title: Review of Driver Training Course Deferral

12 July 2022

Report Author: Jamie Livermore, Senior Licensing & Compliance Officer, 01799 510326

Summary

1.1. The purpose of this report is to brief Members on the outcome of the 6 month deferral made to specified Private Hire & Hackney Carriage driver licence renewals from the undertaking of the driver training course and assessment.

Recommendations

2.1. It is recommended that Members note the contents of this report.

Financial Implications

3.1. None

Background Papers

4.1. None

Impact

5.1.

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

Situation

6.1. Members will be aware that at the Licensing & Environmental Health Committee of the 16 November 2021, the proposal to permit holders of Private Hire & Hackney Carriage driver licences which were due to expire between specified timeframes from undertaking the Green Penny driver training course for a maximum of 6 months, was agreed.

6.2. In short summary, any licence due to expire between the 30 November 2021 and 30 June 2022 inclusive was given a maximum 6 month deferral period from successfully passing the driver training course provided by Green Penny. This was agreed to primarily as a result of the financial burden that was upon the taxi and private hire trade arising from the Covid-19 pandemic.

6.3. A total of 243 Private Hire and Hackney Carriage driver licences were renewed during this period. 79 (33%) of those have taken advantage of the deferral period and will be expected to have completed the course by the maximum 6 months deadline applicable to them. This means that 164 of the 243 (67%) successfully completed the course as part of their renewal application.

6.4. Licensing Officers are pleased to report that despite the potential impacts to Green Penny, the business was not adversely affected by the course deferrals. This is perhaps evidenced by the statistics listed above which show that the majority of renewal applicants chose to undergo the training course in the normal fashion.

6.5. The decision by the Committee was with the intention of being a one-time deferral, and Licensing Officers have no recommendations for further extending it.

Agenda Item 7

Committee: Licensing and Environmental Health Committee

Date:
12 July 2022

Title: CCTV Consultation Document for Licensed Hackney Carriage and Private Hire Vehicles

Report Author: Steve Mahoney, Senior Licensing Compliance Officer
smahoney@uttlesford.gov.uk

1.0 Purpose of Report

- 1.1 To implement the recommendation in the Department for Transport Statutory Standards that Local Authorities should consult on whether CCTV would have a proportionate positive impact on public safety in their district.

2.0 Recommendations

- 2.1 Licensing and Environmental Health Committee is asked to **RESOLVE** to Approve an 8-week public consultation on the Draft CCTV consultation document in Hackney Carriage and Private Hire vehicles as detailed in **Appendix 1**.

3.0 Background and Key Issues

- 3.1 In July 2020, the Secretary of State for Transport issued a new set of 'Statutory Taxi and Private Hire Vehicle Standards' to Licensing Authorities aimed at safeguarding children and vulnerable adults.
- 3.2 The standards set out a range of measures to protect passengers and the Department for Transport required that each Licensing Authority reviewed their policies with a plan to implement the standards.
- 3.3 A review is now being undertaken and this report considers the recommendation in the Statutory Standards about CCTV in Hackney Carriage and Private Hire vehicles.
- 3.4 One of the recommendations, is that "All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of Hackney Carriage and Private Hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues."

- 3.5 The Department for Transport's view is that CCTV can provide an additional deterrent factor to reducing potential risks to public safety and has an investigative value if there is an incident. Its view is that "The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers."
- 3.6 However, the Standards also note that the imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. The report recognises that such a policy could impact on the privacy of the passenger and the driver. In addition, mandatory CCTV will have cost implications to the vehicle licence holder and place a responsibility upon the Council as the data controller for all data captured.
- 3.7 Appendix 1 is the draft CCTV Consultation Document. This report recommends that Committee approves undertaking this consultation for Uttlesford council, the result of which will be reported back so that a decision can be made whether to proceed with developing a mandatory CCTV policy.

4.0 Social Value Considerations

- 4.1 The whole purpose of consulting is to ensure we focus our resources on the things that mean most and bring most value to our residents.

5.0 Environmental Implications

- 5.1 There are no 'Environmental' implications arising out of the recommendations in this report.

6.0 Alternative Options Considered

- 6.1 Members may request for further amendments to be made to the suggested draft CCTV consultation document which they consider suitable for the Committee to consider.

7.0 Reasons for Recommendations

- 7.1 In accordance with the Department of Transport's Statutory Taxi and Private Hire Standards, Uttlesford Council must undertake a consultation to consider whether local circumstances indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of Hackney Carriage and Private Hire vehicle users taking into account potential privacy issues. The outcome of this consultation would then enable the Council to decide whether it would be proportionate to

consider introducing mandatory CCTV. **Appendix 1** is a proposed consultation document.

8.0 Future Work and Conclusions

8.1 If members approve the draft CCTV consultation document then it will go out for an 8 week consultation and any comments will be brought back to the next Licensing Committee.

8.2 The Public consultation will include the trade and relevant agencies.

9.0 Financial Implications

9.1 The recommendations have no impact on the Council's budgets

10.0 Legal Implications

10.1 The Council will need to comply with public law consultation principles and with data protection legislation when undertaking the public consultation on the draft CCTV policy.

11.0 Risk & Opportunity Management Implications

11.1 The risk management implications for this report and Policies are as follows:

- Hackney Carriage and Private Hire Policy is unfair or too prescriptive.
- Consultation inadequate.
- Not to follow the recommendations from the DfT.

CONSULTATION

Mandatory CCTV in licensed vehicles

Introduction

The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services.

The statutory guidance makes it clear that the Government expects the recommendations contained within it to be implemented unless there is a compelling local reason not to. Furthermore, it is noted that the statutory standards document sets out a framework of policies that, under section 177(4), licensing authorities “must have regard” to when exercising their licensing and safeguarding functions.

The licensing authorities in Uttlesford are seeking views on the statutory guidance’s requirements with regards to CCTV in licensed vehicles.

This consultation follows previous work by the licensing authorities in Uttlesford to adopt common licensing standards for taxi and private hire drivers, vehicle proprietors and operators.

Responding to the consultation

The consultation will be open for xx weeks from xx 2022 to xx 2022

Your responses can be submitted in writing either by email to:

licensing@uttlesford.go.uk

by post to:

Licensing Section
Uttlesford District Council
London Road
Saffron Walden
Essex
CB11 4ER

CCTV in licensed vehicles

The DfT's Statutory Taxi and Private Hire Vehicle Standards states that:

“All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.”

The DfT's view is that CCTV can provide additional deterrence to prevent the potential risk to public safety when passengers travel in taxis and private hire vehicles and has investigative value when it does. Its view is that *“The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers.”*

To this end, the licensing authorities in Uttlesford are conducting an initial consultation to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults. In addition, the consultation is seeking views on whether it would be proportionate for the installation of CCTV to be made a mandatory condition of a vehicle licence. Any decision to make it a mandatory condition will take account of the benefits to public safety as well as any adverse effects including potential privacy concerns and costs to the licensed vehicle holder.

Consultation Questions

Please complete the consultation survey if you want to respond to this consultation.

Next Steps

We will analyse the consultation feedback to decide if there is local evidence to support a mandatory requirement for CCTV in licensed vehicles.

Where we consider there to be such a requirement, we will undertake further consultation and engagement with the licensed trade and key stakeholders to develop a CCTV policy and specifications for CCTV systems.

We will continue to communicate with the licensed trade on the outcome of this consultation and next steps.

Proposed survey questions

General

1. Full name
2. Email address
3. Capacity
 - a. Taxi licence holder
 - b. PH licence holder
 - c. PH operator
 - d. Councillor
 - e. Essex Constabulary
 - i. Specify which department
 - f. Essex Police and Crime Commissioner
 - g. Essex County Council
 - i. Specify which department
 - h. Other
 - i. Please specify

Safety of passengers

4. Do you agree that CCTV in licensed vehicles will benefit the safety of passengers using licensed vehicles?
 - a. Yes/No
 - b. Please explain the reason for your answer

5. Do you agree that additional audio CCTV recording in licensed vehicles will benefit the safety of passengers using licensed vehicles?
 - a. Yes/No
 - b. Please explain the reason for your answer

6. Do you have any local examples of when CCTV (video or audio) was or could have been beneficial to the safety of passengers using licensed vehicles?
 - a. Yes/No
 - b. If yes, please give details

Safety of licensed drivers

7. Do you agree that CCTV would benefit safety of the licensed driver?
 - a. Yes/No
 - b. Please explain the reason for your answer

8. Do you agree that additional audio CCTV would benefit the safety of the licensed driver?
 - a. Yes/No
 - b. Please explain the reason for your answer

9. Do you have any local examples where CCTV (video or audio) did or could have benefited the safety of the licensed driver?
 - a. Yes/No
 - b. If yes, please give details

Reducing fear of crime

10. Do you agree that video CCTV recording would reduce the fear of crime?
 - a. Yes/No
 - b. Please explain the reason for your answer

11. Do you agree that additional audio CCTV recording would reduce the fear of crime?
 - a. Yes/No
 - b. Please explain the reason for your answer

12. Do you have any local examples where CCTV did or could have reduced the fear of crime?
 - a. Yes/No
 - b. If yes, please give details

Adverse effect on safety of passengers

13. In your opinion, are there any adverse effects on the safety of passengers, including children or vulnerable adults, by installing CCTV in licensed vehicles?
- a. Yes/No
 - b. If yes, please explain

Privacy

14. In your opinion, are there any adverse effects on the safety of passengers, including children or vulnerable adults, by installing CCTV in licensed vehicles?
- a. Yes/No
 - b. If yes, please explain

15. In your opinion, are there any adverse effects on the privacy of passengers, including children or vulnerable adults, by installing CCTV in licensed vehicles?
- a. Yes/No
 - b. If yes, please explain

16. In your opinion, do the benefits to the public safety outweigh any adverse effect on privacy?
- a. Yes/No
 - b. If yes, please explain

Costs to licence holders

17. In your opinion, do the benefits to public safety outweigh the costs that would be incurred by the licensed vehicle drivers by installing CCTV in licensed vehicles?
- a. Yes/No
 - b. If yes, please explain

Other adverse effects

18. Are there any other adverse effects from installing CCTV in licensed vehicles?
- a. Yes/No
 - b. If yes, please explain

Local circumstances to support mandatory CCTV

19. Overall, do you think that there are local circumstances that would make it proportionate to make it a mandatory requirement for all licensed vehicle operators to install CCTV
- a. Yes/No
 - b. Please explain the reason for your answer

Mandatory video only or video and audio

20. If yes to question **xx** do you think that mandatory CCTV should be video recording only or video and audio
- a. Video/video and audio
 - b. Please explain the reason for your answer

Extra Questions for licence holders

21. Do you have an Essex County Council contract?
- a. Yes/No
22. Do you have a CCTV system installed in your current licensed vehicle?
- a. Yes/No
 - b. If yes,
 - i. Please specify if it is video OR video and audio recording?
 - ii. Are you registered with the ICO (Information Commissioners Office)? Yes/No
 - iii. Do you display signage in your vehicle making it clear to passengers that CCTV is in operation? Yes/No
 - iv. Have passengers ever made positive comments about CCTV in operation? Yes/No. If yes, please explain.
 - v. Have any passengers ever objected to CCTV being in operation? Yes/No. If yes, please explain.

vi. Are you satisfied that the data that you capture on your CCTV is kept secure? Yes/No. Please explain.

Other Comments

Do you have any other comments to make?

Agenda Item 8

Committee: Licensing and Environmental Health Committee

Date:
12 July 2022

Title: Revised Policy relating to the Hackney carriage and Private Hire Trades

Report Author: Russell Way, Licensing and Compliance Manager

Summary

1. The purpose of this report is to ask Members of the Licensing and Environmental Health Committee to approve the latest version of the Taxi and Private Hire Policy following the latest committee decision in March

Recommendations

2. It is recommended that Members accept the latest version of the policy

Financial Implications

3. There are no cost implications to the Council in undertaking this legal duty.

Background Papers

4. The following documents are referred to by the author in preparation of the report and are available for inspection on request

Appendix A – Current Taxi and PHV Policy V3 – March 2022

Appendix B – New Policy incorporating additional DBS decision V4 – July 2022

Impact

Communication/Consultation	This report is intended to assist members and the public understand the Councils policy and approach to licensed vehicles, drivers and operators.
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Community Safety	It is hoped that ensuring that there is one up to date document that it will be provide clarity for members and the public. Community safety and public safety is the key driver in our policy
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	It is right that the council considers the human right of individuals.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

- 1 The current licensing Policy relating to Hackney Carriage and Private Hire Trades was updated to Version 3 in March 2022. This is attached at Appendix A
- 2 At March's Licensing Committee meeting the following policy change was agreed.
 - Manual DBS changed in Appendix D 2.6 of V3 policy
- 3 As a result, we would like the committee's approval to agree to publish V4 of our policy which now contains this update. This can be seen at Appendix B

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Little or no risk or impact	N/A	1	N/A
There is a need for			

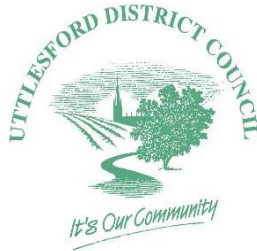
the council to ensure its policy is upto date and clear.			
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1 = Little or no risk or impact

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.



LICENSING POLICY OF UTTLESFORD DISTRICT COUNCIL RELATING TO THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADE

This document was approved at the Environmental and Licensing Committee 10th May 2021

Latest proposed amendments as agreed by Committee date stated below -

- V.3 16th November 2021 – Service Level Agreement Relating to Roadworthiness Testing of Hackney Carriages & Private Hire Vehicles in the District of Uttlesford
- V4 2nd March 2022 – amendment relating to Manual DBS and their frequency

Last revision: 11/21

INDEX	
Title	Page
1. Introduction	4
2. Licensing of Drivers	4
3. Licensing of Operators	8
4. Licensing of Vehicles	9
5. Exemption from the requirement to exhibit a private hire plate	10
6. Conditions	13
7. Enforcement	14
8. Accountability	18
APPENDIX A - Vehicle Standards - Hackney Carriages & Private Hire	20
APPENDIX B - Hackney Carriage Vehicle Conditions	22
APPENDIX C - Private Hire Vehicles Conditions	24
APPENDIX D - Conditions of Drivers licence – Combined Drivers (i.e., Hackney and Private Hire) and/or Private Hire Drivers Licence	26

APPENDIX E - Private Hire Operators Conditions	29
APPENDIX F – Protocol for dealing with the suspension, revocation, and non-renewal of drivers’ licences	33

INDEX (CONT)	
APPENDIX G – Information sharing policy from the NR3 database with other licensing authorities	42
APPENDIX H – Emissions Policy for licensed vehicles	52
APPENDIX I – Suitability Policy for Drivers	54
Appendix J – Door and Dashboard Signs	67
Appendix K – Driver Proficiency Test	70
Appendix L – Training day for all drivers	74
Appendix M – Service Level Agreement Relating to Roadworthiness Testing of Licensed Hackney Carriages & Private Hire Vehicles in the District of Uttlesford	77

1. Introduction

- 1.1 The law relating to the Hackney carriage and private hire trades is largely contained in two statutes, the Town Police Clauses Act 1847 which is exclusively concerned with Hackney carriages and the Local Government (Miscellaneous Provisions) Act 1976 which deals with both the Hackney carriage and private hire trades. The object of the legislation is to ensure the safety and wellbeing of the public.
- 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 regarding the enforcement of conditions and the legislation.
- 1.5 Licences can take up to 28 days to be processed once all documentation relating to the application has been submitted.

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). The licence or authorisation must have been held for at least 3 years at the time of application. 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 Uttlesford District Council issue two driver's licences:

- A Private Hire Driver's Licence – this means the driver can only drive Private Hire Vehicles
- A Combined Hackney carriage and Private Hire Driver's licence. This allows drivers to drive both private hire and Hackney carriages.

Please note the drivers of these licences must pass the routes and knowledge test at the compulsory Uttlesford Training Day which will be introduced in Spring 2021.

2.3 In determining whether someone is a fit and proper person, councils are entitled to have policies. Uttlesford District Council's Suitability Policy can be found in Appendix I. It sets out the standards expected of those who apply for, or hold, licences to drive Hackney carriages and/or private hire vehicles.

2.4 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.

2.5 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.

- 2.6 An enhanced DBS check shall be undertaken upon application (either new or renewal) and all currently licensed drivers will at the point of renewal be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate. Periodically, officers of the Council will undertake an online check of the DBS Update Service to check the driver's current status. Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken. All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis if practicable for them to do so, before their current subscription ends, should they wish to continue to hold an Uttlesford Council issued driver's licence. Where an individual fails to maintain and/or renew their subscription before it ends or is unable to so subscribe, then they will be required to apply for a new Enhanced DBS Check at regular intervals the Council may in its absolute discretion prescribe and/or seek to register for the Update Service again. Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.
- 2.7 The Environmental Health Manager (Commercial) or their nominee has delegated authority to grant licences where applicants meet the Council's licensing standards. However, there will be occasions when it is felt 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 the application may be referred to the Licensing and Environmental Health Committee for determination.
- 2.8 The Environmental Health Manager (Commercial) or their nominee, in consultation with the Council's Legal Advisor and the Chair of the Licensing and Environmental Health Committee, has delegated authority to refuse a licence when the applicant does not meet the Council's licensing standards.

The Environmental Health Manager (Commercial) or their nominee can grant a licence in such cases but only if they

consider the circumstances are such that an exception to policy should be made. The Environmental Health Manager (Commercial) or their nominee may also choose to refer the application to the Licensing and Environmental Health Committee for determination.

- 2.9 The Environmental Health Manager (Commercial) or their nominee 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 Environmental Health Manager (Commercial) or their nominee there are grounds to consider that the driver may no longer be a fit and proper person. The Environmental Health Manager (Commercial) or their nominee may take such action notwithstanding the fact that the driver meets the licensing standards set out in the Suitability Policy.
- 2.10 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 in writing.
- 2.11 Where applications for licences are refused, the applicants have a right of appeal against that decision to the Magistrates Court. Details of the appeal procedure will be given to unsuccessful applicants along with the written notice of the decision, but for the avoidance of doubt, it should be made clear that in the case of a refusal the Court has no power to grant a licence.
- 2.12 The Council may search public databases to assist in determining whether applicants are fit and proper persons to hold a licence. They will upload data to the same databases and share information when appropriate and lawful to do so.
(Appendix G)
- 2.13 All new applicants must have held a full UK driving licence for 3 years. at the time of application. They also are required to pass the Council's approved driving test. **(Appendix K)**

- 2.14 Once available all drivers must pass an Uttlesford training day before being granted a licence. **(Appendix L)**

Once available the training day must be taken.

- before a licence is granted (either on first application or upon renewal)
- or within a specified time frame

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 required for a private hire operator is that the Council must be satisfied that he, she is a fit and proper person to hold such a licence. For the avoidance of doubt, an operator's licence can be held by a body corporate, i.e. a company or partnership. Again, the Council has a Suitability Policy to guide it in its determination as to whether an applicant is a fit and proper person to hold a licence. (Appendix I)
- 3.3 The standards for operators are not as stringent as are those 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.

This is an acknowledgment of the fact that the Council is not entitled to request an enhanced DBS check for operators. Only a basic check is required which will not reveal spent convictions or cautions. If the applicant is a limited company or partnership all directors or partners must undergo a basic check. It is highly unlikely therefore that spent convictions would come to the attention of the

Council. However, if such matters were to come to light the Council could have regard to them in determining whether the applicant was a fit and proper person and for the avoidance of doubt this is most likely to happen if a director or partner is also seeking to be licensed to drive.

- 3.4 The Standards for operators also ignore an individual applicant's driving record. This is because the driving record of an operator does not impact upon his or her suitability as an operator of vehicles and drivers. The exception to this policy is for offences of driving or using a vehicle without insurance. As the operator is primarily responsible for ensuring that vehicles he or she operates are properly insured, the Council takes the view that a conviction for such an offence goes to the issue as to whether that person can be said to be a fit and proper to hold an operator's licence. However, if an operator also wishes to act as a driver, then he or she would need to obtain a driver's licence, and on that application would need to meet the Licensing Standards - Drivers.
- 3.5 Paragraphs 2.3 - 2.8 above apply to operators' licences in the same way as they apply to drivers' licences.

4. Licensing of Vehicles

- 4.1 Unlike licences for drivers and operators (where the Council must grant a licence if certain criteria are met), the grant of a licence for a vehicle is discretionary.
- 4.2 The Council has a suite of policies pertaining to the types of vehicles which it is prepared to license - Licensing Standards - Hackney Carriages and Licensing Standards - Private Hire Vehicles which are attached at Appendices C, D, H and J. Whilst every case will be determined on its merits it is unlikely that the Council would license a vehicle which did not meet its Licensing Standards. Where a vehicle proprietor wishes to

license a vehicle which does not meet the standards, he or she will be encouraged instead to put forward a case for modification of the Standards. The Council has in the past agreed to modify its standards to permit licensing of vintage cars, stretch limousines, smaller vehicles for school contract use only and Smart cars.

- 4.3 In addition to the Licensing Standards for Hackney Carriage and Private Hire Vehicles, following the decision in *R. (on the application of Newcastle City Council) v Berwick-upon-Tweed BC* it is the policy of the Council not to license any Hackney carriage which will not be used predominantly in the District of Uttlesford. The authority also requires these annual declarations plus a V5 document upon renewal.
- 4.4 Proprietors of vehicles have a right of appeal against a refusal of a vehicle licence. Details of the appeal procedure will be given to unsuccessful applicants with the notice of the decision to refuse the grant of a licence.
- 4.5 The Council's policy is not to allow the dual licensing of private hire and Hackney carriage vehicles as this leads to confusion as to which authority is regulating the vehicle. As a result, if a vehicle is found to be licensed by another authority, then the Uttlesford vehicle licence will be suspended with immediate effect.

5. Exemption from the requirement to exhibit a private hire plate

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 requires that a Council must issue a private hire vehicle with a licence plate and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council.

- 5.2 The clear and visible identification of a licensed vehicle is considered a safety issue, particularly when visiting such places as airports, seaports and large town or city centers. Therefore the overriding consideration when determining any request for an exemption will be the impact upon public safety
- 5.3 Section 75 of the Act also gives a Council the discretion to grant a request for exemption from displaying the licence plate on a private hire vehicle which it licenses by way of written notice.
- 5.4 There are occasions when the requirement to display an external identification plate, and other signage as ordinarily required by the Council, may have a detrimental effect upon an operating business as some corporate customers may be deterred from using the service. There may also be legitimate circumstances where the identification of a vehicle as a licensed private hire vehicle could allow “high risk” passengers to be more readily targeted, resulting in the safety of both the passenger/s and the driver being placed at risk.
- 5.5 A clear case for the exemption must be made by the vehicle proprietor, in writing, to the Council. In determining such an application it will normally be the status of the passengers and the nature of the work that will indicate whether or not the exemption should be granted. The quality of the vehicle being used may be supportive of an application, but it will not be the sole determining factor.
- 5.6 A request for exemption shall only be considered for an individual vehicle and not for a fleet, and each request shall be considered on its own merits.
- 5.7 In order to apply for an exemption from the requirement to display identification plates and signs, the proprietor of the private hire vehicle must produce;

- A completed exemption application form and make payment of the appropriate fee.
- Documentation in support of the application evidencing that the vehicle carries out or is intended to carry out 'executive work'. *This is expected to include formal written contracts from companies and/or clients who for security or personal safety reasons would not want the vehicle to be identifiable, and a standard paragraph upon a booking form or other contract document supplied by the operator will not be sufficient evidence.*
- The previous three months of booking records for the relevant vehicle. (For new applications, unless for a replacement vehicle, three months of booking records must be provided after a provisional exemption has been granted).

- 5.8 When an exemption is granted, the Council will issue the vehicle proprietor with a written certificate of exemption. The certificate will impose the following additional conditions upon the vehicle licence;
- 5.9 The certificate must be retained within the vehicle at all times and the driver must produce it when requested to do so by an authorised local authority officer, Police constable, or passenger.
- 5.10 The private hire vehicle licence plate must be retained within the boot of the vehicle and the driver must produce it when requested to do so by an authorised local authority officer, Police constable, or passenger. The driver must be in possession of their private hire/hackney carriage driver badge at all times while working under the terms of the exemption and produce it when requested to do so by an authorised local authority officer, Police constable or passenger.

- 5.11 The vehicle proprietor must ensure there is no logo, advertisement or device on the vehicle interior or exterior which may lead members of the public to believe it was a taxi or private hire vehicle. This includes external door signs issued by the Council.
- 5.12 The driver must wear a chauffeur's uniform, business suit and tie or comply with such other dress code as may have been agreed in advance with the client. The exemption must only be used for executive hire work where there is a genuine need not to display the vehicle licence plate, and only as has been agreed prior by the Licensing Authority.
- 5.13 The vehicle proprietor is responsible for ensuring that the driver of the vehicle conforms to these conditions. The vehicle proprietor shall notify the Council in writing immediately of any change in use of the vehicle.
- 5.14 If the vehicle proprietor is found to be in breach of any of the conditions listed above, then the Council may revoke the exemption with immediate effect, and further action against the vehicle licence may be considered.
- 5.15 The exemption once granted shall, unless revoked or surrendered, continue for the duration of the private hire vehicle licence. This is considered to be up to and including the expiry date listed on the licence plate. In exceptional circumstances an exemption may be applied for part way through the period of an existing private hire vehicle licence.
- 5.16 The grant of such an exemption is in the sole discretion of the Licensing Manager. If the vehicles ceases to be used for the type of work set out in the exemption certificate then the vehicle proprietor must surrender the exemption by returning the written certificate to the Council if they no longer require such an exemption.

- 5.17 If the Council discovers the vehicle has been or is being used primarily for private hire work that is not considered to be 'executive hire', it may revoke the exemption with immediate effect and further action may be taken against the private hire vehicle licence, and/or private hire operator licence if both are the same person/s or company.

6. Conditions

- 6.1 The legislation gives local authorities power to impose conditions on licences for all vehicles, Operators and private hire drivers. The Council has adopted the following conditions:

Licence Conditions - Hackney Carriage Vehicles: **(Appendix B)**

Licence Conditions - Private Hire Vehicles: **(Appendix C)**

Licence Conditions – Drivers: **(Appendix D)**

Licence Conditions – Operators: **(Appendix E)**

- 6.2 These conditions do not replicate the legislation. Drivers, Operators and proprietors are expected to know the law as it relates to them and to observe it. Although not set out in the licence conditions, licence holders should be aware that there are a number of offences which can be committed and will be dealt with in accordance with the Council's policy with regard to enforcement set out at paragraph 6 below. These offences include:

6.2.1 Using unlicensed vehicles

6.2.2 Plying for hire (unless a Hackney carriage)

6.2.3 Using unlicensed drivers (for operators and proprietors)

6.2.4 Failing to display the licence plate on the vehicle.

- 6.2.5 Failing to produce a vehicle for inspection when required to do so (for proprietors).
- 6.2.6 Failing to notify the council that a licensed vehicle has been involved in an accident within 72 hours (for proprietors).
- 6.2.7 Failing to produce a licence for inspection when requested to do so.
- 6.2.8 Failing to wear a driver's badge.
- 6.2.9 Failing to keep records of bookings of private hire vehicles (for operators).
- 6.2.10 Giving the Council false information or omitting to give material information on an application for a licence (including an application to renew).
- 6.2.11 Failing to return a driver's badge upon request on the suspension, revocation or non-renewal of a licence.
- 6.2.12 Failing to carry an assistance dog for a disabled passenger without making an extra charge for doing so.
- 6.2.13 Overcharging (for hackney carriages).
- 6.2.14 Failure to display no smoking signs in vehicles.
- 6.2.15 Smoking in workplace vehicles.

7. Enforcement

- 7.1 The Council expects the legislation relating to the Hackney carriage and private hire trades and the conditions attached to licences to be observed and will take action in respect of any breaches. Drivers or operators who cease to meet the Council's Licensing Standards are likely to have their licences revoked.
- 7.2 The Council takes a view that these approaches are generally not suited to the Hackney carriage and private hire trades. Whilst Council officers are always willing to give general advice and assistance upon request it is not the role of the Council to provide detailed training to members of the trade in this way. Drivers, Operators and proprietors are expected to know the law applicable to them and the conditions attached to their licences.

Ignorance of the law is no defence and where there is a breach of the law or licence conditions, education and training are not an appropriate sanction. Equally where there has been a breach by a licence holder, a negotiated compliance option would not be appropriate.

- 7.3 The policy of the Council therefore is that where there is a breach of the legislation or of a condition there should normally be a sanction imposed. A sanction should be a deterrent to the licence holder and others in the trade to ensure such conduct is not repeated and the law specifically permits sanctions to be imposed at a level intended to have a deterrent effect upon others.
- 7.4 The Environmental Health Manager (Commercial) or their nominee has delegated power to suspend the licence of a driver for up to 14 days where there has been a breach of condition or there has been an allegation of an offence and in the opinion of the Environmental Health Manager (Commercial) or their nominee a prosecution would not be appropriate.
- 7.5 Without prejudice to the delegated powers and discretion of the Environmental Health Manager (Commercial) or their nominee above it is nevertheless the policy of the Council that where the matter complained of constitutes a criminal offence then the offender should usually also be the subject of a formal caution or prosecution and that a suspension would only be given as an alternative when there are exceptional mitigating circumstances.
- 7.6 With regard to breaches of condition attached to drivers' licences the Council consider that a suspension of the licence is generally an appropriate sanction. The Council notes with concern that prior to the adoption of this policy suspensions did not appear to have had a deterrent effect.
- 7.7 Suspensions will be dealt with in accordance with the Council's Protocol for Dealing with the Suspension, Revocation and Non-Renewal of Driver's Licences which is attached (**Appendix F**). However, without fettering the discretion of the Environmental

Health Manager (Commercial) or their nominee or the Licensing and Environmental Health Committee to impose a longer or shorter suspension if the circumstances of a particular case require, it the policy of the Council is that the starting point for a suspension for a first case of a breach of condition should be 5 days.

- 7.8 Where a driver has breached a condition on 2 occasions within a 3 year period or has been convicted of an offence (but his licence was not revoked as a result of such conviction) any further breach of condition should be referred to the Licensing and Environmental Health Committee or their nominee to determine whether they on behalf of the Council are satisfied that the driver remains a fit and proper person to hold a licence, or whether that licence should be revoked. On such a reference the Committee may take no action, suspend the licence or revoke it.
- 7.9 With regard to operators the Council recognises that the suspension of an operator's licence, even for a short period of time, is likely to be disproportionate. It is also likely to impact upon innocent parties as the effect of a suspension of the operator's licence is to deprive the drivers working for that operator of an income for the period of the suspension. The Council's policy is therefore that where an operator has committed an offence a suspension should not be imposed, and a prosecution should be brought even for a first offence.
- 7.10 Vehicle licences can be suspended or revoked on the grounds that the vehicle is unsafe or unfit; that the proprietor has committed an offence under the legislation, or for any other reasonable cause.
- 7.11 Vehicle licences will be suspended if they are unfit for use. If the vehicle is not put back into proper condition within the time specified in the suspension notification, then the licence will be revoked.

- 7.12 Without prejudice to the general scope of the power, a vehicle licence may be suspended, revoked or not renewed for any other reasonable cause. A non-exhaustive list of examples would include where the Council has evidence to suggest that a Hackney carriage is being predominantly used outside of the district, an exempt vehicle is not being used for the purposes set out in the exemption, or if a private hire vehicle is not being controlled by a licensed operator.
- 7.13 With regard to drivers, Operators and proprietors, where a matter has been dealt with through the criminal justice system it is the view of the Council that a suspension of the licence would rarely be suitable. Any penalty to which the offender is subject will have been imposed by the Courts and a further penalty by way of suspension (which would cause loss of income) would be inappropriate. However, the Licensing and Environmental Health Committee should consider whether in the light of a conviction or a caution the driver, operator or proprietor remains a fit and proper person to hold a licence. If the Committee is not satisfied that the driver, Operator or proprietor remains a fit and proper person then the licence should be revoked. For offences committed by proprietors the Committee should consider whether as a result of the conviction the vehicle licence should be revoked for any other reasonable cause.
- 7.14 Where there is or has been an investigation into the conduct of a driver, operator or proprietor which has not resulted in a formal caution or conviction the licence may nevertheless be suspended, revoked or not renewed if there are reasonable grounds for doing so. The Council is subject to a lower standard of proof (the balance of probabilities) than the criminal courts (beyond reasonable doubt) when dealing with factual issues. Where the fitness of a driver or operator is called into question the burden of proof is upon the licence holder to establish that he or she is a fit and proper person.

8.0 Accountability

- 8.1 The Council wishes to be transparent in the application of this policy and in particular with regard to enforcement action taken under it.
- 8.2 The Environmental Health Manager (Commercial) or their nominee will report on the number of cases in which he has exercised his delegated powers to suspend licences and the outcome in those cases at each meeting of the Licensing and Environmental Health Committee. Generally, these reports will be in writing and all meetings will have Minutes.
- 8.3 Cases dealt with by the Licensing and Environmental Health Committee may be held in private or public. The Committee is subject to the Council's Access to Information Rules which permit the exclusion of the press and public when matters relating to an identifiable individual are discussed. Where the press and public are excluded, the officer's reports are not published or otherwise accessible to the public.
- 8.4 Although the exemption can be applied it should only be used when the public interest in applying the exemption outweighs the public interest in making the information available. The Council's view is that the public have a clear interest in knowing the type of person which it is prepared to licence. Against that however individuals have rights under the Data Protection Act 1998 (no longer in place) and individuals and companies have rights under the Human Rights Act 1998. These conflicting interests need to be balanced. In general, where information is already in the public domain the cases will be dealt with at a public meeting of the Committee. There will however be cases where the right to privacy is more important than the public interest in knowing the type of person the Council may licence. Examples are where the Committee is considering suspension or revocation of a licence on medical grounds or where publication of the report would involve disclosure of spent

convictions or police intelligence. In such cases the press and public will be excluded from the meeting. In such circumstances, whilst the report will not be published minutes of the meeting giving details of the case, the decision, and the reasons for it will be published but the driver's name will not be given.

- 8.5 Where a meeting to consider individual cases is held in public the press and public will be excluded under the Access to Information Rules while the Committee considers its decision but will be re-admitted when the decision is announced.

**LICENSING STANDARDS
HACKNEY CARRIAGES & PRIVATE HIRE VEHICLES**

- 1) Types of vehicles that will be licensed:
 - a purpose-built London-style Hackney carriage (meaning such vehicle has been approved for use by Transport for London for use as a Hackney carriage), or a converted vehicle, which is capable of carrying a passenger whilst sitting in a wheelchair, providing such vehicle has the appropriate approval-type certificate; or
 - a saloon, hatchback, estate or multi-purpose people carrier capable of carrying a folded wheelchair, with at least 4 doors; or
 - a minibus capable of seating a maximum of 8 passengers excluding the driver, with at least 4 doors; or
 - an extended wheelbase vehicle modified by the manufacturer or by a specialist converter approved by the manufacturer and that has the appropriate approval-type certificate (Private Hire only); or E7; or a Smart Car (Private Hire Only).

- 2) Must comply with the Vehicle Emissions policy. **(Appendix H)**

- 3) Must be right hand drive.¹

- 4) Must be standard manufacturers colour.

- 5) The maximum number of passengers which the vehicle will be licensed to carry will be the number of seats recorded on the V5C registration document (logbook) as being suitable for carrying passengers. Where a vehicle has foldable or removable

¹ Left-hand drive vehicles will not be suitable for licensing on safety grounds. They will generally require front-seat passengers to step into the roadway to enter or exit the vehicle and the driver of a left hand drive vehicle is not in the ideal position for either pulling out or overtaking safely.

seats, for example in the boot, the decision to licence these for passengers will be made on a case-by-case basis.

- 6) To carry a manufacturer supplied or approved spare/space saver wheel, manufacturers approved temporary repair kit or to have run flat tyres.
- 7) To be fitted with an internal rear-view mirror.
- 8) To be fitted on both sides with external rear-view mirrors.
- 9) Must have dashboard and door signs displayed inside the vehicle and on the outside of the vehicle. **(Appendix J)**

APPENDIX B

CONDITIONS OF LICENCE - HACKNEY CARRIAGE VEHICLES

Proprietors of the vehicle will:

1. Keep the vehicle in a clean and well maintained condition at all times.
2. Produce the vehicle for inspection by officers of the Council or by a garage authorised by the Council to carry out inspections of Hackney carriages when requested to do so.
3. Display in the vehicle in a position which is clearly visible to passengers:
 1. The number of the licence
 2. The number of passengers prescribed by the licence
 3. The Table of Fares currently in operation
 4. A statement that "Complaints should be referred to the proprietor in the first instance and, if necessary, to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or (01799) 510510 quoting the driver and/or vehicle licence number".
 5. The name of the proprietor.
4. Display at all times the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle
5. Ensure that the roof "TAXI" sign is displayed at all times.
6. Ensure the roof sign is illuminated when the vehicle is plying for hire.
7. If the Hackney Carriage vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a

copy of the individual's Hackney Carriage driver's licence at all times, when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the licence in that register, records to be kept for a minimum of 6 months.

8. Upon being requested to do so, to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Environmental Health Manager (Commercial) or their nominee is offensive, harmful to health or unsuitable.
9. In the event that a vehicle is more than 5 years old, to produce the vehicle to a Council authorised tester for inspection at 6 monthly intervals.
10. Ensure that the vehicle is fitted with a taxi meter visible to passengers recording the fare payable in accordance with the Table of Fares which shall from time to time be approved by the council or (if lower) the Table of Fares charged by the driver.
11. Notify Licensing in writing of any convictions recorded against him/her or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction along with the company itself.
12. Notify Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

APPENDIX C

CONDITIONS OF LICENCE - PRIVATE HIRE VEHICLES

Proprietors of the vehicle will:

1. Keep the vehicle in a clean and well maintained condition at all times.
2. Produce the vehicle for inspection by officers of the council or by a garage authorised by the council to carry out inspections of private hire vehicles when requested to do so.
3. Display in the vehicle in a position which is clearly visible to passengers:
 1. The number of the licence.
 2. The number of passengers prescribed by the licence.
 3. A statement that "Complaints should be referred to the proprietor in the first instance and, if necessary, to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or (01799) 510510 quoting the driver and/or vehicle licence number".
 4. The name of the proprietor.
4. Display at all times, the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle (unless an exemption has been granted by the authority).
5. If the Private Hire vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a copy of the individual's Private Hire driver's licence at all times, when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the

licence in that register, records to be kept for a minimum of 6 months.

6. Upon being requested to do so to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Environmental Health Manager (Commercial) or their nominee is offensive, harmful to health or unsuitable.
7. In the event that a vehicle is more than 5 years old, to produce the vehicle to a council authorised tester for inspection at 6 monthly intervals.
8. Notify Licensing in writing of any conviction recorded against him or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction.
9. Notify Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

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

APPENDIX D

CONDITIONS OF LICENCE - HACKNEY CARRIAGE AND/OR PRIVATE HIRE DRIVERS' LICENCES

Drivers will:

1. Be polite
2. Wear smart clothing. The following are deemed to be unacceptable:
 - i) Bare chests;
 - ii) Clothing or footwear which is unclean or damaged;
 - iii) Clothing printed with words, logos or graphics which might offend;
 - iv) Sports shirts e.g. football, rugby or cricket tops or track suits;
 - v) Footwear that prevents the safe operation of the licensed vehicle;
3. Attend to collect pre-booked hirers punctually unless prevented from doing so by some unforeseeable cause.
4. Give reasonable assistance to passengers with luggage.
5. Carry luggage safely and securely.
6. Not to eat or drink in the vehicle during the course of a hiring.
7. Not play any radio, tape recorder, CD/DVD player or similar device, during the course of hiring, without the hirer's permission.

8. Not use equipment of the type referred to in paragraph 7 above so as to cause a nuisance either to passengers in the vehicle or to others.
9. Take all reasonable steps to ensure the safety of passengers.
10. Not carry more than the number of passengers specified in the licence for the vehicle.
11. Not carry any passengers other than the hirer without the hirer's permission.
12. Not carry any animals during the course of a hiring other than animals belonging to the hirer.
13. Ensure any animals carried in the vehicle are kept in such a position so as not to be a distraction to the driver or to cause a danger or nuisance.
14. Not to demand from a hirer a fare greater than the metered rate or has previously been agreed with the hirer (applicable to the use of private hire vehicles and hackney carriages carrying out journeys that do not start and end in the District).
15. Issue written receipts for fares paid when requested to do so.
16. Search the vehicle at the end of each hiring for lost property.
17. Take reasonable steps to return lost property promptly to its owner and if this cannot be done to report the matter to the police as soon as reasonably practicable and in any event within 24 hours.
18. Carry a copy of these conditions at all times, when driving a licensed vehicle and produce them for inspection upon request by a hirer, police officer or officer of UDC.

19. 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 convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the drivers licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice.
 - d. Any investigations being carried out into the activities of the driver by the police or a regulatory authority of which the driver is aware within 7 days of the driver becoming aware of the investigation.
 - e. 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.
20. The driver shall not at any time smoke tobacco or any other like substance or use electronic cigarettes or similar in a licensed vehicle.
21. The driver shall when hired to drive to any particular destination, proceed to such destination by the shortest possible route unless otherwise agreed by the customer.

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

APPENDIX E

CONDITIONS OF LICENCE - PRIVATE HIRE OPERATORS

1. The operator shall keep a register of all private hire vehicles which the operator operates containing the following information:
 - a) The make and type of vehicle
 - b) The vehicle registration number
 - c) The name and address of the owner of the vehicle
 - d) The private hire vehicle licence number
 - e) The address where the vehicle is kept when it is not working.

2. The operator shall keep a record of every booking of a private hire vehicle invited or accepted on behalf of the operator including:
 - a) The time and date of the hiring
 - b) The name of the hirer
 - c) How the booking was made (for example, via App, Telephone, Email, etc.)
 - d) The start point of the journey and the agreed pick up time
 - e) The destination of the journey
 - f) The fare paid
 - g) The private hire licence number of the vehicle
 - h) The name of the driver and the driver licence number

3. The register and records referred to in conditions 1 and 2 above can be kept in either paper format or electronically. The chosen format should permit inspection with the minimum of delay, and in any case within 24 hours, in response to a request made under section 56(3) Local Government (Miscellaneous Provisions) Act 1976. Where records are kept in electronic format facilities must be available for records to be printed onto paper and to be made available to an authorised officer of the authority or a Police Officer within 24 hours.

4. Records required by these conditions must be retained for at least one year.
5. The operator must notify Licensing in writing within 7 days of:
 - a) Any change of his or her residential address.
 - b) Any change of his or her business address.
 - c) Any additional addresses within or outside of the District from which the operator intends to carry on the business as a licensed private hire vehicle operator during the continuation of the licence.
6. The operator shall provide a prompt and efficient service to members of the public and in particular:
 - a) Ensure that unless delayed or prevented by some cause outside the control of the operator, vehicles attend appointments punctually.
 - b) Any premises to which the public has access for the purposes of booking or waiting are clean, adequately heated, adequately ventilated and well lit.
 - c) Ensure that any waiting area has adequate seating facilities.
7. The operator shall notify the UDC Licensing Team of any complaints made against the operator or any driver used by the operator within two working days of receipt of the complaint. This includes complaints received from third parties and relates to any journey whether a hiring by the public or from contract work. Any response to a complaint should be forwarded to Licensing when made.
8. Ensure that public liability insurance is in place for any premises

to which the public have access and provide a copy to the UDC Licensing Team.

9. Upon request from the licensing authority operators are required to provide the details of the licensed drivers and vehicles that are operating under their operator's licence:
 - a) Name and licence number of drivers; and
 - b) Registration number and licence number of vehicles.

10. Upon request from the licensing authority operators are required to provide the details of all contracts which the operator fulfils which start and finish outside of the District:
 - a) Name and address of the person or company who the contract is with; and
 - b) Starting point for journey; and
 - c) Destination of the journey; and
 - d) Registration and licence number of the vehicle carrying out the contract.

11. The operator is required to ensure that all persons that have access to their records, bookings and contracts have:
 - a) A basic disclosure check and completes a statutory declaration in relation to previous offences before being commencing employment; and
 - b) Completes a new basic disclosure at the time when the operator's licence is renewed.

12. Persons with access to operator's records, bookings and contracts, whether directly employed or otherwise, must satisfy the suitability standards that the authority applies to applicants for Private Hire Operator's licences. The operator is to keep records of such checks.

13. Where a premise is rented or leased within the District for the purposes of being an Uttlesford Licensed Private Hire Operator,

then a copy of such agreement must be produced upon application for the Operator's licence.

NOTE: The authority takes the view that you must have premises within the District to be granted an operator's licence by UDC. Therefore, an operator's licence expiry date will not be granted for longer than the time period that you can evidence you have rented or leased premises for.

**OPERATORS WHO FAIL TO COMPLY WITH THESE
CONDITIONS MAY HAVE THEIR LICENCE SUSPENDED OR
REVOKED**

APPENDIX F

PROTOCOL FOR DEALING WITH THE SUSPENSION, REVOCATION AND NON-RENEWAL OF DRIVERS' LICENCES

Introduction

Uttlesford District Council licenses drivers of hackney carriages under Section 46 Town Police Clauses Act 1847 and also licenses private hire vehicle drivers under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. Under Section 61 of the 1976 Act both hackney carriage and private hire vehicle driver's licences may be suspended or revoked, or the local authority may refuse to renew the same on the grounds that since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence or has been convicted of an offence under or has failed to comply with the provisions of either the 1847 Act or the 1976 Act. A licence may also be revoked or suspended or may not be renewed for any other reasonable cause.

Any other reasonable cause

This expression is not defined in the legislation. However, it is not limited to matters which arose after the grant of the licence. Examples of what may be considered any other reasonable cause' would include (but are not limited to):

- Where information comes to light which suggests that had the information been known at the time of application, a licence would not have been granted or renewed.
- Where a driver ceases to meet the council's licensing standards.
- Where the driver has breached a condition of his or her driver's or vehicle licence.

- Where the driver has committed a minor offence for which he or she is not prosecuted.
- Where information comes to light which suggests that the driver may no longer be a fit and proper person to hold a licence.

Appeals

Whenever a decision is taken to suspend, revoke or not to renew a licence or where conditions are imposed upon a licence that the applicant has a right of appeal to the magistrates' court². Normally a decision to suspend, revoke or not to renew a licence takes effect 21 days after the driver has been given notice of the decision. A driver may continue to drive during that period and if he or she lodges an appeal within that time may continue to drive until such time as the appeal has been disposed of or has been abandoned. However, when a licence is suspended or revoked and it appears to the council that the interests of public safety require the suspension or revocation to have immediate effect and notifies the driver accordingly, then whilst the driver may still appeal, he or she may not drive once he or she has been notified of the decision.

Delegated Powers

The Environmental Health Manager (Commercial) or their nominee and those authorised by him have delegated powers to deal with certain types of case. These are as follows:

- 1) When the Environmental Health Manager (Commercial) or their nominee in consultation with an Uttlesford Legal Advisor and Chair of the Licensing and Environmental Health Committee believes that a licence should be suspended with immediate effect on grounds of public safety they may do so. The Environmental Health Manager (Commercial) or their nominee will arrange for a special meeting of the Licensing and

² Drivers have the right of appeal to the Magistrates Court against Uttlesford District Council's decision to refuse/revoke to grant a HC/PHV driver's licence. However, in the case of refusals or non renewals the Court does not have power to grant a licence. Only a licensing authority may do so. All the Court is able to do is review the Council's decision in the light of the Council's policies and national licensing standards, and if the Court is satisfied that the Council acted reasonably then it will dismiss the appeal. In such circumstances the Council would be entitled to an order for costs and it is our practice to seek such an order.

Environmental Health Committee to be convened as soon as is reasonably practicable for the purpose of determining whether the suspension should be confirmed.

The Environmental Health Manager (Commercial) or their nominee also has power to suspend licences for up to 14 days where there has been a breach of condition or where in his or her view a prosecution would be disproportionate.

- 2) The Environmental Health Manager (Commercial) or their nominee also has the power to revoke where a driver has lost their DVLA licence or is medically unfit to drive within the council's licensing standards and is unlikely to recover sufficiently to resume driving prior to the expiration of their licence. In such circumstances that power will be exercised since the driver is not legally entitled to drive.
- 3) The Environmental Health Manager or nominee can in consultation with an Uttlesford Legal advisor and with the Chair of the Licensing and Environmental Health Committee can revoke a licence with immediate effect if they receive information that questions a driver's status as to being a 'fit and proper' person.

Any other decisions concerning the revocation, suspension or non-renewal of a driver's licence must be referred to the Licensing Committee. In addition, the Environmental Health Manager (Commercial) or their nominee may refer cases at his discretion to the Committee instead of dealing with them under his delegated powers.

Procedure - Decisions under delegated powers

Where the Environmental Health Manager (Commercial) or their nominee is considering exercising his delegated powers the following procedure will apply:

- 1) The Environmental Health Manager (Commercial) or their nominee or those authorised by him will write to the driver requesting that he or she make an appointment to meet with the relevant authorised officer. The letter will contain the following:
 - a) Details of the allegations which have been made against the driver or other matters which may lead to the suspension of his licence.
 - b) A statement that the authorised officer may consider suspending the driver's licence for up to 14 days.
 - c) A statement that the driver may be accompanied by his or her operator, a trade union representative or a friend.
 - d) A statement that in the event that the authorised officer decides to suspend the licence that there is a right of appeal.
- 2) The meeting between the authorised officer and the driver and his or her representative (if present) shall take the form of a discussion within which the authorised officer will seek the driver's comments upon the allegations made against him or her. If the authorised officer considers it necessary to make further enquiries, he will explain this to the driver and adjourn the meeting to enable such enquiries to be made. In the event that following such enquiries the authorised officer decides that no further action is required (or that the only action which may be required is that which has been discussed with

the driver at the meeting) then the authorised officer will write to the driver accordingly. In any other case the authorised officer will reconvene the meeting.

- 3) At the conclusion of the meeting or any adjournment thereof, the authorised officer will inform the driver whether or not he considers the allegations have been made out and in the latter event what sanction (being a suspension of not more than 14 days) the authorised officer intends to impose.
- 4) In the event the authorised officer decides that the licence should be suspended the authorised officer will inform the driver of his or her right of appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
- 5) The authorised officer will write to the driver:
 - a) Confirming the sanction.
 - b) Giving reasons for a. and b. above,
 - c) Giving details of the appeal procedure and the fee payable to the court on appeal.
 - d) Unless the suspension is taking immediate effect on the grounds of public safety, informing the driver of his or her right to drive during the period within which an appeal may be lodged, if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

- 6 Members of the Committee will be notified at ordinary meetings of the suspensions undertaken by authorised officers.

Procedure - Decisions by the Licensing Committee

Where a decision would fall outside of the delegated powers of the Environmental Health Manager (Commercial) or their nominee where the Environmental Health Manager (Commercial) considers that his delegated powers would not be sufficient to deal with an allegation or that for other reasons the decision should be taken by members, then the matter will be determined by the Licensing and Environmental Health Committee and the following procedures will apply:

- 1) 3 members of the Licensing Committee will be requested to attend a meeting of the Committee for the purpose of considering the allegations.
- 2) Usually, the committee meetings will be held in public although consideration of matters which would not otherwise be in the public domain (e.g. consideration of a driver's medical condition, details of spent convictions etc.) would require the committee meeting to be held in private.
- 3) The driver will be given written notice of the time and date of the committee meeting at least 10 working days prior to the meeting taking place and at the same time will be provided with a copy of the officer's report which will be presented to the committee along with any supporting documents.
- 4) The letter notifying the driver of the time and date of the meeting shall also inform him or her of his or her right to be represented at the meeting by his or her operator, a trade union representative or a friend.

- 5) Having considered the officer's report, any evidence which the officer wishes to tender in support of his report (which shall have been disclosed in advance to the driver), any evidence from the driver, any evidence from witnesses called by or on behalf of the driver and any submissions made by the driver and/or his or her representative, the committee will retire to consider its decision and will upon returning announce its decision to the driver.
- 6) The committee shall give verbal reasons for its decision and in the event that the committee decide to suspend, revoke or not to renew a licence the lead officer of the committee shall explain to the driver his or her right to appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
- 7) As soon as is reasonably practicable after the committee meeting, the lead officer to the committee shall write to the driver confirming:
 - a. the committee's decision
 - b. any sanction imposed.
 - c. the committee's reasons for a. and b. above.
 - d. giving details of the appeal procedure and the fee payable to the court on appeal.
 - e. informing the driver of his or her right to drive during the period within which an appeal may be lodged unless the suspension is taking immediate effect on the grounds of public safety. And if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

Principles to be applied in decision making

The express aims of the licensing regime are the safety and comfort of the public. Safety extends not only to fare paying passengers but also to other road users and pedestrians. When considering the grant of a licence a local authority may not grant a licence to anyone unless they are satisfied that the applicant is a fit and proper person to hold a licence. Where the committee cease to be satisfied for any reason that a driver is a fit and proper person it follows that he or she should not be in possession of a licence and in those circumstances the licence will either be revoked or not renewed on application. There will however be other circumstances where there has been some action or inaction on the part of a driver which has not rendered the driver an unfit person but nevertheless warrants a sanction both as a mark of disapproval of the driver's conduct and as a deterrent to others. In such circumstances, a suspension of the licence would be appropriate. In determining whether to suspend a licence and if so in determining the length of suspension, regard will be had by the Licensing Committee or by the authorised officer in the exercise of delegated powers to the following factors:

- 1) Whether the driver fully admitted the matter alleged or whether he or she put forward explanations which were wholly unsustainable.
- 2) The seriousness of the matter complained of.
- 3) The driver's history.
- 4) Any mitigation put forward by the driver or his or her representative.

APPENDIX G

Policy for Uttlesford District Council in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3

In this policy, the 'first authority' refers to a licensing authority which has made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

Overarching principles

This policy covers the use that Uttlesford District Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licences. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past. Uttlesford District Council has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

⁸ Throughout this policy reference is made to 'taxi drivers licence.' This generic term covers a Hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Uttlesford District Council will make a search of NR3. The search will only be made by an officer who has been trained in the use of NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details. Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the applications.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated¹⁰. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined¹¹.

The data will be held securely in accordance with Uttlesford's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with Uttlesford District Council's general policy on the erasure and destruction of personal data.

9 The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

10 Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see *The Criminal Procedure Rules R35.2*). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

11 Decisions of the local authority, Magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when permission has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim first arose" (see *The Civil Procedure Rules R54.5*). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

II. Making a request for further information regarding an entry on NR3¹²

When an application is made to Uttlesford District Council for the grant of a new, or renewed taxi driver's licence, then officers will check NR3. Officers will make and then retain a clear written record¹³ of every search that is made of the register.

This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If officers discover any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details for further information about that entry. That request will also include details of this Uttlesford's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy.

It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

III. Responding to a request made for further information regarding an entry on NR3¹⁴

When Uttlesford District Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years¹⁵.

Uttlesford officers will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request. Uttlesford District Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

12 This section of the template policy relates to the submission of a request by the second authority.

13 This can be electronic, rather than “pen and paper” hard copy.

14 This section of the template policy relates to the handling by the first authority of a request for information for the second authority.

15 This record can be combined with the written record of the action taken as a result of the request.

If Uttlesford District Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed¹⁶. This will be determined by an officer who has been trained to discharge this function. Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Uttlesford District Council will not disclose information relating to every entry. Each application will be considered on its own merits. Uttlesford District Council will disclose information relating to a revocation or refusal to grant a driver's licence in accordance with the timescales contained within our policy on deciding the suitability of applicants and licensees in the Hackney and Private Hire Trades.

Where the reason for refusal to grant or revocation relates to a conviction which is within the timescales determined in those guidelines, the information will be disclosed.

Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy. Any information about convictions will be shared in accordance with this policy under GDPR; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law. The officer will record what action was taken and why. Uttlesford District Council will make and then retain a clear written record¹⁸ of every decision that is made as a result of a request from another authority. This will detail:

- a) the date the request was received
- b) how the data protection impact assessment was conducted and its conclusions
- c) the name or names searched
- d) whether any information was provided
- e) if information was provided, why it was provided (and details of any further advice
- f) obtained before the decision was made)
- g) if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- h) how and when the decision (and any information) was communicated to the requesting authority.

16 If Uttlesford District Council is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of Uttlesford District Council and the 2nd authority.

18 This can be electronic, rather than "pen and paper" hard copy.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

IV. Using any information obtained as a result of a request to another authority

When Uttlesford District Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications. This Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above). Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this Council will make in relation to the application.

Appendix G - information disclosure form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

(For completion by requestor authority)

Name of licensing authority requesting information:

Requestor authority reference number:

Name of licensing authority from which information is sought:

.....

Name of individual in respect of whom the request is made:

.....

Decision in respect of which the request is made:

Refusal/revocation

Other details for this record:

Address:

Driving licence #:

NI #:

Reference number:

Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application

and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document.

Signed:

Name:

Position:

Date:

(For completion by providing authority)

Further information to support the decision recorded on NR3 in respect of the above named individual.

Declaration by providing authority

The authority hereby confirms that it has conducted a data protection impact assessment. It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements

Signed:

Name:

Position:

Date:

Licensed Vehicle Emissions Policy

The purpose of this policy is to ensure taxis are as safe, reliable and comfortable as possible while at the same time minimising emissions. The policy aims to have a positive impact on emissions as it is recognised that the age of vehicles and the exhaust emission specification are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the taxi and private hire fleet, standards relating to the exhaust emissions have been introduced in addition to the requirements regarding the age of vehicles.

Emission Standards

First Licence Application:

- DIESEL vehicles must meet or exceed Euro 6 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 5 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 6 emissions standards from **01/04/2021**
- WHEELCHAIR ACCESSIBLE vehicles must meet or exceed Euro 6 emissions standards from **01/04/2025**

Licence Renewal:

- From **01/04/2022** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 5 emissions standards
- From **01/04/2023** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 6 emission standards
- From **01/04/2025** any wheelchair accessible vehicle due for its annual licence renewal must meet or exceed Euro 6 emissions standards

Where vehicles do not meet the relevant emissions criteria, the proprietor may:

- Have the vehicle adapted / modified to meet the standard and provide evidence of this
- Change the fuel that is used to the cleaner alternative, such as bio diesel, or;
- Replace the vehicle with one that meets the emission standard.

Notwithstanding that each application will be considered on its own merits.

When will the different criteria be applied?

If the licence of a currently licensed Hackney Carriage or Private Hire vehicle is allowed to **EXPIRE** by its proprietor then any subsequent application will **NOT** considered as a renewal.

This means that where an existing vehicle licence expires, a subsequent application for a licence for that vehicle will be treated as a first time application and the standards and criteria relating to first time applications will be applied.

For the avoidance of doubt, when a new vehicle has an existing plate transferred onto it the vehicle will be considered under the criteria of a vehicle being licensed for the first time.

Low emission and electric vehicles

The Council encourages the uptake of low emission and electric vehicles in the District. The Authority will seek to examine the feasibility of introducing schemes which will help improve the charging network and aid drivers in testing and purchasing electric vehicles.

Suitability Policy

Appendix I

From the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades 2018

“The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don’t. Therefore, we must, and do, rely on the licence as the warranty of the driver’s safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty.

The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one’s driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise".

Philip Kolvin QC

April 2018

This policy emphasises that any circumstance relating to the applicant or licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to applicants and licencees as to how Uttlesford District Council will approach the important task of making determinations about the safety and suitability of those that seek to obtain a licence to work in the Hackney Carriage and Private Hire Trade.

Chapter 1: Introduction

- 1.1 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.2 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

¹ Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence

² [2007] 1 WLR 2067

- 1.3 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.4 There is currently no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision, so it is a matter for Uttlesford District Council to decide.
- 1.5 This document is intended to provide guidance on how we will determine suitability, taking into account the character of the applicant or licensee. In particular, it considers how

regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.

- 1.6 A licensing authority policy can take a 'bright line approach' and say "never", but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².
- 1.7 The otherwise good character and driving record of the subject of the decision will not be considered as exceptional circumstances.
- 1.8 Simply remaining free from conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 1.9 This Policy contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

Chapter 2: Guidance on Determination

- 2.1 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 2.2 It is important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 2.3 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 2.4 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.

- 2.5 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 2.6 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use this policy as an indication of the approach that should be taken.
- 2.7 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority will consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 2.8 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence or a private hire driver's licence (or a combined licence driver's licence) are identical, they are considered together.
- 2.9 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 2.10 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 2.11 In relation to single convictions, the following time periods should elapse after completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

- 2.12 Where an applicant has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they **will not be licensed**.

Exploitation

- 2.13 Where an applicant has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they **will not be licensed**. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

- 2.14 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until **at least 10 years** have elapsed since the completion of any sentence imposed.

Possession of a weapon

- 2.15 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will

not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Sex and indecency offences

- 2.16 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, **a licence will not be granted.**
- 2.17 In addition to the above, the licensing authority **will not grant a licence** to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

- 2.18 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Drugs

- 2.19 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until **at least 10 years** have elapsed since the completion of any sentence imposed.
- 2.20 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until **at least 5 years** have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

- 2.21 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed or from conviction (whichever is longer).

Motoring convictions

- 2.22 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.
- 2.23 For licence holders who have accumulated 9 or more points on their DVLA drivers licence they are required to pass the Council approved driving test. If this is not done within 6 calendar weeks of the points being imposed then the taxi drivers licence will be suspended until the driver has successfully undertaken the test. Such testing will be at the licence holders expense.
- 2.24 No driver will be allowed to hold a taxi drivers licence if they have 12 or more current points on their DVLA licence.
- 2.25 In cases where the courts have imposed a disqualification in respect of a DVLA drivers licence an application for a drivers licence will not be granted until **at least 7 years** have elapsed following the reinstatement of that licence. Where a person has had more than one period of disqualification then the application will be refused.

Drink driving/driving under the influence of drugs/using a hand-held telephone or handheld device whilst driving.

- 2.26 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 2.27 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 2.28 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until **at least 5 years** have elapsed since the completion of any sentence imposed or the date on which the number of points on the DVLA licence dropped below 7.
- 2.29 A major traffic or vehicle related offence is one which is not covered above and also, any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until **at least 7**

years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

2.30 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Vehicle use offences

2.31 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Private Hire Operators

2.32 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

2.33 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

2.34 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the

operator themselves. This can be affected by means of the individual staff member being required by the operator to obtain a basic DBS certificate and to make a statutory declaration. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.

- 2.35 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

- 2.36 Vehicle proprietors (both Hackney carriage and private hire) have two principal responsibilities.
- 2.37 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 2.38 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 2.39 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 2.40 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Existing Licence holders

2.41 As public trust and confidence in the overall safety and integrity of the system of taxi licensing is vital, where a licence holder has received a conviction for any category of offences detailed above, their licence(s) **will be revoked**.

Acknowledgements

This policy is based on the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades released in 2018. Uttlesford District Council would like to acknowledge the contribution made by all those involved in creating the document which helps Local Authorities to have robust policies in relation to suitability.

Door and dashboard signs

Interior Markings

From 2021 all new drivers will display an internal driver identification card in the vehicle on the nearside of the windscreen in an unobstructed and conspicuous position so that passengers may see it. In the case where a vehicle or vehicles have multiple drivers, the driver must remove their identification card when not driving that vehicle and place it back in the vehicle when they do. The driver shall not conceal the driver identification card from public view or deface it.

TEMPORARY REPLACEMENT PRIVATE HIRE VEHICLES

The temporary replacement vehicle would have to meet all the same requirements and an identical process to licence the temporary vehicle would be followed as for a permanent change of vehicle this include the display of all door and interior signs.

NOTE: Failure to comply with this requirement will result in the automatic suspension of the vehicle or drivers licence until such time as evidence is produced that confirms that the above has been adhered to.

Specific Exemptions

The Local Government (Miscellaneous Provisions) Act 1976 requires that a Council must issue a private hire vehicle with a licence plate and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council. The Act also gives a Council the discretion to grant a proprietor a dispensation from displaying the licence plate on their licensed private hire vehicle. Each application for a dispensation will be considered on its own merits. The overriding consideration

will be public safety. The clear identification of a licensed vehicle is considered a safety aspect, particularly when visiting such places as airports, seaports and the centres of large towns.

There are some exemptions to the above as vehicles used for carrying out specific work such as executive and/or chauffeur work may be authorised not to display the Council official door stickers and licence plate on the outside of the vehicle.

Dispensations will not be granted as a matter of course. A clear case for the dispensation will have to be made by the proprietor, in writing, to the Licensing Service.

In determining an application, it will normally be the status of the passenger and the executive nature of the work that will indicate whether or not the dispensation should be granted. The high quality of the vehicle being used will be supportive of an application but will not be the sole determining factor.

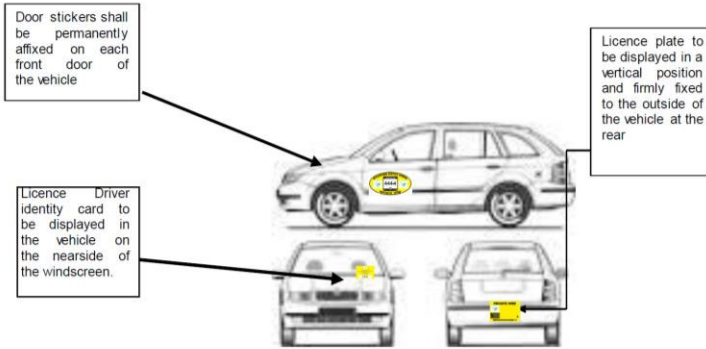
Surrender of Licence

If the proprietor ceases to use the vehicle for the purpose for which it is licensed, they shall formally surrender the licence in writing and return the plate and door stickers, which remains the property of Uttlesford Council.

Current Signage

Plates and badges must be placed like this. At renewal, if there is advertising already on the front driver and passenger doors then they may be placed on the rear doors. Any new licensed vehicle must have them on the front passenger and driver door as indicated:

GUIDANCE ON POSITIONING OF LICENCE PLATE, DOOR STICKERS AND LICENCE DRIVER IDENTIFICATION CARD



Driving Proficiency Test

1. All new applicants for driving licences to be required to pass the Council's approved driving test.
2. Applicants to have held a Full UK Drivers Licence (or equivalent) for a minimum of 3 years at the time of application.
3. Licence holders whose ability to drive the public safely has been brought into question by:
 - I. the accrual of penalty points on their DVLA licence (figure stipulated in the authorities Suitability Policy); or
 - II. another means (such as a series of complaints, etc,) to pass the Council's approved driving test within a fixed period (stipulated in the authorities Suitability policy) or face suspension of their driver's licence until such time as they successfully pass the test.

New driver training and testing

1. New applicants for driver's licences attend a full day's training course to include training in customer service, driver safety, relevant legislation, disability awareness, safeguarding and other key information required to be a competent and safe driver.
2. The training day will include a test of that knowledge for both dual/combined driver and private hire driver applicants. Applicants for dual/combined driver licences will be subject to an additional geographic test of their knowledge of the District as they are available for immediate hire.
3. Applicants will be provided with access to a comprehensive handbook at the time of booking onto the course as a study aid prior to the course and a quick reference guide to keep once they are licensed. The content the handbook will only be finalised before the course is implemented.
4. As stated above all applicants would receive the same training however the testing would differ slightly in that applicants for a private hire drivers licence would not have to sit a geographical knowledge test. All the other tested elements would remain the same:
 - Rules and regulations
 - Highway code
 - Basic arithmetic
5. The questions would be a mix of multiple choice and written answers allowing the authority to assess the ability of candidates to understand and write written English.

Similarly, the training requires applicants to interact with each other and the trainer which will be a test of their ability to speak and understand English language.

The proposed content of the course to include training in the following elements but is subject to change to UDC's specification:

Customer Service

- The benefit to your business of good customer service
- The impact on the trade and other parts of the business (operators) of bad service
- What constitutes good customer service in a taxi or private hire vehicle?
- The current taxi and private hire market (apps etc) and how this impacts upon consumer choice and expectation
- Practical examples of good customer service
- What to do if a customer asks you to do something that is wrong or illegal
- Is the customer always right?
- How following rules and regulations helps to reinforce good customer service?
- (wearing of badges, helping with luggage etc)
- Customer service statistics (examples from business and surveys that show how customers react to good and bad service)

Rules and Regulations

A thorough journey through all rules and regulations including:

- How and where to stop safely
- How to correctly identify a passenger

- The risks of misidentifying a passenger (plying, insurance, driver safety, bad customer service)
- Seatbelts
- Smoking
- Signage
- Luggage
- Confirming the route
- Meter use
- Receipts
- Dealing with customer requests (windows, music etc)
- Payment
- Assisting with driver details in the event of the customer wishing to make a complaint.

Driver Safety and Reporting Crime

- CCTV
- Safety Screens
- Credit and Debit card machines
- The law and how this protects you (non-payment of fares, assault, abuse)
- How to report an incident and how to ensure it is correctly investigated
- Civil claims for unpaid fares
- Criminal offences
- Practical tips (driving at night, keeping doors locked, windows up etc)
- Current trends and risks to drivers

Safe-Guarding

- How to spot the signs of exploitation in general.
- What this means for taxi and private hire drivers specifically (training is tailored to this trade rather than generic 'safe-guarding' training)
- Real examples of incidents to work through and give opinions and thoughts on Child Sexual Exploitation – definitions and signs, age of consent, the law concerning human trafficking
- Extremism – definitions and signs, the dangers posed by all forms of extremism
- Modern Slavery – definitions and signs, the law concerning human trafficking
- County Lines (drug trafficking) – definitions and signs, children particularly at risk.
- The warning signs.
- How to report concerns
- What happens to your information
- Keeping yourself safe when assisting others

Disability and Equality Awareness

Split in to three parts – the law, business benefits and practical assistance

The law covers:

- The Equality Act 2010
- What equality means
- Civil and Criminal elements of the Act
- Reasonable Adjustment and what this means for drivers
- The risks of non-compliance (fines, criminal offences)

Business benefits cover:

- The numbers of disabled passengers and types of disability
- The growing market and the economic reasons behind this growth
- The market specific to Uttlesford
- The spending power of the disabled community
- The growth in other issues such as mental health and dementia and how this will impact on the trade
- County Council school contracts

Practical assistance covers:

- Assisting wheelchair users
- Language to use
- Language to avoid
- Sighted Guiding
- Assistance for passenger with learning differences
- Assistance for passengers who are autistic
- Assistance Dogs and other dogs that assist but are not recognised in law
- Dementia, dementia friendly cities and the future of safeguarding vulnerable adults

APPENDIX M

Service Level Agreement Relating to Roadworthiness Testing of Licensed Hackney Carriages & Private Hire Vehicles in the District of Uttlesford

This document outlines the level of service expected by Uttlesford District Council (the Council) from any Provider wishing to carry out the mechanical and compliance testing of current and prospective Hackney Carriage (HC) and Private Hire (PH) Vehicles in order to ascertain a) their fitness for use as public service vehicles and b) their conformity with the Council's HC and PH conditions.

The Council will ordinarily only consider applications from Providers located inside the Uttlesford District. Where excess demand in the Hackney Carriage/Private Hire trade necessitates consideration of other nearby testing stations, then applications may be considered from providers located within a 5 mile radius from the District boundary.

Any Provider applying to become an 'authorised testing station' of the Council must read, understand and agree to the requirements within this document. The Provider will be notified in writing in advance of any alteration or amendment to this agreement which may be necessary as a result of any policy changes.

The Service

The Provider agrees to;

- **Carry out inspections of motor vehicles to ensure they meet the standards of fitness as set out in the current; (a) Vehicle Inspectorate MOT Inspection Manual, (b) Vehicle Compliance Testing Manual as issued by the Council for HC and PH vehicles, and, (c)**

HC and PH vehicle conditions and licensing standards as set out in the Council's Licensing Policy.

- To provide the Council with a documented list showing the names of members of staff who are proposed to undertake compliance tests held under this agreement. This list must be provided upon application and promptly updated as and when any changes in relevant staff occur. This information must be provided to the Council prior to those changes taking effect other than in exceptional circumstances.
- **Ensure that no one other than a qualified or accredited class 4 MOT tester who has been identified as such on the application form undertakes compliance tests on behalf of the Council.**
- Carry out compliance tests within five working days of a request by the proprietor of a vehicle, and to endeavour where possible to accommodate short notice requests within a minimum of 48 hours.
- **Contact the Council's Licensing Team immediately upon the failure of any vehicle to satisfy the requirements of the compliance test providing a copy of the compliance test sheet outlining the reasons for failure, excepting only when the failed item/s have been rectified and passed before the vehicle leaves the testing station site.**
- Provide the vehicle proprietor with the compliance test sheet immediately upon completion of the test, and to send a copy via email to the Council by the conclusion of the day in which the test was carried out.
- **Take and supply the Council with legible time stamped electronic photographs of the vehicle while at the testing station showing both the front and rear thereof, including registration plates. These are to be provided alongside the compliance test sheet. Where a vehicle is failed for any cosmetic reasons, a photograph evidencing this shall also be provided.**
- Have a CCTV surveillance system in good working order covering internal and external areas, and to make video

footage available upon request by authorized officers of the Council.

- **Ensure and be able to demonstrate that any tester who undertakes the testing of wheelchair accessible vehicles (WAVs) and their restraints, ramps and fittings, is suitably trained to do so.**

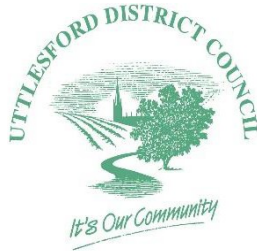
Management Responsibilities of the Provider

The provider will:

- **Inform the Council immediately in writing of any change to the operation of its business including (but not limited to); proposed sale or transfer of the Company or assets, bankruptcy, closure or enforcement action by the DVSA.**
- Notify the Council of any change to its vehicle testing station Risk Rating following inspection carried out by the DVSA.
- **Keep copies of all compliance tests carried out for a period of at least one year from the date of test and provide statistics showing the number of compliance tests carried out, the number of failed tests and reasons for failure for a period of at least 1 calendar year. These must be made available for inspection upon request by an authorized officer of the Council.**
- Ensure that all named testers authorised to carry out compliance tests on behalf of the Council are familiar with all aspects of the Vehicle Compliance Testing Manual as issued by the Council for HC and PH vehicles, and the HC and PH vehicle conditions and licensing standards as set out in the Council's Licensing Policy.
- **Charge a realistic inspection fee that covers the full cost of the vehicle compliance test inspection and any retests. The Council does not currently set the test fees and prefers to let market forces determine the fee payable, although it will consider setting the fee that can be levied if the circumstances arise.**

Monitoring the Service

- **The effectiveness and efficiency of the service will be the subject to ongoing review and analysis. This may include premises inspections, monitoring of service standards, compliance with the agreement, auditing of test standards, etc.**
- The agreement may be terminated by the Council at any time where the Provider has repeatedly failed to comply with the requirements of this agreement. The Council will inform the Provider in writing on any occasion it considers it to have failed to comply outlining the reason/s why, and will where practicable provide 28 days' written notice whereby termination is deemed necessary. However, where the Council considers the reason/s for termination to be of a serious nature and the notice period is therefore not appropriate, this decision can take immediate effect and will be communicated as such.
- **Where a Provider has received notice of termination, it will have 14 days from receipt of the notice to appeal the decision to an Assistant Director of the Council not involved in the termination process, who will issue a reasoned decision in writing 20 working days from receipt of the appeal. This decision will be final. Where a notice of termination is given with immediate effect, the Provider will not be permitted to operate under the terms of the contract until the appeal has been heard.**



LICENSING POLICY OF UTTLESFORD DISTRICT COUNCIL RELATING TO THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADE

This document was approved at the Environmental and Licensing Committee 10th May 2021

Latest proposed amendments as agreed by Committee date stated below -

- V.3 16th November 2021 – Service Level Agreement Relating to Roadworthiness Testing of Hackney Carriages & Private Hire Vehicles in the District of Uttlesford

Last revision: 11/21

INDEX	
Title	Page
1. Introduction	4
2. Licensing of Drivers	4
3. Licensing of Operators	8
4. Licensing of Vehicles	9
5. Exemption from the requirement to exhibit a private hire plate	10
6. Conditions	13
7. Enforcement	14
8. Accountability	18
APPENDIX A - Vehicle Standards - Hackney Carriages & Private Hire	20
APPENDIX B - Hackney Carriage Vehicle Conditions	22
APPENDIX C - Private Hire Vehicles Conditions	24
APPENDIX D - Conditions of Drivers licence – Combined Drivers (i.e., Hackney and Private Hire) and/or Private Hire Drivers Licence	26

APPENDIX E - Private Hire Operators Conditions	29
APPENDIX F – Protocol for dealing with the suspension, revocation, and non-renewal of drivers’ licences	33

INDEX (CONT)	
APPENDIX G – Information sharing policy from the NR3 database with other licensing authorities	42
APPENDIX H – Emissions Policy for licensed vehicles	52
APPENDIX I – Suitability Policy for Drivers	54
Appendix J – Door and Dashboard Signs	67
Appendix K – Driver Proficiency Test	70
Appendix L – Training day for all drivers	74
Appendix M – Service Level Agreement Relating to Roadworthiness Testing of Licensed Hackney Carriages & Private Hire Vehicles in the District of Uttlesford	77

1. Introduction

- 1.1 The law relating to the Hackney carriage and private hire trades is largely contained in two statutes, the Town Police Clauses Act 1847 which is exclusively concerned with Hackney carriages and the Local Government (Miscellaneous Provisions) Act 1976 which deals with both the Hackney carriage and private hire trades. The object of the legislation is to ensure the safety and wellbeing of the public.
- 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 regarding the enforcement of conditions and the legislation.
- 1.5 Licences can take up to 28 days to be processed once all documentation relating to the application has been submitted.

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). The licence or authorisation must have been held for at least 3 years at the time of application. 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 Uttlesford District Council issue two driver's licences:

- A Private Hire Driver's Licence – this means the driver can only drive Private Hire Vehicles
- A Combined Hackney carriage and Private Hire Driver's licence. This allows drivers to drive both private hire and Hackney carriages.

Please note the drivers of these licences must pass the routes and knowledge test at the compulsory Uttlesford Training Day which will be introduced in Spring 2021.

2.3 In determining whether someone is a fit and proper person, councils are entitled to have policies. Uttlesford District Council's Suitability Policy can be found in Appendix I. It sets out the standards expected of those who apply for, or hold, licences to drive Hackney carriages and/or private hire vehicles.

2.4 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.

2.5 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.

- 2.6 An enhanced DBS check shall be undertaken upon application (either new or renewal) and all currently licensed drivers will at the point of renewal be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate. Periodically, officers of the Council will undertake an online check of the DBS Update Service to check the driver's current status. Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken. All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to continue to hold an Uttlesford Council issued driver's licence. Where an individual fails to maintain and/or renew their subscription before it ends, then they will be required to apply for a new Enhanced DBS Check and register for the Update Service again. Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.
- 2.7 The Environmental Health Manager (Commercial) or their nominee has delegated authority to grant licences where applicants meet the Council's licensing standards. However, there will be occasions when it is felt 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 the application may be referred to the Licensing and Environmental Health Committee for determination.
- 2.8 The Environmental Health Manager (Commercial) or their nominee, in consultation with the Council's Legal Advisor and the Chair of the Licensing and Environmental Health Committee, has delegated authority to refuse a licence when the applicant does not meet the Council's licensing standards. The Environmental Health Manager (Commercial) or their nominee can grant a licence in such cases but only if they

consider the circumstances are such that an exception to policy should be made. The Environmental Health Manager (Commercial) or their nominee may also choose to refer the application to the Licensing and Environmental Health Committee for determination.

- 2.9 The Environmental Health Manager (Commercial) or their nominee 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 Environmental Health Manager (Commercial) or their nominee there are grounds to consider that the driver may no longer be a fit and proper person. The Environmental Health Manager (Commercial) or their nominee may take such action notwithstanding the fact that the driver meets the licensing standards set out in the Suitability Policy.
- 2.10 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 in writing.
- 2.11 Where applications for licences are refused, the applicants have a right of appeal against that decision to the Magistrates Court. Details of the appeal procedure will be given to unsuccessful applicants along with the written notice of the decision, but for the avoidance of doubt, it should be made clear that in the case of a refusal the Court has no power to grant a licence.
- 2.12 The Council may search public databases to assist in determining whether applicants are fit and proper persons to hold a licence. They will upload data to the same databases and share information when appropriate and lawful to do so.
(Appendix G)
- 2.13 All new applicants must have held a full UK driving licence for 3 years. at the time of application. They also are required to pass the Council's approved driving test. **(Appendix K)**

- 2.14 Once available all drivers must pass an Uttlesford training day before being granted a licence. **(Appendix L)**

Once available the training day must be taken.

- before a licence is granted (either on first application or upon renewal)
- or within a specified time frame

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 required for a private hire operator is that the Council must be satisfied that he, she is a fit and proper person to hold such a licence. For the avoidance of doubt, an operator's licence can be held by a body corporate, i.e. a company or partnership. Again, the Council has a Suitability Policy to guide it in its determination as to whether an applicant is a fit and proper person to hold a licence. (Appendix I)
- 3.3 The standards for operators are not as stringent as are those 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.

This is an acknowledgment of the fact that the Council is not entitled to request an enhanced DBS check for operators. Only a basic check is required which will not reveal spent convictions or cautions. If the applicant is a limited company or partnership all directors or partners must undergo a basic check. It is highly unlikely therefore that spent convictions would come to the attention of the

Council. However, if such matters were to come to light the Council could have regard to them in determining whether the applicant was a fit and proper person and for the avoidance of doubt this is most likely to happen if a director or partner is also seeking to be licensed to drive.

- 3.4 The Standards for operators also ignore an individual applicant's driving record. This is because the driving record of an operator does not impact upon his or her suitability as an operator of vehicles and drivers. The exception to this policy is for offences of driving or using a vehicle without insurance. As the operator is primarily responsible for ensuring that vehicles he or she operates are properly insured, the Council takes the view that a conviction for such an offence goes to the issue as to whether that person can be said to be a fit and proper to hold an operator's licence. However, if an operator also wishes to act as a driver, then he or she would need to obtain a driver's licence, and on that application would need to meet the Licensing Standards - Drivers.
- 3.5 Paragraphs 2.3 - 2.8 above apply to operators' licences in the same way as they apply to drivers' licences.

4. Licensing of Vehicles

- 4.1 Unlike licences for drivers and operators (where the Council must grant a licence if certain criteria are met), the grant of a licence for a vehicle is discretionary.
- 4.2 The Council has a suite of policies pertaining to the types of vehicles which it is prepared to license - Licensing Standards - Hackney Carriages and Licensing Standards - Private Hire Vehicles which are attached at Appendices C, D, H and J. Whilst every case will be determined on its merits it is unlikely that the Council would license a vehicle which did not meet its Licensing Standards. Where a vehicle proprietor wishes to

license a vehicle which does not meet the standards, he or she will be encouraged instead to put forward a case for modification of the Standards. The Council has in the past agreed to modify its standards to permit licensing of vintage cars, stretch limousines, smaller vehicles for school contract use only and Smart cars.

- 4.3 In addition to the Licensing Standards for Hackney Carriage and Private Hire Vehicles, following the decision in *R. (on the application of Newcastle City Council) v Berwick-upon-Tweed BC* it is the policy of the Council not to license any Hackney carriage which will not be used predominantly in the District of Uttlesford. The authority also requires these annual declarations plus a V5 document upon renewal.
- 4.4 Proprietors of vehicles have a right of appeal against a refusal of a vehicle licence. Details of the appeal procedure will be given to unsuccessful applicants with the notice of the decision to refuse the grant of a licence.
- 4.5 The Council's policy is not to allow the dual licensing of private hire and Hackney carriage vehicles as this leads to confusion as to which authority is regulating the vehicle. As a result, if a vehicle is found to be licensed by another authority, then the Uttlesford vehicle licence will be suspended with immediate effect.

5. Exemption from the requirement to exhibit a private hire plate

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 requires that a Council must issue a private hire vehicle with a licence plate and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council.

- 5.2 The clear and visible identification of a licensed vehicle is considered a safety issue, particularly when visiting such places as airports, seaports and large town or city centers. Therefore the overriding consideration when determining any request for an exemption will be the impact upon public safety
- 5.3 Section 75 of the Act also gives a Council the discretion to grant a request for exemption from displaying the licence plate on a private hire vehicle which it licenses by way of written notice.
- 5.4 There are occasions when the requirement to display an external identification plate, and other signage as ordinarily required by the Council, may have a detrimental effect upon an operating business as some corporate customers may be deterred from using the service. There may also be legitimate circumstances where the identification of a vehicle as a licensed private hire vehicle could allow “high risk” passengers to be more readily targeted, resulting in the safety of both the passenger/s and the driver being placed at risk.
- 5.5 A clear case for the exemption must be made by the vehicle proprietor, in writing, to the Council. In determining such an application it will normally be the status of the passengers and the nature of the work that will indicate whether or not the exemption should be granted. The quality of the vehicle being used may be supportive of an application, but it will not be the sole determining factor.
- 5.6 A request for exemption shall only be considered for an individual vehicle and not for a fleet, and each request shall be considered on its own merits.
- 5.7 In order to apply for an exemption from the requirement to display identification plates and signs, the proprietor of the private hire vehicle must produce;

- A completed exemption application form and make payment of the appropriate fee.
- Documentation in support of the application evidencing that the vehicle carries out or is intended to carry out 'executive work'. *This is expected to include formal written contracts from companies and/or clients who for security or personal safety reasons would not want the vehicle to be identifiable, and a standard paragraph upon a booking form or other contract document supplied by the operator will not be sufficient evidence.*
- The previous three months of booking records for the relevant vehicle. (For new applications, unless for a replacement vehicle, three months of booking records must be provided after a provisional exemption has been granted).

- 5.8 When an exemption is granted, the Council will issue the vehicle proprietor with a written certificate of exemption. The certificate will impose the following additional conditions upon the vehicle licence;
- 5.9 The certificate must be retained within the vehicle at all times and the driver must produce it when requested to do so by an authorised local authority officer, Police constable, or passenger.
- 5.10 The private hire vehicle licence plate must be retained within the boot of the vehicle and the driver must produce it when requested to do so by an authorised local authority officer, Police constable, or passenger. The driver must be in possession of their private hire/hackney carriage driver badge at all times while working under the terms of the exemption and produce it when requested to do so by an authorised local authority officer, Police constable or passenger.

- 5.11 The vehicle proprietor must ensure there is no logo, advertisement or device on the vehicle interior or exterior which may lead members of the public to believe it was a taxi or private hire vehicle. This includes external door signs issued by the Council.
- 5.12 The driver must wear a chauffeur's uniform, business suit and tie or comply with such other dress code as may have been agreed in advance with the client. The exemption must only be used for executive hire work where there is a genuine need not to display the vehicle licence plate, and only as has been agreed prior by the Licensing Authority.
- 5.13 The vehicle proprietor is responsible for ensuring that the driver of the vehicle conforms to these conditions. The vehicle proprietor shall notify the Council in writing immediately of any change in use of the vehicle.
- 5.14 If the vehicle proprietor is found to be in breach of any of the conditions listed above, then the Council may revoke the exemption with immediate effect, and further action against the vehicle licence may be considered.
- 5.15 The exemption once granted shall, unless revoked or surrendered, continue for the duration of the private hire vehicle licence. This is considered to be up to and including the expiry date listed on the licence plate. In exceptional circumstances an exemption may be applied for part way through the period of an existing private hire vehicle licence.
- 5.16 The grant of such an exemption is in the sole discretion of the Licensing Manager. If the vehicles ceases to be used for the type of work set out in the exemption certificate then the vehicle proprietor must surrender the exemption by returning the written certificate to the Council if they no longer require such an exemption.

- 5.17 If the Council discovers the vehicle has been or is being used primarily for private hire work that is not considered to be 'executive hire', it may revoke the exemption with immediate effect and further action may be taken against the private hire vehicle licence, and/or private hire operator licence if both are the same person/s or company.

6. Conditions

- 6.1 The legislation gives local authorities power to impose conditions on licences for all vehicles, Operators and private hire drivers. The Council has adopted the following conditions:

Licence Conditions - Hackney Carriage Vehicles: **(Appendix B)**

Licence Conditions - Private Hire Vehicles: **(Appendix C)**

Licence Conditions – Drivers: **(Appendix D)**

Licence Conditions – Operators: **(Appendix E)**

- 6.2 These conditions do not replicate the legislation. Drivers, Operators and proprietors are expected to know the law as it relates to them and to observe it. Although not set out in the licence conditions, licence holders should be aware that there are a number of offences which can be committed and will be dealt with in accordance with the Council's policy with regard to enforcement set out at paragraph 6 below. These offences include:

6.2.1 Using unlicensed vehicles

6.2.2 Plying for hire (unless a Hackney carriage)

6.2.3 Using unlicensed drivers (for operators and proprietors)

6.2.4 Failing to display the licence plate on the vehicle.

- 6.2.5 Failing to produce a vehicle for inspection when required to do so (for proprietors).
- 6.2.6 Failing to notify the council that a licensed vehicle has been involved in an accident within 72 hours (for proprietors).
- 6.2.7 Failing to produce a licence for inspection when requested to do so.
- 6.2.8 Failing to wear a driver's badge.
- 6.2.9 Failing to keep records of bookings of private hire vehicles (for operators).
- 6.2.10 Giving the Council false information or omitting to give material information on an application for a licence (including an application to renew).
- 6.2.11 Failing to return a driver's badge upon request on the suspension, revocation or non-renewal of a licence.
- 6.2.12 Failing to carry an assistance dog for a disabled passenger without making an extra charge for doing so.
- 6.2.13 Overcharging (for hackney carriages).
- 6.2.14 Failure to display no smoking signs in vehicles.
- 6.2.15 Smoking in workplace vehicles.

7. Enforcement

- 7.1 The Council expects the legislation relating to the Hackney carriage and private hire trades and the conditions attached to licences to be observed and will take action in respect of any breaches. Drivers or operators who cease to meet the Council's Licensing Standards are likely to have their licences revoked.
- 7.2 The Council takes a view that these approaches are generally not suited to the Hackney carriage and private hire trades. Whilst Council officers are always willing to give general advice and assistance upon request it is not the role of the Council to provide detailed training to members of the trade in this way. Drivers, Operators and proprietors are expected to know the law applicable to them and the conditions attached to their licences.

Ignorance of the law is no defence and where there is a breach of the law or licence conditions, education and training are not an appropriate sanction. Equally where there has been a breach by a licence holder, a negotiated compliance option would not be appropriate.

- 7.3 The policy of the Council therefore is that where there is a breach of the legislation or of a condition there should normally be a sanction imposed. A sanction should be a deterrent to the licence holder and others in the trade to ensure such conduct is not repeated and the law specifically permits sanctions to be imposed at a level intended to have a deterrent effect upon others.
- 7.4 The Environmental Health Manager (Commercial) or their nominee has delegated power to suspend the licence of a driver for up to 14 days where there has been a breach of condition or there has been an allegation of an offence and in the opinion of the Environmental Health Manager (Commercial) or their nominee a prosecution would not be appropriate.
- 7.5 Without prejudice to the delegated powers and discretion of the Environmental Health Manager (Commercial) or their nominee above it is nevertheless the policy of the Council that where the matter complained of constitutes a criminal offence then the offender should usually also be the subject of a formal caution or prosecution and that a suspension would only be given as an alternative when there are exceptional mitigating circumstances.
- 7.6 With regard to breaches of condition attached to drivers' licences the Council consider that a suspension of the licence is generally an appropriate sanction. The Council notes with concern that prior to the adoption of this policy suspensions did not appear to have had a deterrent effect.
- 7.7 Suspensions will be dealt with in accordance with the Council's Protocol for Dealing with the Suspension, Revocation and Non-Renewal of Driver's Licences which is attached (**Appendix F**). However, without fettering the discretion of the Environmental

Health Manager (Commercial) or their nominee or the Licensing and Environmental Health Committee to impose a longer or shorter suspension if the circumstances of a particular case require, it the policy of the Council is that the starting point for a suspension for a first case of a breach of condition should be 5 days.

- 7.8 Where a driver has breached a condition on 2 occasions within a 3 year period or has been convicted of an offence (but his licence was not revoked as a result of such conviction) any further breach of condition should be referred to the Licensing and Environmental Health Committee or their nominee to determine whether they on behalf of the Council are satisfied that the driver remains a fit and proper person to hold a licence, or whether that licence should be revoked. On such a reference the Committee may take no action, suspend the licence or revoke it.
- 7.9 With regard to operators the Council recognises that the suspension of an operator's licence, even for a short period of time, is likely to be disproportionate. It is also likely to impact upon innocent parties as the effect of a suspension of the operator's licence is to deprive the drivers working for that operator of an income for the period of the suspension. The Council's policy is therefore that where an operator has committed an offence a suspension should not be imposed, and a prosecution should be brought even for a first offence.
- 7.10 Vehicle licences can be suspended or revoked on the grounds that the vehicle is unsafe or unfit; that the proprietor has committed an offence under the legislation, or for any other reasonable cause.
- 7.11 Vehicle licences will be suspended if they are unfit for use. If the vehicle is not put back into proper condition within the time specified in the suspension notification, then the licence will be revoked.

- 7.12 Without prejudice to the general scope of the power, a vehicle licence may be suspended, revoked or not renewed for any other reasonable cause. A non-exhaustive list of examples would include where the Council has evidence to suggest that a Hackney carriage is being predominantly used outside of the district, an exempt vehicle is not being used for the purposes set out in the exemption, or if a private hire vehicle is not being controlled by a licensed operator.
- 7.13 With regard to drivers, Operators and proprietors, where a matter has been dealt with through the criminal justice system it is the view of the Council that a suspension of the licence would rarely be suitable. Any penalty to which the offender is subject will have been imposed by the Courts and a further penalty by way of suspension (which would cause loss of income) would be inappropriate. However, the Licensing and Environmental Health Committee should consider whether in the light of a conviction or a caution the driver, operator or proprietor remains a fit and proper person to hold a licence. If the Committee is not satisfied that the driver, Operator or proprietor remains a fit and proper person then the licence should be revoked. For offences committed by proprietors the Committee should consider whether as a result of the conviction the vehicle licence should be revoked for any other reasonable cause.
- 7.14 Where there is or has been an investigation into the conduct of a driver, operator or proprietor which has not resulted in a formal caution or conviction the licence may nevertheless be suspended, revoked or not renewed if there are reasonable grounds for doing so. The Council is subject to a lower standard of proof (the balance of probabilities) than the criminal courts (beyond reasonable doubt) when dealing with factual issues. Where the fitness of a driver or operator is called into question the burden of proof is upon the licence holder to establish that he or she is a fit and proper person.

8.0 Accountability

- 8.1 The Council wishes to be transparent in the application of this policy and in particular with regard to enforcement action taken under it.
- 8.2 The Environmental Health Manager (Commercial) or their nominee will report on the number of cases in which he has exercised his delegated powers to suspend licences and the outcome in those cases at each meeting of the Licensing and Environmental Health Committee. Generally, these reports will be in writing and all meetings will have Minutes.
- 8.3 Cases dealt with by the Licensing and Environmental Health Committee may be held in private or public. The Committee is subject to the Council's Access to Information Rules which permit the exclusion of the press and public when matters relating to an identifiable individual are discussed. Where the press and public are excluded, the officer's reports are not published or otherwise accessible to the public.
- 8.4 Although the exemption can be applied it should only be used when the public interest in applying the exemption outweighs the public interest in making the information available. The Council's view is that the public have a clear interest in knowing the type of person which it is prepared to licence. Against that however individuals have rights under the Data Protection Act 1998 (no longer in place) and individuals and companies have rights under the Human Rights Act 1998. These conflicting interests need to be balanced. In general, where information is already in the public domain the cases will be dealt with at a public meeting of the Committee. There will however be cases where the right to privacy is more important than the public interest in knowing the type of person the Council may licence. Examples are where the Committee is considering suspension or revocation of a licence on medical grounds or where publication of the report would involve disclosure of spent

convictions or police intelligence. In such cases the press and public will be excluded from the meeting. In such circumstances, whilst the report will not be published minutes of the meeting giving details of the case, the decision, and the reasons for it will be published but the driver's name will not be given.

- 8.5 Where a meeting to consider individual cases is held in public the press and public will be excluded under the Access to Information Rules while the Committee considers its decision but will be re-admitted when the decision is announced.

**LICENSING STANDARDS
HACKNEY CARRIAGES & PRIVATE HIRE VEHICLES**

- 1) Types of vehicles that will be licensed:
 - a purpose-built London-style Hackney carriage (meaning such vehicle has been approved for use by Transport for London for use as a Hackney carriage), or a converted vehicle, which is capable of carrying a passenger whilst sitting in a wheelchair, providing such vehicle has the appropriate approval-type certificate; or
 - a saloon, hatchback, estate or multi-purpose people carrier capable of carrying a folded wheelchair, with at least 4 doors; or
 - a minibus capable of seating a maximum of 8 passengers excluding the driver, with at least 4 doors; or
 - an extended wheelbase vehicle modified by the manufacturer or by a specialist converter approved by the manufacturer and that has the appropriate approval-type certificate (Private Hire only); or E7; or a Smart Car (Private Hire Only).

- 2) Must comply with the Vehicle Emissions policy. **(Appendix H)**

- 3) Must be right hand drive.¹

- 4) Must be standard manufacturers colour.

- 5) The maximum number of passengers which the vehicle will be licensed to carry will be the number of seats recorded on the V5C registration document (logbook) as being suitable for carrying passengers. Where a vehicle has foldable or removable

¹ Left-hand drive vehicles will not be suitable for licensing on safety grounds. They will generally require front-seat passengers to step into the roadway to enter or exit the vehicle and the driver of a left hand drive vehicle is not in the ideal position for either pulling out or overtaking safely.

seats, for example in the boot, the decision to licence these for passengers will be made on a case-by-case basis.

- 6) To carry a manufacturer supplied or approved spare/space saver wheel, manufacturers approved temporary repair kit or to have run flat tyres.
- 7) To be fitted with an internal rear-view mirror.
- 8) To be fitted on both sides with external rear-view mirrors.
- 9) Must have dashboard and door signs displayed inside the vehicle and on the outside of the vehicle. **(Appendix J)**

APPENDIX B

CONDITIONS OF LICENCE - HACKNEY CARRIAGE VEHICLES

Proprietors of the vehicle will:

1. Keep the vehicle in a clean and well maintained condition at all times.
2. Produce the vehicle for inspection by officers of the Council or by a garage authorised by the Council to carry out inspections of Hackney carriages when requested to do so.
3. Display in the vehicle in a position which is clearly visible to passengers:
 1. The number of the licence
 2. The number of passengers prescribed by the licence
 3. The Table of Fares currently in operation
 4. A statement that "Complaints should be referred to the proprietor in the first instance and, if necessary, to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or (01799) 510510 quoting the driver and/or vehicle licence number".
 5. The name of the proprietor.
4. Display at all times the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle
5. Ensure that the roof "TAXI" sign is displayed at all times.
6. Ensure the roof sign is illuminated when the vehicle is plying for hire.
7. If the Hackney Carriage vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a

copy of the individual's Hackney Carriage driver's licence at all times, when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the licence in that register, records to be kept for a minimum of 6 months.

8. Upon being requested to do so, to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Environmental Health Manager (Commercial) or their nominee is offensive, harmful to health or unsuitable.
9. In the event that a vehicle is more than 5 years old, to produce the vehicle to a Council authorised tester for inspection at 6 monthly intervals.
10. Ensure that the vehicle is fitted with a taxi meter visible to passengers recording the fare payable in accordance with the Table of Fares which shall from time to time be approved by the council or (if lower) the Table of Fares charged by the driver.
11. Notify Licensing in writing of any convictions recorded against him/her or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction along with the company itself.
12. Notify Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

APPENDIX C

CONDITIONS OF LICENCE - PRIVATE HIRE VEHICLES

Proprietors of the vehicle will:

1. Keep the vehicle in a clean and well maintained condition at all times.
2. Produce the vehicle for inspection by officers of the council or by a garage authorised by the council to carry out inspections of private hire vehicles when requested to do so.
3. Display in the vehicle in a position which is clearly visible to passengers:
 1. The number of the licence.
 2. The number of passengers prescribed by the licence.
 3. A statement that "Complaints should be referred to the proprietor in the first instance and, if necessary, to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or (01799) 510510 quoting the driver and/or vehicle licence number".
 4. The name of the proprietor.
4. Display at all times, the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle (unless an exemption has been granted by the authority).
5. If the Private Hire vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a copy of the individual's Private Hire driver's licence at all times, when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the

licence in that register, records to be kept for a minimum of 6 months.

6. Upon being requested to do so to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Environmental Health Manager (Commercial) or their nominee is offensive, harmful to health or unsuitable.
7. In the event that a vehicle is more than 5 years old, to produce the vehicle to a council authorised tester for inspection at 6 monthly intervals.
8. Notify Licensing in writing of any conviction recorded against him or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction.
9. Notify Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

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

APPENDIX D

CONDITIONS OF LICENCE - HACKNEY CARRIAGE AND/OR PRIVATE HIRE DRIVERS' LICENCES

Drivers will:

1. Be polite
2. Wear smart clothing. The following are deemed to be unacceptable:
 - i) Bare chests;
 - ii) Clothing or footwear which is unclean or damaged;
 - iii) Clothing printed with words, logos or graphics which might offend;
 - iv) Sports shirts e.g. football, rugby or cricket tops or track suits;
 - v) Footwear that prevents the safe operation of the licensed vehicle;
3. Attend to collect pre-booked hirers punctually unless prevented from doing so by some unforeseeable cause.
4. Give reasonable assistance to passengers with luggage.
5. Carry luggage safely and securely.
6. Not to eat or drink in the vehicle during the course of a hiring.
7. Not play any radio, tape recorder, CD/DVD player or similar device, during the course of hiring, without the hirer's permission.

8. Not use equipment of the type referred to in paragraph 7 above so as to cause a nuisance either to passengers in the vehicle or to others.
9. Take all reasonable steps to ensure the safety of passengers.
10. Not carry more than the number of passengers specified in the licence for the vehicle.
11. Not carry any passengers other than the hirer without the hirer's permission.
12. Not carry any animals during the course of a hiring other than animals belonging to the hirer.
13. Ensure any animals carried in the vehicle are kept in such a position so as not to be a distraction to the driver or to cause a danger or nuisance.
14. Not to demand from a hirer a fare greater than the metered rate or has previously been agreed with the hirer (applicable to the use of private hire vehicles and hackney carriages carrying out journeys that do not start and end in the District).
15. Issue written receipts for fares paid when requested to do so.
16. Search the vehicle at the end of each hiring for lost property.
17. Take reasonable steps to return lost property promptly to its owner and if this cannot be done to report the matter to the police as soon as reasonably practicable and in any event within 24 hours.
18. Carry a copy of these conditions at all times, when driving a licensed vehicle and produce them for inspection upon request by a hirer, police officer or officer of UDC.

19. 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 convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the drivers licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice.
 - d. Any investigations being carried out into the activities of the driver by the police or a regulatory authority of which the driver is aware within 7 days of the driver becoming aware of the investigation.
 - e. 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.
20. The driver shall not at any time smoke tobacco or any other like substance or use electronic cigarettes or similar in a licensed vehicle.
21. The driver shall when hired to drive to any particular destination, proceed to such destination by the shortest possible route unless otherwise agreed by the customer.

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

APPENDIX E

CONDITIONS OF LICENCE - PRIVATE HIRE OPERATORS

1. The operator shall keep a register of all private hire vehicles which the operator operates containing the following information:
 - a) The make and type of vehicle
 - b) The vehicle registration number
 - c) The name and address of the owner of the vehicle
 - d) The private hire vehicle licence number
 - e) The address where the vehicle is kept when it is not working.

2. The operator shall keep a record of every booking of a private hire vehicle invited or accepted on behalf of the operator including:
 - a) The time and date of the hiring
 - b) The name of the hirer
 - c) How the booking was made (for example, via App, Telephone, Email, etc.)
 - d) The start point of the journey and the agreed pick up time
 - e) The destination of the journey
 - f) The fare paid
 - g) The private hire licence number of the vehicle
 - h) The name of the driver and the driver licence number

3. The register and records referred to in conditions 1 and 2 above can be kept in either paper format or electronically. The chosen format should permit inspection with the minimum of delay, and in any case within 24 hours, in response to a request made under section 56(3) Local Government (Miscellaneous Provisions) Act 1976. Where records are kept in electronic format facilities must be available for records to be printed onto paper and to be made available to an authorised officer of the authority or a Police Officer within 24 hours.

4. Records required by these conditions must be retained for at least one year.
5. The operator must notify Licensing in writing within 7 days of:
 - a) Any change of his or her residential address.
 - b) Any change of his or her business address.
 - c) Any additional addresses within or outside of the District from which the operator intends to carry on the business as a licensed private hire vehicle operator during the continuation of the licence.
6. The operator shall provide a prompt and efficient service to members of the public and in particular:
 - a) Ensure that unless delayed or prevented by some cause outside the control of the operator, vehicles attend appointments punctually.
 - b) Any premises to which the public has access for the purposes of booking or waiting are clean, adequately heated, adequately ventilated and well lit.
 - c) Ensure that any waiting area has adequate seating facilities.
7. The operator shall notify the UDC Licensing Team of any complaints made against the operator or any driver used by the operator within two working days of receipt of the complaint. This includes complaints received from third parties and relates to any journey whether a hiring by the public or from contract work. Any response to a complaint should be forwarded to Licensing when made.
8. Ensure that public liability insurance is in place for any premises

to which the public have access and provide a copy to the UDC Licensing Team.

9. Upon request from the licensing authority operators are required to provide the details of the licensed drivers and vehicles that are operating under their operator's licence:
 - a) Name and licence number of drivers; and
 - b) Registration number and licence number of vehicles.

10. Upon request from the licensing authority operators are required to provide the details of all contracts which the operator fulfils which start and finish outside of the District:
 - a) Name and address of the person or company who the contract is with; and
 - b) Starting point for journey; and
 - c) Destination of the journey; and
 - d) Registration and licence number of the vehicle carrying out the contract.

11. The operator is required to ensure that all persons that have access to their records, bookings and contracts have:
 - a) A basic disclosure check and completes a statutory declaration in relation to previous offences before being commencing employment; and
 - b) Completes a new basic disclosure at the time when the operator's licence is renewed.

12. Persons with access to operator's records, bookings and contracts, whether directly employed or otherwise, must satisfy the suitability standards that the authority applies to applicants for Private Hire Operator's licences. The operator is to keep records of such checks.

13. Where a premise is rented or leased within the District for the purposes of being an Uttlesford Licensed Private Hire Operator,

then a copy of such agreement must be produced upon application for the Operator's licence.

NOTE: The authority takes the view that you must have premises within the District to be granted an operator's licence by UDC. Therefore, an operator's licence expiry date will not be granted for longer than the time period that you can evidence you have rented or leased premises for.

**OPERATORS WHO FAIL TO COMPLY WITH THESE
CONDITIONS MAY HAVE THEIR LICENCE SUSPENDED OR
REVOKED**

APPENDIX F

PROTOCOL FOR DEALING WITH THE SUSPENSION, REVOCATION AND NON-RENEWAL OF DRIVERS' LICENCES

Introduction

Uttlesford District Council licenses drivers of hackney carriages under Section 46 Town Police Clauses Act 1847 and also licenses private hire vehicle drivers under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. Under Section 61 of the 1976 Act both hackney carriage and private hire vehicle driver's licences may be suspended or revoked, or the local authority may refuse to renew the same on the grounds that since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence or has been convicted of an offence under or has failed to comply with the provisions of either the 1847 Act or the 1976 Act. A licence may also be revoked or suspended or may not be renewed for any other reasonable cause.

Any other reasonable cause

This expression is not defined in the legislation. However, it is not limited to matters which arose after the grant of the licence. Examples of what may be considered any other reasonable cause' would include (but are not limited to):

- Where information comes to light which suggests that had the information been known at the time of application, a licence would not have been granted or renewed.
- Where a driver ceases to meet the council's licensing standards.
- Where the driver has breached a condition of his or her driver's or vehicle licence.

- Where the driver has committed a minor offence for which he or she is not prosecuted.
- Where information comes to light which suggests that the driver may no longer be a fit and proper person to hold a licence.

Appeals

Whenever a decision is taken to suspend, revoke or not to renew a licence or where conditions are imposed upon a licence that the applicant has a right of appeal to the magistrates' court². Normally a decision to suspend, revoke or not to renew a licence takes effect 21 days after the driver has been given notice of the decision. A driver may continue to drive during that period and if he or she lodges an appeal within that time may continue to drive until such time as the appeal has been disposed of or has been abandoned. However, when a licence is suspended or revoked and it appears to the council that the interests of public safety require the suspension or revocation to have immediate effect and notifies the driver accordingly, then whilst the driver may still appeal, he or she may not drive once he or she has been notified of the decision.

Delegated Powers

The Environmental Health Manager (Commercial) or their nominee and those authorised by him have delegated powers to deal with certain types of case. These are as follows:

- 1) When the Environmental Health Manager (Commercial) or their nominee in consultation with an Uttlesford Legal Advisor and Chair of the Licensing and Environmental Health Committee believes that a licence should be suspended with immediate effect on grounds of public safety they may do so. The Environmental Health Manager (Commercial) or their nominee will arrange for a special meeting of the Licensing and

² Drivers have the right of appeal to the Magistrates Court against Uttlesford District Council's decision to refuse/revoke to grant a HC/PHV driver's licence. However, in the case of refusals or non renewals the Court does not have power to grant a licence. Only a licensing authority may do so. All the Court is able to do is review the Council's decision in the light of the Council's policies and national licensing standards, and if the Court is satisfied that the Council acted reasonably then it will dismiss the appeal. In such circumstances the Council would be entitled to an order for costs and it is our practice to seek such an order.

Environmental Health Committee to be convened as soon as is reasonably practicable for the purpose of determining whether the suspension should be confirmed.

The Environmental Health Manager (Commercial) or their nominee also has power to suspend licences for up to 14 days where there has been a breach of condition or where in his or her view a prosecution would be disproportionate.

- 2) The Environmental Health Manager (Commercial) or their nominee also has the power to revoke where a driver has lost their DVLA licence or is medically unfit to drive within the council's licensing standards and is unlikely to recover sufficiently to resume driving prior to the expiration of their licence. In such circumstances that power will be exercised since the driver is not legally entitled to drive.
- 3) The Environmental Health Manager or nominee can in consultation with an Uttlesford Legal advisor and with the Chair of the Licensing and Environmental Health Committee can revoke a licence with immediate effect if they receive information that questions a driver's status as to being a 'fit and proper' person.

Any other decisions concerning the revocation, suspension or non-renewal of a driver's licence must be referred to the Licensing Committee. In addition, the Environmental Health Manager (Commercial) or their nominee may refer cases at his discretion to the Committee instead of dealing with them under his delegated powers.

Procedure - Decisions under delegated powers

Where the Environmental Health Manager (Commercial) or their nominee is considering exercising his delegated powers the following procedure will apply:

- 1) The Environmental Health Manager (Commercial) or their nominee or those authorised by him will write to the driver requesting that he or she make an appointment to meet with the relevant authorised officer. The letter will contain the following:
 - a) Details of the allegations which have been made against the driver or other matters which may lead to the suspension of his licence.
 - b) A statement that the authorised officer may consider suspending the driver's licence for up to 14 days.
 - c) A statement that the driver may be accompanied by his or her operator, a trade union representative or a friend.
 - d) A statement that in the event that the authorised officer decides to suspend the licence that there is a right of appeal.
- 2) The meeting between the authorised officer and the driver and his or her representative (if present) shall take the form of a discussion within which the authorised officer will seek the driver's comments upon the allegations made against him or her. If the authorised officer considers it necessary to make further enquiries, he will explain this to the driver and adjourn the meeting to enable such enquiries to be made. In the event that following such enquiries the authorised officer decides that no further action is required (or that the only action which may be required is that which has been discussed with

the driver at the meeting) then the authorised officer will write to the driver accordingly. In any other case the authorised officer will reconvene the meeting.

- 3) At the conclusion of the meeting or any adjournment thereof, the authorised officer will inform the driver whether or not he considers the allegations have been made out and in the latter event what sanction (being a suspension of not more than 14 days) the authorised officer intends to impose.
- 4) In the event the authorised officer decides that the licence should be suspended the authorised officer will inform the driver of his or her right of appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
- 5) The authorised officer will write to the driver:
 - a) Confirming the sanction.
 - b) Giving reasons for a. and b. above,
 - c) Giving details of the appeal procedure and the fee payable to the court on appeal.
 - d) Unless the suspension is taking immediate effect on the grounds of public safety, informing the driver of his or her right to drive during the period within which an appeal may be lodged, if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

- 6 Members of the Committee will be notified at ordinary meetings of the suspensions undertaken by authorised officers.

Procedure - Decisions by the Licensing Committee

Where a decision would fall outside of the delegated powers of the Environmental Health Manager (Commercial) or their nominee where the Environmental Health Manager (Commercial) considers that his delegated powers would not be sufficient to deal with an allegation or that for other reasons the decision should be taken by members, then the matter will be determined by the Licensing and Environmental Health Committee and the following procedures will apply:

- 1) 3 members of the Licensing Committee will be requested to attend a meeting of the Committee for the purpose of considering the allegations.
- 2) Usually, the committee meetings will be held in public although consideration of matters which would not otherwise be in the public domain (e.g. consideration of a driver's medical condition, details of spent convictions etc.) would require the committee meeting to be held in private.
- 3) The driver will be given written notice of the time and date of the committee meeting at least 10 working days prior to the meeting taking place and at the same time will be provided with a copy of the officer's report which will be presented to the committee along with any supporting documents.
- 4) The letter notifying the driver of the time and date of the meeting shall also inform him or her of his or her right to be represented at the meeting by his or her operator, a trade union representative or a friend.

- 5) Having considered the officer's report, any evidence which the officer wishes to tender in support of his report (which shall have been disclosed in advance to the driver), any evidence from the driver, any evidence from witnesses called by or on behalf of the driver and any submissions made by the driver and/or his or her representative, the committee will retire to consider its decision and will upon returning announce its decision to the driver.
- 6) The committee shall give verbal reasons for its decision and in the event that the committee decide to suspend, revoke or not to renew a licence the lead officer of the committee shall explain to the driver his or her right to appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
- 7) As soon as is reasonably practicable after the committee meeting, the lead officer to the committee shall write to the driver confirming:
 - a. the committee's decision
 - b. any sanction imposed.
 - c. the committee's reasons for a. and b. above.
 - d. giving details of the appeal procedure and the fee payable to the court on appeal.
 - e. informing the driver of his or her right to drive during the period within which an appeal may be lodged unless the suspension is taking immediate effect on the grounds of public safety. And if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

Principles to be applied in decision making

The express aims of the licensing regime are the safety and comfort of the public. Safety extends not only to fare paying passengers but also to other road users and pedestrians. When considering the grant of a licence a local authority may not grant a licence to anyone unless they are satisfied that the applicant is a fit and proper person to hold a licence. Where the committee cease to be satisfied for any reason that a driver is a fit and proper person it follows that he or she should not be in possession of a licence and in those circumstances the licence will either be revoked or not renewed on application. There will however be other circumstances where there has been some action or inaction on the part of a driver which has not rendered the driver an unfit person but nevertheless warrants a sanction both as a mark of disapproval of the driver's conduct and as a deterrent to others. In such circumstances, a suspension of the licence would be appropriate. In determining whether to suspend a licence and if so in determining the length of suspension, regard will be had by the Licensing Committee or by the authorised officer in the exercise of delegated powers to the following factors:

- 1) Whether the driver fully admitted the matter alleged or whether he or she put forward explanations which were wholly unsustainable.
- 2) The seriousness of the matter complained of.
- 3) The driver's history.
- 4) Any mitigation put forward by the driver or his or her representative.

APPENDIX G

Policy for Uttlesford District Council in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3

In this policy, the 'first authority' refers to a licensing authority which has made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

Overarching principles

This policy covers the use that Uttlesford District Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licences. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past. Uttlesford District Council has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

⁸ Throughout this policy reference is made to 'taxi drivers licence.' This generic term covers a Hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Uttlesford District Council will make a search of NR3. The search will only be made by an officer who has been trained in the use of NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details. Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the applications.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated¹⁰. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined¹¹.

The data will be held securely in accordance with Uttlesford's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with Uttlesford District Council's general policy on the erasure and destruction of personal data.

9 The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

10 Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see *The Criminal Procedure Rules R35.2*). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

11 Decisions of the local authority, Magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when permission has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim first arose" (see *The Civil Procedure Rules R54.5*). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

II. Making a request for further information regarding an entry on NR3¹²

When an application is made to Uttlesford District Council for the grant of a new, or renewed taxi driver's licence, then officers will check NR3. Officers will make and then retain a clear written record¹³ of every search that is made of the register.

This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If officers discover any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details for further information about that entry. That request will also include details of this Uttlesford's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy.

It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

III. Responding to a request made for further information regarding an entry on NR3¹⁴

When Uttlesford District Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years¹⁵.

Uttlesford officers will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request. Uttlesford District Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

12 This section of the template policy relates to the submission of a request by the second authority.

13 This can be electronic, rather than “pen and paper” hard copy.

14 This section of the template policy relates to the handling by the first authority of a request for information for the second authority.

15 This record can be combined with the written record of the action taken as a result of the request.

If Uttlesford District Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed¹⁶. This will be determined by an officer who has been trained to discharge this function. Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Uttlesford District Council will not disclose information relating to every entry. Each application will be considered on its own merits. Uttlesford District Council will disclose information relating to a revocation or refusal to grant a driver's licence in accordance with the timescales contained within our policy on deciding the suitability of applicants and licensees in the Hackney and Private Hire Trades.

Where the reason for refusal to grant or revocation relates to a conviction which is within the timescales determined in those guidelines, the information will be disclosed.

Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy. Any information about convictions will be shared in accordance with this policy under GDPR; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law. The officer will record what action was taken and why. Uttlesford District Council will make and then retain a clear written record¹⁸ of every decision that is made as a result of a request from another authority. This will detail:

- a) the date the request was received
- b) how the data protection impact assessment was conducted and its conclusions
- c) the name or names searched
- d) whether any information was provided
- e) if information was provided, why it was provided (and details of any further advice
- f) obtained before the decision was made)
- g) if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- h) how and when the decision (and any information) was communicated to the requesting authority.

16 If Uttlesford District Council is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of Uttlesford District Council and the 2nd authority.

18 This can be electronic, rather than "pen and paper" hard copy.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

IV. Using any information obtained as a result of a request to another authority

When Uttlesford District Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications. This Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above). Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this Council will make in relation to the application.

Appendix G - information disclosure form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

(For completion by requestor authority)

Name of licensing authority requesting information:

Requestor authority reference number:

Name of licensing authority from which information is sought:

.....

Name of individual in respect of whom the request is made:

.....

Decision in respect of which the request is made:

Refusal/revocation

Other details for this record:

Address:

Driving licence #:

NI #:

Reference number:

Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application

and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document.

Signed:

Name:

Position:

Date:

(For completion by providing authority)

Further information to support the decision recorded on NR3 in respect of the above named individual.

Declaration by providing authority

The authority hereby confirms that it has conducted a data protection impact assessment. It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements

Signed:

Name:

Position:

Date:

Licensed Vehicle Emissions Policy

The purpose of this policy is to ensure taxis are as safe, reliable and comfortable as possible while at the same time minimising emissions. The policy aims to have a positive impact on emissions as it is recognised that the age of vehicles and the exhaust emission specification are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the taxi and private hire fleet, standards relating to the exhaust emissions have been introduced in addition to the requirements regarding the age of vehicles.

Emission Standards

First Licence Application:

- DIESEL vehicles must meet or exceed Euro 6 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 5 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 6 emissions standards from **01/04/2021**
- WHEELCHAIR ACCESSIBLE vehicles must meet or exceed Euro 6 emissions standards from **01/04/2025**

Licence Renewal:

- From **01/04/2022** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 5 emissions standards
- From **01/04/2023** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 6 emission standards
- From **01/04/2025** any wheelchair accessible vehicle due for its annual licence renewal must meet or exceed Euro 6 emissions standards

Where vehicles do not meet the relevant emissions criteria, the proprietor may:

- Have the vehicle adapted / modified to meet the standard and provide evidence of this
- Change the fuel that is used to the cleaner alternative, such as bio diesel, or;
- Replace the vehicle with one that meets the emission standard.

Notwithstanding that each application will be considered on its own merits.

When will the different criteria be applied?

If the licence of a currently licensed Hackney Carriage or Private Hire vehicle is allowed to **EXPIRE** by its proprietor then any subsequent application will **NOT** considered as a renewal.

This means that where an existing vehicle licence expires, a subsequent application for a licence for that vehicle will be treated as a first time application and the standards and criteria relating to first time applications will be applied.

For the avoidance of doubt, when a new vehicle has an existing plate transferred onto it the vehicle will be considered under the criteria of a vehicle being licensed for the first time.

Low emission and electric vehicles

The Council encourages the uptake of low emission and electric vehicles in the District. The Authority will seek to examine the feasibility of introducing schemes which will help improve the charging network and aid drivers in testing and purchasing electric vehicles.

Suitability Policy

Appendix I

From the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades 2018

“The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don’t. Therefore, we must, and do, rely on the licence as the warranty of the driver’s safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty.

The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one’s driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise".

Philip Kolvin QC

April 2018

This policy emphasises that any circumstance relating to the applicant or licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to applicants and licencees as to how Uttlesford District Council will approach the important task of making determinations about the safety and suitability of those that seek to obtain a licence to work in the Hackney Carriage and Private Hire Trade.

Chapter 1: Introduction

- 1.1 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.2 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

¹ Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence
² [2007] 1 WLR 2067
- 1.3 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.4 There is currently no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision, so it is a matter for Uttlesford District Council to decide.
- 1.5 This document is intended to provide guidance on how we will determine suitability, taking into account the character of the applicant or licensee. In particular, it considers how

regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.

- 1.6 A licensing authority policy can take a 'bright line approach' and say "never", but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².
- 1.7 The otherwise good character and driving record of the subject of the decision will not be considered as exceptional circumstances.
- 1.8 Simply remaining free from conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 1.9 This Policy contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

Chapter 2: Guidance on Determination

- 2.1 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 2.2 It is important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 2.3 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 2.4 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.

- 2.5 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 2.6 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use this policy as an indication of the approach that should be taken.
- 2.7 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority will consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 2.8 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence or a private hire driver's licence (or a combined licence driver's licence) are identical, they are considered together.
- 2.9 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 2.10 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 2.11 In relation to single convictions, the following time periods should elapse after completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

- 2.12 Where an applicant has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they **will not be licensed**.

Exploitation

- 2.13 Where an applicant has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they **will not be licensed**. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

- 2.14 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until **at least 10 years** have elapsed since the completion of any sentence imposed.

Possession of a weapon

- 2.15 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will

not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Sex and indecency offences

- 2.16 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, **a licence will not be granted.**
- 2.17 In addition to the above, the licensing authority **will not grant a licence** to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

- 2.18 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Drugs

- 2.19 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until **at least 10 years** have elapsed since the completion of any sentence imposed.
- 2.20 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until **at least 5 years** have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

- 2.21 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed or from conviction (whichever is longer).

Motoring convictions

- 2.22 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.
- 2.23 For licence holders who have accumulated 9 or more points on their DVLA drivers licence they are required to pass the Council approved driving test. If this is not done within 6 calendar weeks of the points being imposed then the taxi drivers licence will be suspended until the driver has successfully undertaken the test. Such testing will be at the licence holders expense.
- 2.24 No driver will be allowed to hold a taxi drivers licence if they have 12 or more current points on their DVLA licence.
- 2.25 In cases where the courts have imposed a disqualification in respect of a DVLA drivers licence an application for a drivers licence will not be granted until **at least 7 years** have elapsed following the reinstatement of that licence. Where a person has had more than one period of disqualification then the application will be refused.

Drink driving/driving under the influence of drugs/using a hand-held telephone or handheld device whilst driving.

- 2.26 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 2.27 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 2.28 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until **at least 5 years** have elapsed since the completion of any sentence imposed or the date on which the number of points on the DVLA licence dropped below 7.
- 2.29 A major traffic or vehicle related offence is one which is not covered above and also, any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until **at least 7**

years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

2.30 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Vehicle use offences

2.31 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Private Hire Operators

2.32 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

2.33 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

2.34 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the

operator themselves. This can be affected by means of the individual staff member being required by the operator to obtain a basic DBS certificate and to make a statutory declaration. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.

- 2.35 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

- 2.36 Vehicle proprietors (both Hackney carriage and private hire) have two principal responsibilities.
- 2.37 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 2.38 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 2.39 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 2.40 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Existing Licence holders

2.41 As public trust and confidence in the overall safety and integrity of the system of taxi licensing is vital, where a licence holder has received a conviction for any category of offences detailed above, their licence(s) **will be revoked**.

Acknowledgements

This policy is based on the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades released in 2018. Uttlesford District Council would like to acknowledge the contribution made by all those involved in creating the document which helps Local Authorities to have robust policies in relation to suitability.

Door and dashboard signs

Interior Markings

From 2021 all new drivers will display an internal driver identification card in the vehicle on the nearside of the windscreen in an unobstructed and conspicuous position so that passengers may see it. In the case where a vehicle or vehicles have multiple drivers, the driver must remove their identification card when not driving that vehicle and place it back in the vehicle when they do. The driver shall not conceal the driver identification card from public view or deface it.

TEMPORARY REPLACEMENT PRIVATE HIRE VEHICLES

The temporary replacement vehicle would have to meet all the same requirements and an identical process to licence the temporary vehicle would be followed as for a permanent change of vehicle this include the display of all door and interior signs.

NOTE: Failure to comply with this requirement will result in the automatic suspension of the vehicle or drivers licence until such time as evidence is produced that confirms that the above has been adhered to.

Specific Exemptions

The Local Government (Miscellaneous Provisions) Act 1976 requires that a Council must issue a private hire vehicle with a licence plate and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council. The Act also gives a Council the discretion to grant a proprietor a dispensation from displaying the licence plate on their licensed private hire vehicle. Each application for a dispensation will be considered on its own merits. The overriding consideration

will be public safety. The clear identification of a licensed vehicle is considered a safety aspect, particularly when visiting such places as airports, seaports and the centres of large towns.

There are some exemptions to the above as vehicles used for carrying out specific work such as executive and/or chauffeur work may be authorised not to display the Council official door stickers and licence plate on the outside of the vehicle.

Dispensations will not be granted as a matter of course. A clear case for the dispensation will have to be made by the proprietor, in writing, to the Licensing Service.

In determining an application, it will normally be the status of the passenger and the executive nature of the work that will indicate whether or not the dispensation should be granted. The high quality of the vehicle being used will be supportive of an application but will not be the sole determining factor.

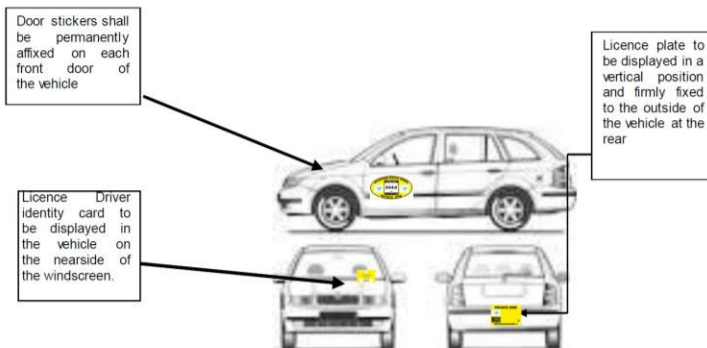
Surrender of Licence

If the proprietor ceases to use the vehicle for the purpose for which it is licensed, they shall formally surrender the licence in writing and return the plate and door stickers, which remains the property of Uttlesford Council.

Current Signage

Plates and badges must be placed like this. At renewal, if there is advertising already on the front driver and passenger doors then they may be placed on the rear doors. Any new licensed vehicle must have them on the front passenger and driver door as indicated:

GUIDANCE ON POSITIONING OF LICENCE PLATE, DOOR STICKERS AND LICENCE DRIVER IDENTIFICATION CARD



Driving Proficiency Test

1. All new applicants for driving licences to be required to pass the Council's approved driving test.
2. Applicants to have held a Full UK Drivers Licence (or equivalent) for a minimum of 3 years at the time of application.
3. Licence holders whose ability to drive the public safely has been brought into question by:
 - I. the accrual of penalty points on their DVLA licence (figure stipulated in the authorities Suitability Policy); or
 - II. another means (such as a series of complaints, etc,) to pass the Council's approved driving test within a fixed period (stipulated in the authorities Suitability policy) or face suspension of their driver's licence until such time as they successfully pass the test.

New driver training and testing

1. New applicants for driver's licences attend a full day's training course to include training in customer service, driver safety, relevant legislation, disability awareness, safeguarding and other key information required to be a competent and safe driver.
2. The training day will include a test of that knowledge for both dual/combined driver and private hire driver applicants. Applicants for dual/combined driver licences will be subject to an additional geographic test of their knowledge of the District as they are available for immediate hire.
3. Applicants will be provided with access to a comprehensive handbook at the time of booking onto the course as a study aid prior to the course and a quick reference guide to keep once they are licensed. The content the handbook will only be finalised before the course is implemented.
4. As stated above all applicants would receive the same training however the testing would differ slightly in that applicants for a private hire drivers licence would not have to sit a geographical knowledge test. All the other tested elements would remain the same:
 - Rules and regulations
 - Highway code
 - Basic arithmetic
5. The questions would be a mix of multiple choice and written answers allowing the authority to assess the ability of candidates to understand and write written English.

Similarly, the training requires applicants to interact with each other and the trainer which will be a test of their ability to speak and understand English language.

The proposed content of the course to include training in the following elements but is subject to change to UDC's specification:

Customer Service

- The benefit to your business of good customer service
- The impact on the trade and other parts of the business (operators) of bad service
- What constitutes good customer service in a taxi or private hire vehicle?
- The current taxi and private hire market (apps etc) and how this impacts upon consumer choice and expectation
- Practical examples of good customer service
- What to do if a customer asks you to do something that is wrong or illegal
- Is the customer always right?
- How following rules and regulations helps to reinforce good customer service?
- (wearing of badges, helping with luggage etc)
- Customer service statistics (examples from business and surveys that show how customers react to good and bad service)

Rules and Regulations

A thorough journey through all rules and regulations including:

- How and where to stop safely
- How to correctly identify a passenger

- The risks of misidentifying a passenger (plying, insurance, driver safety, bad customer service)
- Seatbelts
- Smoking
- Signage
- Luggage
- Confirming the route
- Meter use
- Receipts
- Dealing with customer requests (windows, music etc)
- Payment
- Assisting with driver details in the event of the customer wishing to make a complaint.

Driver Safety and Reporting Crime

- CCTV
- Safety Screens
- Credit and Debit card machines
- The law and how this protects you (non-payment of fares, assault, abuse)
- How to report an incident and how to ensure it is correctly investigated
- Civil claims for unpaid fares
- Criminal offences
- Practical tips (driving at night, keeping doors locked, windows up etc)
- Current trends and risks to drivers

Safe-Guarding

- How to spot the signs of exploitation in general.
- What this means for taxi and private hire drivers specifically (training is tailored to this trade rather than generic 'safe-guarding' training)
- Real examples of incidents to work through and give opinions and thoughts on Child Sexual Exploitation – definitions and signs, age of consent, the law concerning human trafficking
- Extremism – definitions and signs, the dangers posed by all forms of extremism
- Modern Slavery – definitions and signs, the law concerning human trafficking
- County Lines (drug trafficking) – definitions and signs, children particularly at risk.
- The warning signs.
- How to report concerns
- What happens to your information
- Keeping yourself safe when assisting others

Disability and Equality Awareness

Split in to three parts – the law, business benefits and practical assistance

The law covers:

- The Equality Act 2010
- What equality means
- Civil and Criminal elements of the Act
- Reasonable Adjustment and what this means for drivers
- The risks of non-compliance (fines, criminal offences)

Business benefits cover:

- The numbers of disabled passengers and types of disability
- The growing market and the economic reasons behind this growth
- The market specific to Uttlesford
- The spending power of the disabled community
- The growth in other issues such as mental health and dementia and how this will impact on the trade
- County Council school contracts

Practical assistance covers:

- Assisting wheelchair users
- Language to use
- Language to avoid
- Sighted Guiding
- Assistance for passenger with learning differences
- Assistance for passengers who are autistic
- Assistance Dogs and other dogs that assist but are not recognised in law
- Dementia, dementia friendly cities and the future of safeguarding vulnerable adults

APPENDIX M

Service Level Agreement Relating to Roadworthiness Testing of Licensed Hackney Carriages & Private Hire Vehicles in the District of Uttlesford

This document outlines the level of service expected by Uttlesford District Council (the Council) from any Provider wishing to carry out the mechanical and compliance testing of current and prospective Hackney Carriage (HC) and Private Hire (PH) Vehicles in order to ascertain a) their fitness for use as public service vehicles and b) their conformity with the Council's HC and PH conditions.

The Council will ordinarily only consider applications from Providers located inside the Uttlesford District. Where excess demand in the Hackney Carriage/Private Hire trade necessitates consideration of other nearby testing stations, then applications may be considered from providers located within a 5 mile radius from the District boundary.

Any Provider applying to become an 'authorised testing station' of the Council must read, understand and agree to the requirements within this document. The Provider will be notified in writing in advance of any alteration or amendment to this agreement which may be necessary as a result of any policy changes.

The Service

The Provider agrees to;

- **Carry out inspections of motor vehicles to ensure they meet the standards of fitness as set out in the current; (a) Vehicle Inspectorate MOT Inspection Manual, (b) Vehicle Compliance Testing Manual as issued by the Council for HC and PH vehicles, and, (c)**

HC and PH vehicle conditions and licensing standards as set out in the Council's Licensing Policy.

- To provide the Council with a documented list showing the names of members of staff who are proposed to undertake compliance tests held under this agreement. This list must be provided upon application and promptly updated as and when any changes in relevant staff occur. This information must be provided to the Council prior to those changes taking effect other than in exceptional circumstances.
- **Ensure that no one other than a qualified or accredited class 4 MOT tester who has been identified as such on the application form undertakes compliance tests on behalf of the Council.**
- Carry out compliance tests within five working days of a request by the proprietor of a vehicle, and to endeavour where possible to accommodate short notice requests within a minimum of 48 hours.
- **Contact the Council's Licensing Team immediately upon the failure of any vehicle to satisfy the requirements of the compliance test providing a copy of the compliance test sheet outlining the reasons for failure, excepting only when the failed item/s have been rectified and passed before the vehicle leaves the testing station site.**
- Provide the vehicle proprietor with the compliance test sheet immediately upon completion of the test, and to send a copy via email to the Council by the conclusion of the day in which the test was carried out.
- **Take and supply the Council with legible time stamped electronic photographs of the vehicle while at the testing station showing both the front and rear thereof, including registration plates. These are to be provided alongside the compliance test sheet. Where a vehicle is failed for any cosmetic reasons, a photograph evidencing this shall also be provided.**
- Have a CCTV surveillance system in good working order covering internal and external areas, and to make video

footage available upon request by authorized officers of the Council.

- **Ensure and be able to demonstrate that any tester who undertakes the testing of wheelchair accessible vehicles (WAVs) and their restraints, ramps and fittings, is suitably trained to do so.**

Management Responsibilities of the Provider

The provider will:

- **Inform the Council immediately in writing of any change to the operation of its business including (but not limited to); proposed sale or transfer of the Company or assets, bankruptcy, closure or enforcement action by the DVSA.**
- Notify the Council of any change to its vehicle testing station Risk Rating following inspection carried out by the DVSA.
- **Keep copies of all compliance tests carried out for a period of at least one year from the date of test and provide statistics showing the number of compliance tests carried out, the number of failed tests and reasons for failure for a period of at least 1 calendar year. These must be made available for inspection upon request by an authorized officer of the Council.**
- Ensure that all named testers authorised to carry out compliance tests on behalf of the Council are familiar with all aspects of the Vehicle Compliance Testing Manual as issued by the Council for HC and PH vehicles, and the HC and PH vehicle conditions and licensing standards as set out in the Council's Licensing Policy.
- **Charge a realistic inspection fee that covers the full cost of the vehicle compliance test inspection and any retests. The Council does not currently set the test fees and prefers to let market forces determine the fee payable, although it will consider setting the fee that can be levied if the circumstances arise.**

Monitoring the Service

- **The effectiveness and efficiency of the service will be the subject to ongoing review and analysis. This may include premises inspections, monitoring of service standards, compliance with the agreement, auditing of test standards, etc.**
- The agreement may be terminated by the Council at any time where the Provider has repeatedly failed to comply with the requirements of this agreement. The Council will inform the Provider in writing on any occasion it considers it to have failed to comply outlining the reason/s why, and will where practicable provide 28 days' written notice whereby termination is deemed necessary. However, where the Council considers the reason/s for termination to be of a serious nature and the notice period is therefore not appropriate, this decision can take immediate effect and will be communicated as such.
- **Where a Provider has received notice of termination, it will have 14 days from receipt of the notice to appeal the decision to an Assistant Director of the Council not involved in the termination process, who will issue a reasoned decision in writing 20 working days from receipt of the appeal. This decision will be final. Where a notice of termination is given with immediate effect, the Provider will not be permitted to operate under the terms of the contract until the appeal has been heard.**

Agenda Item 9

Committee: Licensing and Environmental Health Committee

Date:
12th July 2022

Title: Taxi and PHV Fees – New process

Report Author: Russell Way, Licensing and Compliance Manager

Summary

The purpose of this report is advise Members of the Licensing Team’s proposal to review the method for calculating Taxi and PHV fees. They are asked to note the report.

Financial Implications

The Taxi and PHV licensing service is a statutory obligation under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, and the legislation requires that the cost of a licence must be related to the cost of the provision of the licensing service. It is not permissible for the service to be run at a profit.

Background Papers

Annex A – screen shot of Diamond Time recording System

Impact

Communication/Consultation	Not currently carried out. But there will be a need to once we have identified a legal pathway
Community Safety	The main priority for the local authority concerning taxi and PHV is community safety
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	This is a proportionate document to ensure licensing authorities including Uttlesford carry out their legal duties.
Sustainability	N/A

Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

- 1 Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 the cost of a licence must be related to the cost of the provision of the licensing service It is therefore appropriate for a local authority to recover their administrative and other associated costs.
- 2 The fees for Hackney Carriage, Private Hire Driver and Vehicle, and Operator Licences are reviewed by the Council on an annual basis to determine whether the income received from the previous year has been in line with the cost of delivering the service.
- 3 There are several best methods that licensing authorities use to calculate taxi and PHV fees. These evolve around two methods
 - The analysis of time taken and/or cost of each element or
 - The average cost of completing the licensing function
- 4 The fee structures at Uttlesford have historically been a time and motion study of the officer time tak to create a drivers badge, a vehicle plate or an operator's licence.
- 5 In order to attain best practise and meet DfT standards the licensing team have to carry out further functions such as
 - Engagement and meetings with the trade
 - Consultations
 - Report writing
 - Internal discussions/briefing/training with staff on Taxi/PHV
 - DBS chases ups with drivers

These additional costs are not currently added to the fees structure

6 . In 2019 the case of Wakefield meant the Licensing Authorities could charge for enforcement officers time <https://www.instituteoflicensing.org/news/wakefield-taxi-fees-case-update/> This was a Court of Appeal decision and Licensing Authorities began to consider charging for enforcement officers time and costs

7. At the start of this Financial Year the Licensing Team purchased and are now implementing a new time recording software package called Diamond Time Recording system – See Annex A. Officers are now trained in this software and daily capture all their chargeable and non-chargeable activity. It is broken down and assigned to the respective types of licence and then further broken down into activities. This software is currently used by several Essex Licensing Authorities and is seen better than spreadsheets which some Councils still use to calculate their fees.

8. Running this process in tandem with our old process may also enable us to effectively evaluate officer time against individual activities against each licence and will help us consider the right framework for our fees going forward. This will include both enforcement and process costs for drivers, vehicles and operators.

9. The new process will also help us identify savings, for example this may give us the opportunity to explore better use of technology in order to make savings and reduce fee

10. However there will be further change to the Licensing process at Uttlesford DfT are currently consulting on a best practice document for Licensing Authorities Taxi and private hire vehicle: best practice guidance to assist local authorities - GOV.UK (www.gov.uk). It is not known when the resulting document will be published, but I have no doubt it will mean as a Licensing Authority we will need to engage, consult and consider change both through processing licenses and enforcement. It is right that these changes are captured and the public purse is not affected.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
3 = Significant risk or impact – action required	2 = Some risk or impact – action may be necessary. There is a need for the council to ensure it meets the Government standards. Reputational damage could occur if it does not fulfil its legal	3 = Significant risk or impact – action required	3 = Significant risk or impact – action required

	duties.		
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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.

Annex A

