



Public Document Pack

Uttlesford District Council

Chief Executive: Peter Holt

Licensing and Environmental Health Committee

Date: Thursday, 10th August, 2023

Time: 7.00 pm

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

Chairman: Councillor A Armstrong

Members: Councillors M Ahmed, M Coletta, J Davey, A Dean, G Driscoll (Vice-Chair), J Moran, A Reeve, B Regan and M Tayler

Substitutes: Councillors S Barker, N Church, M Foley, R Freeman and J Loughlin

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements, subject to having given notice by 12 noon two working days before the meeting. A time limit of 3 minutes is allowed for each speaker.

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**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** 4 - 6

To consider the minutes of previous meetings.
- 3 Licensing Act 2003 - Revised Statement of Licensing Policy** 7 - 91

To consider the revised Licensing Policy Statement for the period 2022 to 2027.
- 4 Revision to the Hackney Carriage and Private Hire Licensing Policy** 92 - 266

To note the revisions made to the Hackney Carriage and Private Hire Licensing Policy, following the approval of the new Restricted Home to School Private Hire Driver's licence.

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Agenda Item 2

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on TUESDAY, 11 JULY 2023 at 7.00 pm

Present: Councillor A Armstrong (Chair)
Councillors M Ahmed, N Church, G Driscoll, J Moran and A Reeve

Officers in attendance: T Cobden (Environmental Health Manager - Commercial),
J Livermore (Senior Licensing and Compliance Officer),
S Mahoney (Licensing and Compliance Manager) and
C Shanley-Grozavu (Democratic Services Officer)

Public
Speakers: A Mahoney

LIC10 **PUBLIC SPEAKERS**

Mr Andy Mahoney addressed the committee. A summary of his statement is appended to these minutes.

LIC11 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received by Councillors Davey, Dean and Regan.

There were no declarations of interest.

LIC12 **MINUTES OF PREVIOUS MEETINGS**

The following minutes were approved as a correct record:

- 1st February 2023
- 23rd March 2023 (Licensing Panel)
- 26th May 2023 (Licensing Panel)
- 13th June 2023 (Licensing Panel)

LIC13 **INTRODUCTION OF A RESTRICTED PRIVATE HIRE DRIVER LICENCE**

The Licensing and Compliance Manager presented a report on the introduction of a Restricted Private Hire Driver Licence which would be issued to drivers undertaking home-to-school transportation journeys whilst contracted to a Local Education Authority (LEA).

In response to questions from members, officers clarified the following:

- A working group would be responsible for designing the training which Drivers would have to undertake in order to obtain the new Licence. This would be led by GreenPenny, the Council's current training provider, and

would consult with the Council's own Safeguarding Officer and other parties in the Education sector.

- The current training course for Private Hire and Hackney Carriage licencing is approximately seven and a half hours long, but the new course for the restricted licence will be tailored to focus on that specific type of work, which should reduce the overall course duration to applicants.
- The cost of producing the new licence and badge would be recovered through the fees paid to obtain one.
- A driver with the new restricted licence would only be able to offer home-to-school journeys under their LAE contract. Should they wish to work outside of this remit and provide other private hire journeys, then they would be required to also obtain a Private Hire Licence.
- The design of the restricted licence badge would be different from the other licence badges in order to display the restriction to the public and other authorities.

RESOLVED:

1. To agree the introduction of restricted Private Hire Driver licenses as an option available for the purposes of LEA approved home-to-school transportation only.
2. To agree that this Licence type is available from 1 August 2023.
3. To delegate authority to the Licensing and Compliance Manager, in conjunction with the Chair of Licensing and Environmental Health Committee, to make minor amendments to the existing Hackney Carriage and Private Hire Licensing Policy 10 May 2021, and Conditions of Licence if amendments are deemed necessary.
4. To note why the option of a restricted PHD licence has many benefits, including to support the LEA with their school transportation obligations.

Cllr A Reeve left at 19:24

LIC14 ENFORCEMENT UPDATE

The Senior Licensing and Compliance Officer presented a report on the compliance and enforcement activities carried out by Licensing Officers during the period of 1 January 2023 to 31 May 2023.

In response to a question from Councillor Driscoll, it was clarified that Licensing Officers had the power to suspend a licence, should they find anything of significance during a check or inspection. Many of their activities were carried out in partnership with other agencies, such as the DVLA and police, who also had additional powers.

The report was noted.

Meeting ended at 19:33

PUBLIC SPEAKERS

Mr Andy Mahoney

Mr Mahoney spoke in support of the proposal for a Restricted Private Hire Driver Licence which would be issued to drivers undertaking home-to-school transportation journeys. He said it would make a difference to everyone within the schools community.

Mr Mahoney explained that there was a critical driver shortage with 20,000 drivers less than there was 14 years ago. More importantly, there were 200,000 drivers who currently drove for companies such as Uber and Bolt and were unable to do a home-to-school contract. There had been a further loss in driver numbers due to the Covid-19 pandemic.

As a result of the shortage, children all over the country could not get to school. The hope was that a licence for home-to-school contracts would encourage some of the drivers which were needed to come into the industry. This included older drivers, back-to-work parents, retired/semi-retired people who all do the best job at taking special needs children to school. The proposed licence would also help support local authorities, including Essex, who had requirements under legislation which they were currently unable to do successfully.

Mr Mahoney said that drivers should be trained in the job which they were doing and the proposed licence would ensure that Uttlesford licenced school drivers would be trained for the job which they do, for the first time, and not for the job that they don't do as they were not general taxi drivers, but dedicated school drivers.

He concluded by asking that the committee looked positively at the introduction of the new licence. There were many different authorities that were putting their weight behind it in support, including local authorities, licencing authorities, the Institute of Licensing, the Department for Education, ATCO, Welsh Government and the Private Hire Association.

Committee: Licensing & Environmental Health Committee **Date:** 10th August 2023
Title: Licensing Act 2003 – Revised Statement of Licensing Policy
Report Author: Steve Mahoney, Licensing Manager

Summary

1. In accordance with section 5 of the licensing Act 2003 the Licensing Authority is required to review and publish its statement of licensing policy every 5 years. The committee is therefore asked to approve the following recommendations. During the five-year period, the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met.
2. Guidance also states “where revisions to the section 182 guidance are made by the secretary of state, it will be for the licensing authority to determine whether revisions to its own policy statement are appropriate.

Recommendations

3. That members recommend that Full Council adopt the proposed statement of licensing policy with effect from 1 December 2022.

Financial Implications

4. The costs involved in consultation and advertising have been met from within existing budgets.

Background Papers

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

Uttlesford’s Draft Statement of Principle Policy document.
Revised Guidance issued under sections 182 of the Licensing Act 2003 (Dec 2022 version)

Impact

- 6.

Communication/Consultation	There was a statutory requirement to consult prior to the adoption of a revised Licensing policy.
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Community Safety	This is encompassed in the licensing objective of public safety and the protection of children from harm
Equalities	There are no equality issues arising from this report
Health and Safety	Public safety is one of the licensing objectives promoted by the draft policy statement.
Human Rights/Legal Implications	In the event that the Licensing Policy is not consistent with the legislation it is susceptible to challenge by way of judicial review. In the event that the Policy is inconsistent with government guidance and no good reason has been given for departure therefrom the Policy would also be susceptible to such challenge and the Authority would be at greater risk of adverse costs on appeal if the court decided the issue based on government guidance.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

7. The Licensing Act 2003 which has been in force since 2005 requires that the authority produces a Statement of Licensing Policy and reviews it at least every 5 years. The current policy was last reviewed in 2017 and approved by Full Council.
8. In accordance with the requirement to keep the Policy under review the Policy has now been updated for the five-year period 2022 to 2027.
9. In exercising its duties under the Act the Licensing Authority must act in accordance with the general principles of public administration, and under a duty to promote the statutory licensing objectives of preventing crime and disorder: preventing public nuisance: protecting public safety; and protecting children from harm.
10. During the life of the current policy, it has proved satisfactory there have been no challenges made to any parts of the Policy. This revision contains additional supportive information and is in accordance with the revised guidance issued by the Secretary of State under section 182 of the Act 2003.
11. The Secretary of State's guidance however, requires Members to specifically consider the issue of a Cumulative Impact Policy and Late Night Refreshment Exemptions as part of the Licensing Policy process.

12. Cumulative Impact means the potential impact on the promotion of the licensing objectives of having a significant number of licensed premises concentrated in one area. It is open to Licensing Authorities to adopt a Cumulative Impact Policy, which creates a rebuttable presumption that applications for the grant or variation of licences or certificates which are likely to add to the cumulative impact will normally be refused, following relevant representations. Such a special policy needs to be set out within the Statement of Licensing Policy.
13. However, any decision to include a Cumulative Impact Policy within the Statement of Licensing Policy needs have an evidential basis. The Licensing Authority has not previously felt that there was any evidence of cumulative impact, and this was reflected by such statements in its previous Licensing Policies. Up to the point of this review, no evidence has been received by the Licensing Authority that indicates a Cumulative Impact Policy would be appropriate, and therefore no change has been made to the status quo.
14. Similarly, the Deregulation Act 2015 gives Licensing Authority powers to exempt certain premises, in certain circumstances, from the requirement to have premises licences to provide late night refreshment (the supply of hot food or drink between 23.00 and 05.00). These powers allow licensing authorities to choose to apply an exemption where they think it will be helpful to businesses and where there are no problems with anti-social behavior or disorder associated with the night time economy.
15. Government guidance advises that licensing authorities should consider deregulation where possible. The decision to make an exemption is a licensing function that should be included in their statement of licensing policy. However, there is no obligation on a Licensing Authority to use the exemption powers.
16. The Licensing Authority has not received any comments from businesses that the current rules are too restrictive or costly, and the number of premises with Late Night Refreshment only licences is small, and therefore it is not considered appropriate to make any exemptions at this stage. The details of the types of premises that could benefit from any exemption, and the types of exemptions that could be made are set out in the draft policy for information.

17. Consultation on the draft policy took place over a 12-week period after the licensing committee approval. The licensing team consulted with all the persons listed in s5(3) of the Act, being responsible authorities under the Act, all premises licensed in the district, local businesses, Councilors, and Town & Parish Councils. Annex A
18. The draft licensing policy statement was also displayed on the Council's website throughout the consultation period. It was accompanied by an invitation to submit relevant comments.
19. The consultation period having been concluded and with no amendments requested I present this to the committee for approval and thereafter be published.

Risk Analysis

20.

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

- 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

List Of Consultees.

Licensing (Alcohol) Consultants

Essex Police Licensing

Essex Fire and Rescue service

Health and Safety

Planning

Noise/Nuisance

Childrens Safeguarding

Trading Standards

Public Health

Home Office

Uttlesford District Council (Community Safety)

All Premises Licence Holders with premises in the district

All Known Brewery Chains

ALL Uttlesford Councilors

ALL Parish Councils

Alcohol Related Charities.

Alcohol Concern

Drink Aware

BIIAB

Alcoholics Anonymous (GB) Ltd

Uttlesford District Council

Statement of Licensing Policy 2022-2027

Foreword

This Policy supports Uttlesford's Vision and Corporate Priorities.

Our vision: Making Uttlesford the best place to live, work and play.

Our vision is supported by four priorities.

- Putting Residents First
- Active Place-Maker for our towns and villages
- Progressive Custodian of our rural environment
- Champion of our district

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

We recognise the many positive impacts that licensed premises provide, especially our public houses which play a key role in improving the quality of people's lives and preserving all that is best in Uttlesford.

Uttlesford is a very low crime and disorder area, frequently featuring in the as one of the best rural places to live in the whole of the UK. However, this is no reason to be complacent and Uttlesford is surrounded by areas which regularly suffer much higher crime levels. This Policy takes a safeguarding approach to prevent crime and disorder escalating.

We want our licensed establishments to contribute to the district remaining a safe and low crime area to live, work and visit. We are committed to ensuring that the district and in particular the town centres and areas of entertainment remain safe, vibrant, diverse and family-friendly.

Uttlesford enjoys a widespread and diverse selection of licensed premises and venues. More than 200 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late-night refreshment. These range from off-licences, shops and supermarkets; restaurants, cafes and take-away establishments; to pubs, bars, members clubs, night clubs, theatres, cinemas and indoor sports facilities. Together they combine to provide a wide range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.

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 building community cohesion and cultural development.

Of course, negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. We recognise that the misuse of alcohol does negatively impact upon both public health and well-being. Whilst outside of the scope of this Policy we recognise the impact upon the public purse through the demands made upon A&E; additional policing; additional street cleaning; and the criminal justice system.

Our policy, therefore, seeks to provide a necessary balance between providing a platform upon which responsible business operators may contribute towards a thriving business and entertainment economy while ensuring that the quality of life of those who 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.

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DRAFT

1 About Uttlesford

Uttlesford is the largest of the 14 districts in Essex. It covers about 247 square miles, around a thirds of Essex, and offers a blend of rural and town living. The benefits of this mixture are greatly appreciated by the 91,300 people who live in the district.

The district has Chelmsford, Harlow and Epping Forest councils to the south, Braintree to the east, and Cambridgeshire lies on its northern boundary. To the west, the district borders onto the county of Hertfordshire.

Located to the West of the district at the junction of the A120 and M11 is the UKs third largest international airport – London Stansted.

Uttlesford's population in 2022 is now estimated to be 91300¹. Over the last ten years the district has seen a 14.9% increase in its population. This is the largest percentage increase in the whole of Essex and significantly higher than the average in the England, which is 8.3%¹.

Over the last ten years Uttlesford has had significant increases in its population particularly among those over 50, the biggest increase being in the 70-74 age group which rose by 63%¹

The district is mainly comprised of farmland, hamlets and villages which surround four towns where the majority of the population live. These are Saffron Walden which has the largest population at 16,000 followed by Great Dunmow, Thaxted, and Takeley.

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

The people of Uttlesford are predominantly employed and enjoy higher than average earnings of £728.30 gross weekly pay for full-time workers compared £613.10 for the whole of the country. Unemployment is very low (2.5%²).

According to the latest [2011 Census](#), the population in Uttlesford is predominantly white (96.6%), with non-white minorities representing the remaining 3.4% of the population.

Asian people were the largest minority group in Uttlesford accounting for 1.4% of the population. 417 or 1% of the Uttlesford population are black according to the latest 2011 census.

In England more broadly the portion of the population that is white is 85.4%. 7.8% are Asian and 3.5% are Black.

Population by race in Uttlesford, 2011 census

- **White** - 76,639 people or 96.6%
- **Asian** - 1,122 people or 1.4%
- **Mixed** - 977 people or 1.2%
- **Black** - 417 people or 0.5%
- **Other** - 166 people or 0.2%

¹ <https://www.ons.gov.uk/visualisations/censuspopulationchange/E07000077/>

² [Labour Market Profile - Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](#)

2 About this document

- 2.1 This document is Uttlesford Council's statement of licensing policy in respect of the regulation of alcohol supplies, regulated entertainment and late-night refreshment, and the publication of it fulfils the authority's statutory obligation under section 5 of the Licensing Act 2003 ("the Act"). It sets out the policies and principles that we will follow when exercising our powers under that Act, particularly in respect of considering applications in respect of licences and other authorizations. It also gives details of our expectations of applicants and licence-holders. This statement must be published on at least one occasion in each five-year period. The statement must also be kept under review during its validity period, and revised if required, with any revisions published prior to taking effect.
- 2.2 This Statement of Licensing Policy was adopted by the Council on the, XXXXXX and was published via our website. The statement will have effect from XXXXXX to XXXXX.
- 2.3 This revised Policy has been reviewed and updated to reflect the authority's experiences in exercising its powers that have taken place in the intervening period.
- 2.4 We are required to exercise our licensing functions under the Act with a view to promoting the licensing objectives, which are:
- **The prevention of crime and disorder,**
 - **Public safety,**
 - **The prevention of public nuisance, and**
 - **The protection of children from harm.**
- 2.5 Each objective has equal importance, and they are explained in greater details in later chapters.
- 2.6 We must also have regard to our published Statement of Licensing Policy, and to the Guidance for licensing authorities published by the Secretary of State under section 182 of the Act.
- 2.7 The purpose of this statement is to provide guidance to committees and officers determining matters under delegated authority, to provide consistency to our decision-making. However, where the circumstances justify doing so, we may depart from any provision of this statement, or of the Government's Guidance, to make an appropriate decision based upon the individual circumstances of a particular case. In any such case we will give a clear explanation and reasons as to why we have done so.
- 2.8 This policy statement reflects the wide range of competing, and sometimes conflicting, considerations which we must take into account when exercising our powers and aims to balance these insofar as is possible.

3 Who is affected by this policy

3.1 This document applies to all places selling or providing:

- Alcohol
- Regulated Entertainment
- Late Night Refreshment

Including

- Pubs and night-clubs,
- Off-licences,
- Restaurants serving alcohol, and take-aways open between 11.00pm and 5.00am, serving hot food and drink,,
- Hotels, guest house,
- Private members' clubs and social clubs,
- Theatre and amateur dramatic groups,
- Cinema operators,
- Organisers of temporary events,
- Festivals and other outdoor events,
- Some community events and village halls.

It is also recognised that how the Policy is applied can influence:

- The lives of Uttlesford residents
- Visitors of Uttlesford
- Businesses not directly involved with the licensed trade
- The local economy and prosperity of Uttlesford

4 Consideration of this Policy

Each application must and will be considered on its individual merits and must be granted in the absence of any relevant representations; where representations are made regard, as required by law, will be had to our Statement of Licensing Policy. It will be expected that applicants are able to demonstrate that they have read, considered, and responded, where relevant, to this Statement of Licensing Policy in their applications. Equally responsible authorities and other persons will also be expected to have read, considered and, where relevant, address this Statement of Licensing Policy in their representations.

Protecting local residents and avoiding nuisance from disturbance and anti-social behaviour caused by the conduct of inconsiderate people visiting places of entertainment, is central to our Licensing Policy. This focus aims to address concerns about the impact of trading hours on behaviour and disturbance at night.

5 Policy Objectives

The aims of the policy are to pursue the four licensing objectives by:

Helping to build and maintain a prosperous society that balances the rights of individuals with needs of businesses.

Integrating the policy and objectives with other initiatives, policies and strategies including culture, planning, transport, employment and crime and disorder reduction.

Working to:

- Protect the well-being of local residents
- Encourage young people to enjoy and take part in cultural activities
- Maintain a safe and family friendly environment in the licensing authority's administrative area
- Reduce crime and disorder
- To reduce instances of sexual harassment and discrimination and ensure the licensed premises tackle inappropriate behaviour
- Prevent anti-social behaviour
- Manage nuisance, e.g. noise
- Encourage and promote good neighbourliness
- Encourage tourism
- Encourage and advise on an early evening and nighttime economy which is viable, sustainable and manageable
- Reduce alcohol misuse
- Encourage employment
- Encourage the self-sufficiency of local communities
- Reduce the burden of unnecessary regulation on business

- 5.1 The Council hopes that this Policy will help ensure that local people and visitors are able to enjoy their leisure time safely without fear of violence, intimidation, or disorder while on, arriving at or leaving licensed premises. The Council has to balance protecting the amenity of its local population with the expectations of commercial occupiers to have an environment that is attractive and sustainable for their business.
- 5.2 An effective Licensing Policy, with other initiatives, can help promote improvements (increasing the leisure industry provision for the community and encouraging regeneration of town centres), as well as reducing the negative impacts (noise, nuisance, anti-social behaviour and crime and disorder).
- 5.3 Our aim is to have a lighter touch for most businesses and community activities, which enhance peoples' lives by providing worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises which cause problems within our

communities, allow disorder, threaten public safety, cause public nuisance, or threaten the wellbeing of children, will be targeted for enforcement action.

- 5.4 This Policy is designed to build upon the work presently carried out by the Council to maintain a dynamic, innovative and attractive place to live, work and relax. The Council has several strategies in place that contain the visions, aims and objectives to promote, improve and protect the area. This Licensing Policy has been prepared to promote the four licensing objectives, and the Council has had regard to the local strategies which have been developed for the district, its residents, businesses, workers and visitors. The Council is working to secure the proper integration with local crime prevention, planning, transport, tourism, cultural strategies, race equality schemes and disability and gender discrimination strategies, by ensuring the Licensing Policy is consistent with the aims and objectives of these strategies.
- 5.5 The council also recognises the importance of ensuring the licensed premises within the district are free from gender based violence, and misconduct and that customers and the licensed trade promote the reporting of cases of sexual harassment, misconduct and gender – based violence¹. This is particularly important if a case of spiking occurs within the district. The council will support premises to make improvements to prevent further spiking offences.
- 5.6 The Council also recognises that the legislation supports a number of other key aims and purposes and that these too are vitally important and should be principal aims for everyone involved in licensing work.

They include:

Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.

Giving the police and licensing authorities the powers, they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;

Recognising the important role which pubs and other licensed premises play in our local communities by minimizing the regulatory burden on business, encouraging innovation and supporting responsible premises;

Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them;

Joining and supporting the districts pub watch schemes and the promotion of 'Ask Angela' within in the district.

¹ <https://www.local.gov.uk/publications/lga-guidance-note-drink-spiking-prevention>

6 Licensing Act 2003

- 6.1 The Act has been in operation since 24 November 2005, and is administered by local authorities. The central purpose of the Licensing Act is to promote the four licensing objectives, and the Licensing Authority will use its powers working with the Police and other agencies to achieve this.
- 6.2 The Act aims to provide the entertainment/leisure industry with freedom and flexibility over provision of licensable activities and opening hours.
- 6.3 The Act specifies a set of licensable activities, which may only be provided under an authorisation issued by the relevant local Licensing Authority (Uttlesford Council for all premises within the District of Uttlesford). The licensable activities, which are covered in greater detail within this section, include supplying alcohol, providing regulated entertainment, and providing late night refreshment.
- 6.4 The types of authorisation which Licensing Authorities may issue to permit licensable activities include premises licences, club premises certificates, temporary event notices, and personal licences.
- 6.5 In exercising its licensing functions under the Act, the Licensing Authority shall:
- Aim to promote the licensing objectives,
 - Have regard to this statement of licensing policy, and
 - Have regard to the Government's Guidance.
- 6.6 The Licensing Authority may not reject an application nor revoke a licence in response to representations concerning general moral or ethical objections to the carrying on of licensable activities, unless a direct link to one or more of the licensing objectives can be established. In particular, the supply of alcohol is expressly permitted under UK legislation, and the Licensing Authority has a duty to act fairly and in accordance with the legislation.
- 6.7 Every matter considered by the Council, in its role as a Licensing Authority, will be considered on its own merits and in accordance with the statutory requirements of the Act. Nothing in this Statement of Licensing Policy shall:
- a) prevent any person from making an application for authorisation or giving a notice under the Act;
 - b) prevent any person from making representation in respect of an application of a type where the Act provides for them to do so;
 - c) prevent any person from making an application for the review of a premises licence; or
 - d) restrict or fetter the Council's discretion to consider and determine applications, or to initiate legal proceedings or other enforcement action, based upon the individual circumstances and merits of a particular case.
- 6.8 Typically, the Licensing Authority's discretion over whether to refuse applications, to issue counter-notices or to impose additional licence conditions is only engaged if relevant representations or objection notices have been given to the authority within a prescribed period. For many of the application processes under the Act (with a small

number of key exceptions), if no relevant representations or objection notices are received within the prescribed period, the Licensing Authority will be obliged to grant the application, subject only to any statutory conditions and conditions consistent with measures proposed by the applicant in their operating schedule.

6.9 The Licensing Authority has a general duty under the Crime and Disorder Act 1998 *‘to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area’*.

6.10 Licensable activities

The Act regulates a set of broad ‘licensable activities’ relating to the leisure and retail industries, as follows:

- Supplies of alcohol, including:
 - Sale by retail of alcohol,
 - Supply of alcohol by or on behalf of a club to, or the order of, a member of the club.

- The provision of regulated entertainment, comprising:
 - Performance of plays,
 - Exhibitions of films,
 - Indoor sporting events,
 - Boxing and wrestling entertainments,
 - Performances of live music,
 - Playing of recorded music,
 - Performances of dance,
 - Entertainment which is similar to music or dance.

- The provision of late-night refreshment.

6.11 To be considered licensable, entertainment must be provided in the presence of an audience (which may consist of a single person), and either be open to the public or a section thereof, or provided for a consideration (e.g. admission fee, tickets) and with a view to profit. The definitions of these activities were left deliberately wide so as to account for future developments in the industries carrying on those activities – for example in recent years there has been an increase in the number of ‘silent discos’, which are considered to be regulated entertainment as they consist of recorded music, but which may not have been captured under a narrower definition.

6.12 The Government has pursued a deregulatory agenda in respect of entertainment licensing for community events and lower-impact entertainments by introducing new exemptions. As a result, many smaller-scale entertainments now fall outside of licensing requirements. Where this is the case, it should be noted that we may be unable to use our licensing powers to regulate these events, although other regulatory

schemes may be utilized to remedy any issues that arise. Schedule 1 to the Act details the exemptions that apply to entertainment licensing requirements.

- 6.13 Late night refreshment is defined as the sale of hot food or hot drinks, between the hours of 11 p.m. and 5 a.m. Exemptions applying to late night refreshment are set out in schedule 2 to the Act.
- 6.14 Although the Act has wide application, it does not control every activity which may be carried out in licensed premises, and some premises which are authorized under this Act may also need separate licences and authorisations for other activities carried out at those premises. Where the Licensing Authority is responsible for issuing such authorisations (for example, for gaming machines or prize gaming in licensed premises), we have published separate licensing policies to give details of how applications for those alternate licence types will be considered.

7 Pre-application advice and engagement

- 7.1 The Council's Licensing Team are available to assist with what is known as pre-application advice. This is predominantly meant for smaller businesses and individuals who may not be familiar with the licensing process rather than national operators.
- 7.2 As applications for licences can be quite complex, and have a wide variety of requirements, it may be beneficial to applicants to seek advice prior to submitting an application. One example highlighting the importance of getting the process right is the requirement to use a newspaper advertisement to alert people to your application. Getting this wrong could lead to the application being invalid, and the loss of the money spent on that publication; obtaining advice from the Council is an effective way to avoid this sort of mistake, which is easily made.
- 7.3 As well as ensuring the legal requirements are met, the Licensing Team can assist you in drafting a valid application, which ensures that you apply for the full extent of the activities that you are likely to require for your business, whilst avoiding inadvertently including or omitting information that increases the likelihood of objections being received.
- 7.4 Objections to applications can lead to delays in licences being granted, and can take considerable time away from your business to resolve any issues arising, so it is best that applicants do all that they can to ensure that any unnecessary objections are avoided.
- 7.5 We may limit the amount of time we spend on pre-application advice particularly for large organisations or those planning large events, who should seek independent advice.
- 7.6 As part of the advice, we may recommend that an applicant contacts some or all of the responsible authorities, the Safety Advisory Group (SAG) or other appropriate individuals or organisations.
- 7.7 Engagement is crucial element of the licensing process. Applicants are expected to have considered the location and community they are proposing to operate in. An

understanding of the concerns to be addressed can be obtained by early engagement with a variety of bodies and individuals including:

- Statutory authorities, eg the Police, Environmental Health, the Fire Service
- Ward councilors
- Town councils
- Parish councils
- Residents Associations
- Businesses and residents in the vicinity of the proposed premises.

7.8 Experience shows that early engagement allows concerns to be addressed in the timeliest and most cost effective way for all parties. Where concerns cannot be addressed before an application is made resulting in formal representations the expectation is that the dialogue between the parties continues to try and find common ground and very often this can be done.

7.9 If a Licensing Sub-Committee has been scheduled the parties have up until 24 hours before the hearing starts to reach an agreement and dispense with the hearing. Where necessary the Licensing Authority can facilitate these discussions.

8 Licensing Objectives

8.1 The Licensing Authority must carry out its functions with a view to promoting the four licensing objectives, each of which has equal importance:

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

8.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means of solving all local problems. The Licensing Authority will therefore continue to work in partnership with all stakeholders and partners towards the promotion of the licensing objectives.

8.3 The Licensing Authority expects applicants to address the licensing objectives within their operating schedules, having regard to the nature of the premises, the licensable activities to be provided, operational procedures, and the nature of the location and the needs of local communities. The operating schedule should contain sufficient information to enable the Licensing Authority, responsible authorities and other persons who may be affected by the operation of the licensed premises to assess whether the steps which will be taken to promote the licensing objectives are sufficient to mitigate any potential adverse impact.

8.4 The Licensing Authority is committed to empowering local community action and meeting the needs of its communities through close partnership working with others. The Licensing Authority recognises that licensed entertainment can provide a valuable contribution

towards the economy of the district, and seeks to balance the needs of the local businesses and licence holders, whilst protecting those of local residents.

8.5 Further policy considerations in respect of each of the objectives are set out below.

8.6 Good practice control measures on all four licensing objectives premises are available in Appendix 5.

9 Prevention of Crime and Disorder

9.1 The Authority will endeavour to reduce crime and disorder throughout the district, in accordance with its statutory duty under section 17 of the Crime and Disorder Act 1998.

9.2 The Authority will expect applicants to take appropriate and proportionate measures to promote the crime and disorder objective. Examples of the sources of crime and disorder which the Authority would require applicants to take into consideration may include, but are not limited to:

- Underage drinking
- Drunkenness on the premises
- Public drunkenness
- Drugs
- Violent behaviour
- Overcrowding/occupancy capacity
- Anti-social behaviour

9.3 When determining licence applications and reviews the Licensing Authority will give consideration to:

- Whether the premises make or will make a significant contribution to levels of crime and disorder in the local area, and
- Whether the operating schedule demonstrates that an adequate risk assessment of the likelihood of crime and disorder occurring as the result of the issue of an authorisation has been carried out by the applicant.
- The ability and competency of the person in charge of the premises to monitor the premises at all times while they are open.
- The training given to staff in how to defuse or manage conflict amongst patrons and crime prevention measures appropriate to those premises.
- The physical security features installed in the premises. This may include matters such as the position of cash registers, and the security of cash boxes in gaming machines on the premises; where alcohol is stored in 'off-licences;' the standard of CCTV that is installed; adequate lighting; metal detection and search facilities; the use of toughened drinking glasses in pubs and clubs; the removal of glasses or glass bottles used or discarded outside of the applicants' premises.
- Risk assessment in respect of drinks promotions which may contribute to the impact on crime and disorder (e.g. 'happy hours'), and plans for minimising those risks.
- Measure to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies. On licensed hotel or B&B premises, this should extend to keeping proper registrations of guests, with proof of identification, and records of car registration numbers. Where applicable, applicants are encouraged to show that they

can comply with the Home Office guidance “Safer Clubbing” in relation to the control of illegal drugs on their premises, and they should agree a protocol with the police on the handling of illegal drugs found on their premises.

- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.
- The likelihood of any violence, public disorder or policing problem if the licence is granted.
- Whether design of the premises has been considered having regard to reducing conflict and minimizing opportunities for crime.
- The measures taken to control admission to, and dispersal from, the premises, including the use of registered door supervisors.
- Any other such measures as may be appropriate, such as participation in a local pub watch scheme or other body designed to ensure effective liaison with the local community, ‘music wind-down policies’, restrictions on ‘happy hours’, and other examples of industry best practice.
- The arrangements for delegating and accounting for responsibility for the supply of alcohol on community premises operated without a DPS.

9.4 This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.

9.5 The authority will work closely with Essex Police and the other members of the Community Safety Partnership (CSP), both to monitor and investigate incidents of crime or disorder associated with licensable activities, at and around licensed premises, and to identify emerging trends and patterns in such incidents.

9.6 To achieve the best results, the prevention of crime and disorder requires partnership working between statutory bodies and licensed premises. While there are a number of measures which licence-holders can, and will be expected to, implement in order to promote this objective within their premises, the Council also expects licence-holders to understand which issues they will not be able to resolve themselves, and to liaise and co-operate with the Licensing Authority, Police, and other bodies when appropriate. In particular, incidents occurring outside of but in the vicinity of licensed premises, which do not involve the customers or staff from that premises, are likely to be outside of the direct control of licence-holders, but they may be able to provide evidence or intelligence allowing statutory bodies to investigate the incident in question.

9.7 It is recommended that applicants discuss the crime prevention procedures and management arrangements for their premises with the Licensing Authority and the Police before making a formal application.

10 Public Safety

10.1 When considering this objective, the Licensing Authority will concern itself with the physical safety and wellbeing of the people who use licensed premises, and those who may be affected by the use of licensed premises (e.g. non-customers who happen to be

in the immediate vicinity of the premises). This will include measures that seek to prevent accidents, injuries and short- or long-term illnesses to staff, customers, or other persons.

- 10.2 The Licensing Authority will have regard to the measures to be taken by applicants to ensure that the physical safety of any person visiting or working in licensed premises is not compromised. This should be demonstrated in an applicant's operating schedule. Factors that may be considered include, but are not limited to:
- The total occupancy capacity (staff, customers, others) of the premises.
 - Physical environment of the premises.
 - Customer profile.
 - Traffic management including access for emergency vehicles.
 - Crowd management.
 - Special arrangements for large events.
 - Use of special effects.
 - Lighting – emergency and general.
 - Temporary electrical installations.
- 10.3 There are several regulatory regimes concerned with public safety, and the Licensing Authority will seek to avoid duplication as much as possible. In particular the Licensing Authority recognises that the Regulatory Reform (Fire Safety) Order 2005 replaced the previous fire safety legislation. Accordingly, the Authority will not seek to impose the fire safety conditions on a licence/certificate where the Order applies.
- 10.4 However, where representations are made by responsible authorities responsible for enforcing these regimes concerning the failure of a licence-holder to adhere to or comply with another regime, then the Licensing Authority may consider whether this is indicative of a wider systemic failure on the part of the licence-holder to promote the licensing objectives.
- 10.5 It is recognised that special issues may arise in connection with outdoor and large-scale events. Risk assessments must be used to assess whether any measures are necessary in the individual circumstances of any premises.

11 Prevention of Public Nuisance

- 11.1 The Licensing Authority will interpret the term 'public nuisance' widely as advised in the Secretary of State's guidance. When considering this objective, the Authority will consider issues relating to noise, vibration, light, litter, offensive odours and anti-social behaviour arising from or in connection with the provision of licensable activities. Public nuisance can be at a low level only affecting a few people locally, as well as a major disturbance affecting the wider community.
- 11.2 This objective does not mean the complete prevention of all the above issues, but rather the prevention of such unreasonable levels of these as would constitute a nuisance to the public or a section thereof. A degree of noise, for example, is an inevitable consequence of the provision of most forms of regulated entertainment. The Licensing Authority will therefore seek to exercise its powers in a way which promotes the licensing objective, to

discourage and eliminate the carrying on of licensable activities in a way that causes unreasonable inconvenience, upset or distress to others.

- 11.3 The Authority would expect applicants to have demonstrated in their operating schedule that public nuisance concerns have been identified, with suitable control measures implemented and maintained. Factors that may be considered include, but are not limited to:
- The location of the premises and proximity to residential and other noise sensitive premises.
 - The hours of opening, including times when licensable activities may not be taking place, last admission time and 'wind down period'.
 - Nature of activities provided.
 - Supervision of customers including managing dispersal.
 - Odour and light nuisance.
 - Litter and waste disposal.
 - The location of delivery and collection areas and delivery/collection times.
 - Noise management plan (where appropriate).
- 11.4 Steps that can be taken to minimize public nuisance include those to:
- Prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. This may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - Prevent disturbance by customers and staff arriving at or leaving the premises;
 - Prevent queuing (either by pedestrian or vehicular traffic);
 - Help ensure patrons and staff leave the premises quietly;
 - Minimise the effect of parking by patrons on local residents;
 - Minimise noise from the use of smoking shelters, gardens, and other open-air areas.
- 11.5 The lists above are not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.
- 11.6 The Authority notes that, as with other licensing objectives, other regulatory regimes exist which may be used to control nuisance. The Environmental Protection Act 1990 in particular allows Environmental Health officers to require the abatement of a statutory nuisance, and this would be considered the primary control for such issues. However, the Licensing Authority notes that this regime is largely reactive, whereas licensing may be used to establish proactive controls, preventing a nuisance from reaching a statutory level in the first instance. Applicants should also note Environmental Health is one of those bodies that may apply for a review of an existing licence.
- 11.7 Nuisance may arise directly because of licensable activities (for example, noise from music), or indirectly (noise from customers at the premises). Applicants and licence-holders are strongly encouraged to consider all sources of nuisance when compiling operating schedules, and to implement appropriate measures for the promotion of this objective. For many types of nuisance, this process will begin in the initial design stages prior to the construction or redevelopment of premises. The Council's Environmental Health officers may be consulted for informal advice, prior to the making of a licence

application, on proposed measures likely to reduce or prevent the likelihood of public nuisance arising from the operation of licensed premises.

- 11.8 The Licensing Authority will have regard to best practice guidance when considering this licensing objective, including but not limited to⁷:
- Guidelines on Community Noise (World Health Organisation).
 - Effective Management of Noise from Licensed Premises (British Beer and Pub Association).
 - Code of Practice on Environmental Noise Control at Concerts (Noise Council).
- 11.9 Where premises which are the subject of licensing applications involving amplified musical entertainment beyond 11pm are near residential properties, the Licensing Authority will require a comprehensive operating schedule listing measures that the applicant intends to implement to ensure the promotion of this licensing objective.
- 11.10 The Licensing Authority will also pay close regard to premises near to residential property proposing or permitted to trade after 11pm, where the premises includes one or more external areas for use by customers (for example, beer gardens, external dining areas, or smoking areas), as use of such areas by customers has the potential to lead to a public nuisance if not tightly controlled. Applicants are required to include measures within their operating schedule setting out how they intend to control the use of such areas, in order to promote this licensing objective.

12 Protection of children from harm

- 12.1 The Licensing Authority is aware that this objective relates primarily to preventing children from being exposed to or permitted to access age- restricted products, such as alcohol; or age-restricted services, such as films with content deemed suitable only for adults or relevant entertainment of a sexual nature. Considerations relating to the physical safety and welfare of children will also be considered as part of any action the Authority takes to promote the public safety objective.
- 12.2 The Authority recognises the great variety of premises for which licences may be sought and the benefits and risks these may bring. The Authority will only restrict access by children to any premises where it considers it appropriate to do so in order to protect them from harm.

⁷ See Appendix 3 – Useful resources

- 12.3 There is no reason children should not be admitted to responsibly- run, family-oriented licensed premises (for example, restaurants, theatres, cinemas (showing age-appropriate films), supermarkets, community premises, etc.), when accompanied by a suitable adult, such as a parent or guardian, and the Act allows for this. However, it is an offence under the Act:
- To admit children to exhibitions of films where a premises holds a licence permitting such regulated entertainment, if they are below the minimum age recommended by the Licensing Authority or a film classification body,

- To allow unaccompanied children under the age of 16 to be present at premises being used exclusively or primarily for the supply of alcohol for consumption on those premises, or
 - To allow unaccompanied children under 16 to be present between midnight and 5 a.m. at licensed premises supplying alcohol for consumption on the premises.
- 12.4 When deciding whether to limit the access of children, the Licensing Authority will judge each application on its individual merits. Examples which may give rise to concern in respect of children would include premises:
- Where entertainment or services of an adult or sexual nature are commonly provided.
 - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking.
 - Where there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of gaming machines).
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
 - Where other concerns relating to this objective have arisen.
- 12.5 Where possible the Authority will avoid completely prohibiting access by children but that can be a choice for the licensee. Alternative options include:
- Limits on the hours when children may be present.
 - Limits or exclusions on children when particular activities are taking place.
 - Limited access to parts of premises.
 - Full exclusion of under-18s from the premises when any licensable activities are taking place.
- 12.6 Where a large number of children are likely to be present at licensed premises, the Licensing Authority will expect an appropriate number of suitably trained adult staff to be present, to control access and egress of children, and ensure their safety and protection from harm.
- 12.7 Even if the age restrictions mentioned above do not apply and the Licensing Authority has not attached conditions restricting access by children, there is still no obligation for licence-holders to admit children to their premises. Ultimately access to premises will remain at the discretion of the licence-holder, who may choose to adopt any reasonable admission policy. On that point a licensee is within their rights to have a no under 18 policy and this would not be seen as age discrimination.
- 12.8 Child sexual exploitation is a significant concern for licensing authorities nationwide, as reflected by several high-profile reported cases which directly involved licensed premises. Where the operation of licensed premises is causally or demonstrably linked to child sexual exploitation, the Licensing Authority will not hesitate to use the full range of powers at its disposal to promote this licensing objective and mitigate risk.

13 Stakeholder Engagement and Representations

13.1 The basis of decision making.

13.1.1 The process for making decisions on licensed premises applications is governed by the Licensing Act 2003 and associated regulations. Unlike other ways in which the Local Authority determines applications, for example planning applications, there is a presumption in licensing law that if:

- the licensing authority receives a valid application *and*
- the application is properly advertised *and*
- there is no objection raised by any responsible authority within the statutory consultation period *and*
- there is no objection raised by any responsible authority within the statutory consultation period *and*
- on the first day after the statutory consultation closed, the licence is **automatically** granted as applied for, that is, without any variation or condition

It is within this context that the Council will do its utmost to facilitate those wishing to make representations to do so in the most effective way and within the statutory consultation period. In addition to the legal responsibilities, we will notify any town and or parish council and our respective councillors.

13.2 How responsible authorities can make their views known

13.2.1 The Council strongly encourages the responsible authorities listed in table below to engage in the consultation process regarding applications (for new, and variations to existing, premises licences a club premises certificates) and raise any points as representations to the Licensing Authority. This may include submitting an objection.

Responsible authorities	Made aware by
<ul style="list-style-type: none"> • Licensing Authority – Uttlesford Council • Essex Police • Environmental Health – Uttlesford Council • Planning Service – Uttlesford Council • Fire Authority – Essex Fire & Rescue Service • Essex Safeguarding Children Board • Trading Standards – Essex County Council • Home Office – Alcohol Licensing Team • Public Health – Essex County Council • Health and Safety Executive <p><i>(only need to be consulted if they are the enforcing authority for Health and Safety at the premises)</i></p>	<ul style="list-style-type: none"> • Applicant will submit copies of application documents directly to them at the same time as the documents are sent to the licensing authority; or • In the case of applications made online through the licensing portal, the council’s licensing team will send the application documents electronically to the responsible authorities upon receipt

13.2.2 Evidence-based representations provide the Council, when acting as the Licensing Authority deciding on applications, with the best means of assessing the merits, or otherwise, of applications under consideration.

13.2.3 While the type of representation and level of evidence will vary on a case- by-case basis, best practice would suggest representations should include wherever possible:

- Whether the representation is for or against the application.
- Reference to concerns over the undermining or potential undermining of the Licensing Objectives (as determined by legislation as listed in this document).
- Evidence to support the above.

13.2.4 The Council encourages all responsible authorities to engage with applicants at the pre-application stage and give advice to assist applicants to amend their proposals to accommodate the issues raised and thus avoid the responsible authority needing to make an objection. Whether the responsible authority engages or not, and whether the applicant works with the responsible authority, does not fetter the responsible authority's discretion over whether to object to an application. If an objection has been received, the Licensing Authority will wish to see efforts or continued efforts on the part of both the applicant and the responsible authority to accommodate the concerns raised.

13.3 Temporary Event Notice (TEN)

13.3.1 The Police and the Council's Environmental Health team are the only responsible authorities the law requires to be notified of and have the right to object to Temporary Event Notices (TENs). They have an ability to assist the Licensing Authority by making appropriate objections during the consultation period following submission of a TEN.

13.3.2 The format and content of objections are not defined in legislation or guidance. It would assist the Licensing Authority in their decision making if responsible authorities could include in their submissions as much of the following information as possible in support of their position:

- A commentary on past events at the venue / event.
- Any evidence of breaches of relevant statutory requirements.
- A summary of complaints, if any, from the public concerning the premises.

13.4 How members of the public can make their views known

13.4.1 In order to make informed decisions, the Council is keen to hear from those with a view on a particular application (for new, and variations to existing, premises licences or a club premises certificates).

“Other persons” includes	Made aware by
<ul style="list-style-type: none"> • People who live or work near licensed premises. • Any company, charity, community organisation or similar body. • Any other person regardless of whether they live or work in the vicinity. 	<ul style="list-style-type: none"> • Written notices will be put up by the applicant (in a statutorily prescribed format), attached to or near the premises concerned and displayed for not less than 28 days and visible 24 hours per day⁸ • A public notice (in a statutorily prescribed format) submitted by the applicant will be published in a locally circulated newspaper • A public notice of application will be displayed on the Council’s website⁹

13.4.2 As noted in the table above, the legislation and guidance dictate that members of the public have a specific time period during which to raise issues. This will be strictly observed.

13.4.3 Of note, the Licensing Act 2003 established a very prescriptive procedure for the way in which applications are made and determined:

- The requirements concerning advertising of applications are set out in the Licensing Act 2003 (Premises Licences and Club Premises Certificates Regulations) 2005.
- Regulation 25 provides that the applicant shall advertise the application (new application or variation of an existing licence) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority by displaying a notice that complies with prescribed requirements.
- The applicant must also publish at least once, within 10 working days of making the application, a notice in a local newsletter or similar document circulating in the vicinity of the premises.
- These Regulations dictate the consultation period during which members of the public can raise issues or concerns.
- The Regulations oblige the Council, as the Licensing Authority, to also advertise the application on its website for a period of no less than 28 consecutive days starting on the day after the day on which the application was given. The content of the notice is like that of the notice posted upon the premises.

13.4.4 The Council will do its utmost to ensure anyone wishing to make a representation is aware of the 28-day window for responding and the vital importance of this given that, unfortunately, the Council cannot vary this time period.

⁷ Applications for minor variations only require a notice at the premises and it only needs to be displayed for 14 days.

⁸ [Licensing consultations - Uttlesford District Council](#)

13.4.5 Within the relevant legislation, regulations and case law discussed above, the Council will strive to facilitate resident engagement, including emphasizing the consultation window. The Council will:

- Encourage applicants to hold informal discussions with local residents and businesses, the responsible authorities, Town Councils, Parish Councils and others prior to submitting formal licence applications.
- ensure applicants meet their statutory obligations to publicise their applications; advertising in a local newspaper and posting a notice at or near the premises – when such notices are not visible 24 hours per day, are removed or become defaced the Council will require them to be replaced and if appropriate the consultation time period to be restarted.
- Advertise applications for new or variation to existing licences or certificates on the Council's website.
- Alert ward members and parish/town councils of applications in their areas to enable them to discuss matters with residents should they wish.

13.4.6 When deciding on applications, it would be particularly helpful if members of the public making representations could provide the following information:

- Whether the representation is for or against the application.
- Specific reference to concerns over the undermining or potential undermining of the Licensing Objectives (as determined by legislation and listed in the Council's Statement Licensing Policy).
- Evidence to support the above.

13.5 How comments made by members of the public affect the decision making process.

13.5.1 Providing that any comments made by from members of the public are relevant (this term is explained below) and are received by the Council within the consultation period, they will be included in the decision-making process. Thus, comments from members of the public have a significant role to play. The Council will share comments with other responsible authorities where the comments relate to that authority's remit. This will:

- Provide information which the responsible authority can draw on when considering what representations, if any, it wishes to make.
- Assist the responsible authority in determining what conditions, if any, it would wish to see attached to a grant approval.
- Enable the responsible authority to assess whether it needs to make and further determination. Carry out any further investigations itself.

13.5.2 The Council will share comments with the applicant as required by law. This will:

- Assist the applicant to better understand how the proposal could impact on local people.
- Enable the applicant to make amendments to, or withdraw, the application to mitigate or allay concerns raised.
- Provide the applicant with the opportunity to better explain what is proposed and/or address any misunderstandings; which may mitigate or allay the concerns.

- 13.5.3 To be a valid representation then the person making the representation must be clearly identifiable and give their address. The representation must be 'relevant' and must not be 'vexatious' or 'frivolous'.
- 13.5.4 A representation is 'relevant' if it is argued that the granting of the licence would be likely to have a negative impact on at least one of the licensing objectives:
- **The prevention of crime and disorder,**
 - **Public Safety,**
 - **The prevention of public nuisance,**
 - **The protection of children from harm.**
- 13.5.5 So, for example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant as prevention of a detrimental impact on other commercial premises is not one of the four licensing objectives.
- 13.5.6 The Council has a policy that deals with abusive, persistent or vexatious complaints¹.
- 13.5.7 A representation may be considered 'vexatious' if it appears intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses. 'Frivolous' representations are essentially those lacking seriousness. Frivolous representations could concern issues which are, at most, minor and/or for which no remedial steps would be warranted or proportionate.
- 13.5.8 Any person who is aggrieved by a rejection of their representations as either vexatious or frivolous may lodge a complaint through the Council's corporate complaints procedure². A person may also challenge the Authority's decision by way of appeal to the magistrates Court or judicial review.
- 13.5.9 Where at all possible, the Council will assist in enabling the applicant and those making representations to find common ground thus mitigating or removing the concerns raised. As stated above, however, the timescale for this is extremely tight. If the issues raised by members of the public cannot be mitigated by the applicant through informal discussion, nor allayed to the satisfaction of the responsible authorities, then the Council will, within 20 working days of the close of the consultation, hold a public hearing of the Licensing Committee, or a Sub-Committee, to consider and determine the contested application. This also applies to contested applications for variations to a licence or a review of a licence.
- 13.5.10 At the hearing, all responsible authorities and other persons who have made valid representations will be entitled to attend and make their representations in person. Those who have made representation do not have to attend and all valid representations whether made in person or in writing will be considered.
- 13.5.11 The Council's Licensing Committee, or a Sub-Committee of this Committee, will consider the oral and written evidence before them.

¹<https://www.uttlesford.gov.uk/article/6312/Abusive-persistent-or-vexatious-complaints-policy>

²[Compliments, suggestions and complaints frequently asked questions - Uttlesford District Council](#)

13.5.12 In determining the weight to place on the evidence before the members of the Committee will consider how the application supports or otherwise affects the licensing objectives engaged by the representations.

13.5.13 These four objectives underpin the Council's Statement of Licensing Policy.

- **The prevention of crime and disorder,**
- **Public Safety,**
- **The prevention of public nuisance,**
- **The protection of children from harm.**

13.5.14 The Licensing Committee, or Sub-Committee, will generally give its determination on the day of the hearing. However, regulations allow the authority to make its determination within a maximum period of five working days beginning on the last day on which the hearing was held.

14 Monitoring of the licensing function

14.1 The Police, Fire Authority and other responsible authorities will be encouraged to report to the Council annually on the operation of the licensing function.

14.2 Once a licence is granted, the Council will send out an invoice each subsequent anniversary for the payment of the annual licensing fee. Those premises that do not pay this fee may have their licence suspended.

15 Administration, exercise and delegation of power

15.1 The Licensing and Environmental Health Committee will consist of between ten and fifteen Councillors that will usually meet three times per year, but at least annually. The Council will review this Policy at least every 5 years. Any substantive changes to the Policy will include a full consultation.

15.2 Panels(s) of three Councillors will determine applications where representations have been received from responsible authorities or other parties. Ward Councillors will not serve on a Panel involving an application within their own ward.

15.3 The Licensing and Environmental Health Committee also deals with other licensing matters not associated with the Licensing Act 2003.

15.4 Where a Councillor has had direct involvement in the affairs of premises before them, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process for that application.

15.5 A Panel may refer any matter it is unable to deal with, because of the number of its members who are unable to take part in the consideration or discussion or vote on any question, to the full Licensing and Environmental Health Committee.

- 15.6 Each decision of the Licensing and Environmental Health Committee or its Panels(s) shall be accompanied with clear reasons for the decision. A summary of the decision will be sent to the applicant and all other parties.
- 15.7 The Licensing and Environmental Health Committee takes seriously its obligations under other legislation for example the Equalities Act 2010 and the Human Rights Act 1998. However, this is without prejudice to the right of premises to operate a strict no under 18s rule should they so choose.
- 15.8 The Council's authorised officers will deal with all other licence applications where either no representation has been received, or where representations have been received and it is agreed by all the parties that a hearing is not necessary.
- 15.9 Council officers will make the decisions on whether representations or applications for licence reviews should be referred to Members for a decision(s) and whether representations are frivolous, vexatious, or repetitious. Where representations are rejected, the person making that representation will be given written reasons why that is the case.
- 15.10 The Council will seek to integrate the Licensing function with its various other strategies and policies to promote the licensing objectives through utilizing the collaborative and partnership working arrangements and networks that engage with responsible authorities, other parties, and other key stakeholders.
- 15.11 A table explaining delegation for the Council is available in Appendix 6.

16 Enforcement and Inspection

- 16.1 Licensing Authorities are required to state the principles to be applied by the Authority in exercising enforcement functions under the Act, both in terms of the inspection of premises and in instituting criminal proceedings in respect of specified offences.
- 16.2 The Licensing Authority will be led by the Statutory Guidance in respect of the inspection of premises and the powers to institute criminal proceedings, and will endeavour to ensure that enforcement and compliance actions are:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
 - **Consistent:** rules and standards must be joined up and implemented fairly;
 - **Transparent:** regulators should be open, and keep regulations simple and user friendly;
 - **Targeted:** regulation should be focused on the problem and minimize side effects.
- 16.3 The Council's enforcement action needs to be targeted. Decisions about which premises to investigate will be:
- Reactive – based on a specific complaint or resulting from intelligence from partner

organisations that strongly suggests a breach of the licence has occurred/is ongoing; and/or

- Proactive – this may take the form of one-off or periodic inspections based on previous complaints or intelligence.

16.4 The Licensing Authority may arrange for the inspection of premises, both licensed and otherwise, in response to specific complaints about those premises and the provision of unauthorized licensable activities therein. The Licensing Authority may also, from time to time, arrange a programme of risk-based inspections of licensed premises, consistent with the principles expressed throughout this document. Should officers witness offences or breaches of an authorization during an inspection, appropriate action will be taken.

During its inspections, the Licensing Authority may refer to any other agency any evidence or intelligence gathered that appears to it to be contravention of the legislation enforced by that agency. Equally, where a premises user appears unaware of a requirement that is outside of the Licensing Authority's remit officers will do their best to signpost them to the appropriate authority.

16.5 Where possible a graduated response will be taken where contraventions of legislation are found or where conditions have been contravened. For instance, an isolated administrative offence, such as failing to maintain records, may be dealt with by a written warning whilst a more serious offence, which has either been committed over a period of time or which jeopardizes public safety, may result in a referral for prosecution.

16.6 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Delivery Office (BRDO) in its consideration of the regulatory functions of Local Authorities.

16.7 The Licensing Authority shall also have regard to any corporate enforcement policy published by Uttlesford District Council.

16.8 Where the power to make representations or initiate reviews on behalf of the Licensing Authority is utilized, proper separation of functions will be ensured by having different officers conduct the distinct functions (for example, if a licensing enforcement officer makes a representation, they will not be involved in the administration of the application itself).

16.9 Several licence-holders with multiple outlets have formed primary authority partnerships, under which they receive 'assured advice' from a single local authority in respect of one or more regulated aspects of their business – for example, preventing underage sales of age-restricted products. Where we have concerns around a premises whose operator has formed a primary authority partnership relevant to the issue in question, we will consult with the primary authority prior to taking any formal action.

- 16.10 Results of enforcement or investigation will be made available to responsible authorities who may wish to include this evidence in a Review of a premises licence or club premises certificate.
- 16.11 When applications are received that have a statutory requirement for consultation, officers will check that notices are correctly displayed in compliance with the requirements of the legislation.

17 Raising concerns about licensed premises

- 17.1 Given the Council's desire to be as responsive as possible to concerns, it is likely that most enforcement action will be reactive. It is therefore paramount that individuals, organisations, and other authorities report incidents and concerns about specific licensed premises when they arise so that timely investigation and intelligence gathering can take place.
- 17.2 Wherever possible, the Council would expect such concerns to be raised with the Premises Licence Holder or Designated Premises Supervisor in the first instance. Often, the business may not have realized that its operation is causing nuisance or problems and raising the issue is sufficient to ensure a prompt and adequate remedy.
- 17.3 Complaints can be made directly to Licensing Enforcement Officers at: licensingenforcement@uttlesford.gov.uk

18 Dealing with Complaints

- 18.1 In all instances, complaints received about licensed premises, events and activities will be recorded.
- 18.2 If raising concerns directly with a premises does not remedy the situation or is not appropriate, the Council may become involved. In such circumstances, the Council may:
- Arrange meetings between various parties, including members of the public if appropriate, to jointly explore how best to remedy the situation.
 - Direct the Premises Licence Holder or Designated Premises Supervisor, business owner or occupier, as appropriate, to take action. This could take the form of issuing advice and guidance or may be more directive, for example, though not limited to, requiring specific remedies for noise nuisance or imposing variations to the conditions of the licence via a review.
 - Visit the premises in an attempt to witness the problem directly.
- 18.3 Sometimes, issues may arise within an area or on a particular street where it is not clear which establishment(s) is causing the issues. It can be the case that an issue arises from the interaction of venues and patrons purely because of the geographical proximity, for

example, a pub or club, late night food take-away and/or taxi ranks all located in close proximity may encourage concentrations of noise and/or other nuisance.

- 18.4 In the short-to-medium term, in such circumstances Council officers will seek to identify which establishment(s) is/are causing the issues and then make appropriate interventions.
- 18.5 In the longer term, the Council, in its wider capacity recognises it has a role to play with partners in identifying, addressing, mitigating and if at all possible designing-out the types of nuisance that can arise from the night time economy.

19 Partners' roles in enforcement activities

- 19.1 Enforcement activity may be undertaken by one or more of the responsible authorities acting independently, depending upon the extent to which the issue in question relates to their jurisdiction.
- 19.2 The statutory guidance issued to Licensing Authorities by the Home Office under section 182 of the Licensing Act 2003 (last amended in 2022) states at para 9.15:
"It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority".
- 19.3 On that basis the lead authorities would be:
- **Crime and disorder** – Essex Police
 - **Noise and other nuisance** – Uttlesford Council as Environmental Health
 - **Public safety issues** – Uttlesford Council as Environmental Health; Essex County Council as Fire Authority
 - **Prevention of children from harm** - Essex Police; Essex County Council as Social Services and Education Authority.
- 19.4 Where the issues are wider, enforcement may be taken by the responsible authorities working together in partnership. The Council is committed to partnership working. This could involve, for example:
- Sharing intelligence, joint monitoring visits and intervention meetings with licence holders.
 - Bringing forward a review of the licence for an individual licensed premises.
 - Seeking changes to the Uttlesford Council's Statement of Licensing Policy based on the evidence for, and articulation of, particular amendments.

20 Reviews

- 20.1 A Responsible Authority or any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising out of activities at the premises which may have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Panel at a hearing.
- 20.2 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, local residents or businesses and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation.
- 20.3 Responsible authorities are encouraged to give an early warning of concerns about problems identified at the premises concerned and of the need for improvement to the operators, 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 request a review.
- 20.4 Similarly, those persons other than responsible authorities who are seeking a review are encouraged to take initial steps such as:
- Asking the Licensing Authority to liaise with the licence/certificate holder on their behalf.
 - Asking their local MP or Councillor to speak to the licence/certificate holder on their behalf.
 - Talking to the relevant responsible authority to establish whether there is other action that can be taken to resolve the problem.
- 20.5 The law expects that any party making an application for a licence to be reviewed will prove the facts that they are relying on to support their allegations on the balance of probabilities, that it is more likely than not that the circumstances being complained of did actually occur. Because of the potentially serious consequences to a licence holder following a licence review, anecdotal or hearsay evidence will **not** be sufficient.
- 20.6 Any application for review submitted by a person other than a responsible authority must be relevant to one or more of the four licensing objectives, and must not be considered frivolous, vexatious or repetitious. The Council will generally not permit more than one review originating from a person other than a responsible authority in relation to a particular premises within a 12 month period on the grounds of repetitiveness save in compelling circumstances or where it arises following a closure order or illegal working compliance order. Following a review, the Authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable, and proportionate to the nature of the problems giving rise to the review. Options available are:
- To modify the conditions of the premises licence.
 - To exclude a licensable activity from the scope of the licence.
 - To remove the designated premises supervisor.

- Suspend the licence for a period not exceeding three months.
- Revoke the licence.
- Take no action.

- 20.7 The Licensing Authority we will offer the same level of support and guidance to those wishing to apply for the review of a licence as we would to those seeking to apply for a new licence.
- 20.8 Officers providing such support will have no involvement in the review process.

21 Appeals

- 21.1 Where the Licensing Authority's discretion has been engaged and a decision reached on a particular application, any party to the proceedings (including residents) aggrieved by a licensing decision is (in most cases) entitled to appeal to the Magistrates Court within 21 days of the receiving the decision notice. There is no power to extend this period by agreement.
- 21.2 Where there is a right of appeal the relevant parties will be notified of this right when they are issued with the decision notice. The Council has the right to defend its decision, as do other interested parties, and its normal approach is to fully recover its costs of so doing from an unsuccessful applicant.

22 Operating Schedules

- 22.1 Steps to promote the licensing objectives¹⁰

'In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

Applicants are expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives.

¹⁰ Revised guidance under s 182 Licensing Act 2003 issued Dec 2022, 8.41 – 8.45, [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

That they understand:

- *the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- *any risk posed to the local area by the applicants' proposed licensable activities; and any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*

Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy. It should be noted that the Council does not currently have a cumulative impact policy.

It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

The majority of the information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- *the Crime Mapping website;*
- *Neighbourhood Statistics websites;*
- *websites or publications by local responsible authorities;*
- *websites or publications by local voluntary schemes and initiatives; and*
- *on-line mapping tools. ‘*

- 22.2 Applicants are expected to write an operating schedule that shows how they will promote the licensing objectives. The operating schedule will be used as a basis for licence conditions for the individual premises.

23 Conditions

- 23.1 Licensing is about the regulation of licensed premises, qualifying members' clubs, and temporary events. We may only impose conditions on premises licences and club premises certificates in two circumstances:
- (1) Where the applicant volunteers them as part of their operating schedule; and/or
 - (2) On receipt of relevant representations from potentially affected parties, or responsible authorities.
- 23.2 Where applicants volunteer conditions as part of their operating schedule our officers will draft appropriate conditions for premises licence and club registration certificates which reflect the intention of the applicant. This will be completed in line with the requirements at 23.5.
- 23.3 We have produced a pool of model conditions for premises licences and club premises certificates which are available at Appendix 5 of this document. Applicants are under no obligation to use these when preparing their operating schedules, but doing so may reduce the likelihood of representations being made about the application. Should relevant representations be received, we may use conditions from the pool to address the concerns raised.
- 23.4 Conditions attached to premises licences or club premises certificates will be appropriate, reasonable, proportionate, and relevant and will be focused on matters within the control of the individual licence-holders and others granted relevant permissions. Conditions will be tailored to the style and characteristics of the individual premises. These matters will centre on the premises and places being used for licensable activities and have regard to the vicinity of those premises or places.
- 23.5 Conditions attached to licences and certificates should:
- be appropriate for the promotion of the licensing objectives;
 - be precise and enforceable;
 - be unambiguous and clear in what they intend to achieve;
 - not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - be tailored to the individual type, location and characteristics of the premises and events concerned;
 - not be standardized, as it may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - not replicate offences set out in the 2003 Act or other legislation;
 - be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
 - not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and be written in a prescriptive format.

23.6 Where we have discretion because relevant representations have been made about licensing applications, we may also consider the following factors to fulfil our vision:

- (1) what contribution the application can make to creating a diverse offering, specifically in terms of offer to a wide-range of customers; family-friendly policies and facilities; operating hours; and pricing;
- (2) entertainment aimed at different age groups;
- (3) links with other activities in the town, to encourage day-time users to stay in the evening;
- (4) provision of a full food menu and not only alcohol;
- (5) transport/dispersal provision, particularly during periods when public transport is unavailable;
- (6) style and type of venue. The licensing authority wants to attract only high-quality operators who can provide a safe and professional environment, characterised by a range of activities, and offers that would appeal to individuals of all backgrounds. This type of offering may (but need not) be characterised by:
 - a range of alcoholic and soft drinks suitable for all ages;
 - a food menu, including healthy options which caters for different tastes and needs, available throughout the duration of the premises' operating times;
 - facilities suitable for assisting customers with young children, such as high-chairs and baby-changing facilities, and facilities for family groups such as suitably laid-out seating/table areas;
 - a range of activities or entertainment that appeals to a range of age groups, whether provided at the same time or at separate times.
- (7) involvement in local community events and organisations
- (8) commitment to involvement in Community Safety Partnership (CSP) initiatives
- (9) use of pavement licences for outdoor table areas

23.7 Licence holders must ensure that they and their premises comply with any conditions attached to a licence while licensable activities are taking place, otherwise they commit an offence and risk review of their licence and/or prosecute if appropriate.

24 Special Licensing Policies

24.1 There are several types of special licensing policy which a Licensing Authority is entitled to adopt, to help it regulate the provision of licensable activities within its area.

24.2 Cumulative Impact

24.2.1 Cumulative impact is the term used to describe the impact, potential or actual, of a large number of licensed premises concentrated in a single locality. In terms of the licensing objectives, this may be evidenced by an

increase in incidents of crime, disorder, or public nuisance, over and above the impact of the individual premises themselves.

- 24.2.2 The cumulative impact of licensed premises on the promotion of any of the licensing objectives is a matter that the Licensing Authority can take into account in determining its Licensing Policy. This should not, however, be confused with any question of 'need' which relates to the commercial demand for a particular type of premises (for example, a pub, restaurant, or hotel). The issue of 'need' is a matter for market forces to influence and for the planning authority to regulate, and if appropriate for magistrates to give weight and so does not form part of this Policy statement.
- 24.2.3 The Licensing Authority will, where appropriate, and having received relevant representations, take into account the cumulative effect that the existence of a concentration of premises in one area may have. A concentration of licensed premises can attract customers to the area to such a degree that it has an adverse impact on the surrounding area beyond the control of individual licence holders.
- 24.2.4 The Licensing Authority notes that, in accordance with the Guidance, it may adopt a special policy in response to a cumulative impact issue in a defined area. Consideration of such a policy may be prompted by submissions from responsible authorities or other persons, evidenced appropriately and linked to one or more of the licensing objectives. Where such a policy has been adopted, the issue of cumulative impact can be taken into account when considering the individual merits of any application within the area defined within that policy.
- 24.2.5 Where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area the Licensing Authority may consider it inappropriate for any further licensed premises to be established in the area and/or capacities to be increased. In these circumstances, and where suitable and sufficient evidence is provided, the Licensing Authority will consider declaring a cumulative impact area.
- 24.2.6 Whilst the Licensing Authority does not believe it is necessary to implement a Cumulative Impact Policy for the period of 2023-28 there is an obligation to keep it under review during that period and make revisions where we consider it appropriate. If during the life of this document there is evidence and need to support a special policy anywhere within the district we will not hesitate to act.
- 24.2.7 If such a policy were adopted it would not override the duty on the Licensing Authority to consider each application on its own merits. Such a policy would introduce a presumption of refusal of applications for new premises licences or variations of existing premises licences within a defined area except where the applicant can demonstrate that the grant would not negatively impact on the relevant licensing objectives (normally the Prevention of Crime and Disorder and Prevention of Public Nuisance).
- 24.2.8 The absence of a special policy does not prevent any responsible authority or other party making representations on an application for the grant of a licence

on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

24.2.9 In coming to any decision about cumulative impact the Licensing Authority will have regard to other mechanisms outside of the licensing regime which may be available to address this issue.

24.2.10 When dealing with cumulative impact issues, the Licensing Authority recognises that, as well as licensing functions, there are a number of other mechanisms for addressing issues of nuisance, disorder and anti-social behaviour occurring away from licensed premises. These may include:

- Planning controls;
- measures to provide a safer and cleaner environment in partnership with local businesses, transport operators and other departments of the Council;
- the provision of CCTV surveillance in town centres, taxi ranks, street cleaning and litter patrols;
- powers for a local authority to protect public spaces from the effects of anti-social consumption of alcohol, enabling police and accredited persons to confiscate alcohol;
- enforcement of the law relating to disorder and anti-social behaviour, including the issue of fixed penalty notices or other sanctions under the Anti-Social Behaviour, Crime and Policing Act 2014;
- the prosecution of any personal licence holder or member of staff at licensed premises who is selling alcohol to children or people who are drunk;
- powers to close down instantly any premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from premises causing a nuisance;
- the power for responsible authorities or other persons to apply for a review of a premises licence or club premises certificate; or
- other local initiatives that similarly address these problems.

24.3 Early morning alcohol restriction orders (EMARO's)

24.3.1 To promote the licensing objectives, a Licensing Authority may utilise powers under the Act to pass an early morning alcohol restriction order. Such an order would prohibit the sale of alcohol from any premises within an area defined in the order between specified times (which may extend from midnight until 6 a.m.) on specified days.

24.3.2 It is envisaged that this power will only be used in response to severe and recurring issues arising from the supply of alcohol in the night-time economy, such as high levels of alcohol-related crime and disorder in specific areas at specific times, which cannot be attributed to an individual premises. The Licensing Authority views this as a 'last resort' option, for use after other tools have been unsuccessful in remedying the issue.

24.3.3 At the present time, Uttlesford has not utilised the provisions of the Act to pass an early morning alcohol restriction order, and has no current plans to do so.

Should this position change, full details will be published on our website and notified to all licensed premises that would be affected.

24.4 Late night levy

24.4.1 Part 2 of the Police Reform and Social Responsibility Act 2011 introduced a new power for Licensing Authorities to establish a 'late night levy'. Licensed premises within the area of a Licensing Authority which has adopted such a requirement will be required to pay an additional annual fee if they are licensed to supply alcohol within a late-night period set by the Authority (generally between midnight and 6 a.m., although shorter periods are permissible).

24.4.2 Where a levy requirement has been adopted, the Licensing Authority will be responsible for the collection of the appropriate amounts from licence- holders. After deduction of administration costs, not less than 70% of the net proceeds of the levy must be paid by the Licensing Authority to the local Police force, which may be used (but is not required to be) to offset the costs incurred in policing the nighttime economy arising from the alcohol supplies permitted from affected licensed premises. The remaining amount may only be applied on purposes prescribed in Regulations, namely arrangements connected with the late-night supply of alcohol for one or more of the following functions:

- The reduction or prevention of crime and disorder
- The promotion of public safety
- The reduction or prevention of public nuisance
- The cleaning of any relevant highway or relevant land in its area.

24.4.3 At the time of writing, Uttlesford has not adopted the provisions of the 2011 Act relating to a late-night levy, nor is it currently intended to do so.

25 Public Health and Well-being

25.1 Uttlesford Council's Environmental Health services and the Licensing team already work closely together. The alignment of these different service areas, with appropriate policies and partnership support, work well for the benefits for residents.

25.2 The Police Reform and Social Responsibility Act 2011 made primary care trust's (PCT) or local health board's (LHB) a responsible authority under the Licensing Act 2003. Therefore, they can make representations against licence applications. Currently, unlike in Scotland, England does not have a fifth licensing objective relating to Public Health.

25.3 The Council has considered the potential role of Public Health within licensing and this Policy has considered the revised s.182 Guidance at length.

25.4 Uttlesford Council has taken the decision, with the full understanding and knowledge of the section 182 Revised Guidance and relevant legislation, to engage with Public Health as a central consideration in its decision-making process. As a result, where a relevant representation is made regarding the undermining of the licensing objectives, 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.

- 25.5 This includes considering information about the impact of alcohol abuse upon wider Public Health issues, such as alcohol related illness and harms, and not just immediate impacts such as slips trips and falls from intoxication. The purpose of this is not to attempt to make Public Health the fifth licensing objective, rather using the ordinary definition of the licensing objectives to help address evidence-based alcohol related harms within our communities.
- 25.6 While recognising that evidence-based alcohol related harms are a key concern, the Licensing Authority also recognises that alcohol is just one, albeit significant, component of the recreational and late night economy with which the licensing regime is addressed. 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.

26 Planning Permission

- 26.1 While the development control and planning consent processes are separate jurisdictions to licensing decision making, there are notwithstanding links between them. The Council as a Planning Authority is a responsible authority under the Licensing Act 2003. Intelligence sharing and representations are routinely made between officers involved in processing applications under the two decision making regimes. The decision-making processes and enforcement criteria under each regime, however, are different so that action taken in response to particular circumstances involving a given venue may not be the same under both regimes.
- 26.2 As a named Responsible Authority under the Licensing Act 2003, the Planning Authority receives copies of premises licence applications. Where there is no planning consent for the use for which the licence is sought, Planning will be responsible for raising this with the applicant outside of the remit of this Policy, and ultimately for enforcement should the licence be granted. Where representations have been made by the Planning Authority on grounds that in order to promote the licensing objectives, some restriction in accordance with planning considerations might be needed on opening hours, the Licensing Authority will have regard to the need, to accord with planning control, for there to be restrictions on hours.
- 26.3 Any conflicts between a proposed premises licence operating schedule with existing planning conditions and permissions will in itself not prevent the grant of a licence. Whilst there will be an expectation from the Licensing Authority for the applicant to comply with any relevant planning conditions, any such breaches will be solely a matter for the Planning Authority to enforce under its separate system of regulatory control.
- 26.4 In many cases where an application is made for a new licence or variation, the planning use will already be authorised by a previous planning permission or

because the premises has a long-standing lawful use. Therefore, a new application for planning permission is often not required.

- 26.5 Another key route by which stakeholders can express their views is through the planning process, either when neighbourhood plans are being developed or when particular planning applications are considered. The mechanisms and procedures governing how interested parties can input to planning decisions is covered in the Council's planning policies: www.uttlesford.gov.uk/planning

27 Festivals and Outdoor Events

- 27.1 The Licensing Authority recognises the contribution that well-run outdoor events bring to local communities and is pleased to support events which are run in a manner that will promote the licensing objectives.
- 27.2 The organisation of outdoor events of any size is a significant undertaking, with a multitude of issues which must be taken into account. Licensing is only one aspect of the regulation and control of such events.
- 27.3 Generally, we would expect the organisers of all outdoor events to follow the advice contained in the "Purple Guide"¹ when planning their event. This document contains guidance written by and for the events industry in respect of safety and welfare aspects of event management, and replaced earlier guidance issued by the Health and Safety Executive.
- 27.4 For larger events taking place under the authority of premises licences, it is recommended that organisers consider engaging professional advice and assistance, particularly with regards to issues which may affect public safety.
- 27.5 The Authority will expect the organisers of any large events (taking place under the authority of a premises licence) or events which include special risk factors to consult the Uttlesford Safety Advisory Group (SAG) as part of the early stages of planning their event, and to implement any reasonable recommendations made by the group. The SAG is a multi-agency body, which includes representatives of the Licensing Authority, responsible authorities and other statutory bodies who are involved in the organisation and safe running of events. Whilst this is not mandatory the Council considers consultation with SAG as best practice for any large scale event.
- 28 Prior to applying for a licence, event organisers will need to secure permission from the appropriate landowner for the site on which they intend to hold their event. In the case of public land which the Council is responsible for managing, including parks and common land, approaches should be made to the Assets & Estates team within the Strategic Finance & Property service.

¹<https://www.thepurpleguide.co.uk/>

- 28.1 One of the major concerns arising from outdoor events is disturbance to local residents from noise associated with music entertainment at the event, or other noisy equipment such as generators, public announcement systems, fireworks, and so on. The Licensing Authority will expect to receive a comprehensive operating schedule from applicants, containing appropriate proposals to control such issues and promote the prevention of public nuisance licensing objective. Depending on the size and nature of the event it is likely this will need to include a comprehensive Event Management Plan (EMP) integrating a specific Noise Management Plan.
- 28.2 To mitigate these concerns as far as possible early engagement with those likely to be affected by an event is expected. Simply fulfilling the statutory obligation to advertise is likely to trigger representations and raise concerns more than if there has been early engagement. Please refer to the section of this Policy that deals with “Pre-application advice & engagement” for further details.
- 28.3 It is particularly important for organisers of festivals to consider the demographics of their clients. Safe spaces for the public to go to and the promotion of national campaigns such as ‘Ask Angela’ are important mechanisms to promote public safety.
- 28.4 Use of multiple Temporary Event Notices for a single event
- 28.4.1 It has become increasingly common for larger scale events where licensable activities are taking place to be covered by multiple Temporary Event Notices (TEN’s).
- 28.4.2 Whilst, this will often be perfectly legal, it is important that sufficient formal planning is carried out for such events in order to reassure the Police and Environmental Health that the event can take place in such a way that the licensing objectives are promoted.
- 28.4.3 It is also important that organisers take suitable steps to ensure that they can be confident that they will not be inadvertently breaching licensing laws when running events in this way.
- 28.4.4 Organisers should consider using the Uttlesford Safety Advisory Group and whether seeking pre-application advice would be worthwhile.

29 Circuses

- 29.1 Authorisation is needed under the Licensing Act should a circus sell alcohol or provide late night refreshment.
- 29.2 The position is less clear in terms of regulated entertainment, and we are aware of extremes in approaches by Licensing Authorities across the country. It is this Authority's opinion that the incidental music to a circus performance is not licensable, clowns may not necessarily be playing a dramatic role qualifying as a theatrical performance, trapeze artistes are not engaged in indoor sports, and film performances are rarely included.
- 29.3 The Legislative Reform (Entertainment Licensing) Order 2014 deregulated entertainment in travelling circuses provided that the following qualifying conditions are met:
- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
 - the entertainment takes place between 08.00 and 23.00 on the same day;
 - the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
 - the travelling circus has not been located on the same site for more than 28 consecutive days.
- 29.4 The position is less clear in terms of regulated entertainment, and we are aware of extremes in approaches by Licensing Authorities across the country. It is this Authority's opinion that the incidental music to a circus performance is not licensable, clowns may not necessarily be playing a dramatic role qualifying as a theatrical performance, trapeze artistes are not engaged in indoor sports and film performances are rarely included.
- 29.5 Evidence nationally indicates that circuses, pose no significant risk to the licensing objectives, add value to the cultural activities of a town, and are regulated by other means including compliance with the Health and Safety at Work etc. Act 1974.
- 29.6 It should be noted that while a subject of considerable public concern, the question of whether or not there are animal acts at a circus is not a matter for the Licensing Authority.

30 Garages and Motorway Service Areas

- 30.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage or are part of premises used primarily as a garage. Premises are used primarily as a garage (i.e. the sale of fuel) if they are used for one or more of the following:
- The retailing of petrol;
 - The retailing of diesel (derv);
 - The sale of motor vehicles; and
 - The maintenance of motor vehicles.
- 30.2 If premises that are primarily used as a garage are granted a licence, that licence is “of no effect” and alcohol may not be lawfully sold.
- 30.3 Although there is no requirement in the legislation for an applicant for a licence to provide proof of primary use it is considered useful for this information to be included so that it is clear to all parties if the licence has affect or not. Applications that do not include this information will still be processed and determined as required by the Licensing Act 2003.
- 30.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. The Licensing Authority requests that evidence be based on **income** (from retailing petrol and derv and vehicles sales/maintenance versus other items) and **the numbers of individual sales** (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature.
- 30.5 Where insufficient evidence exists to establish primary use, we will decide whether or not grant a licence and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.
- 30.6 Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the licensing authority on a regular basis for the following two years to ensure the premises are not primarily a garage.
- 30.7 Where relevant representations have been made and a Panel will be the determining the application we shall treat it as an off-licence, as defined in this Policy.
- 30.8 Paragraph 5.23 of the statutory guidance issued under the Act makes it clear that the Licensing Authority must decide whether or not any premises is used primarily as a garage. We are aware that different authorities take a number of different approaches to this question. However, we hope that the proceeding paragraphs will guide applicants and licence holders as to the information we would like them to provide if this question arises.

31 Security and CCTV

- 31.1 Under a mandatory licence condition, any person engaged to work at licensed premises who is carrying out a prescribed security activity, as specified under the Private Security Industry Act 2001, must be correctly licensed to carry out that function by the Security Industry Authority, or otherwise authorised under an approved contractor scheme or similar.
- 31.2 The Licensing Authority will expect applicants for licences to consider whether they may need to employ security personnel when compiling their operating schedules. This expectation will not just apply to premises licensed for the supply and consumption of alcohol, but any premises which may potentially experience disorder.
- 31.3 Premises which are licensed for the supply of late night refreshment, located either in town centre locations or on primary dispersal routes from such locations, and which cater primarily for the night-time economy may in particular need to consider whether security personnel will be necessary, both to safeguard their premises against damage, and to prevent outbreaks of disorder among customers who may be intoxicated.
- 31.4 Where premises experience regular incidents of disorder and does not employ security personnel to guard against this, the Licensing Authority may consider the imposition of licence conditions mandating their provision, on receipt of an application to review a licence.
- 31.5 Where a premises has a policy of searching patrons prior to entry, searches should only be carried out by security personnel of the same gender as the customer who is being searched. This will mean that such premises will need to employ a minimum of one male and one female door supervisor.
- 31.6 CCTV
- 31.6.1 The Licensing Authority will have regard to GDPR and the Surveillance Camera Code of Practice¹², in particular paragraph 1.15, which highlights that the blanket imposition of licence conditions requiring CCTV systems to be operated in licensed premises without strong justification would be contrary to the first principle of the code. The imposition of CCTV conditions will, like all other matters relating to authorisations under the Act, be considered on a case-by-case basis, taking into account the circumstances and individual merits of the case in question. The Licensing Authority may still impose conditions requiring the operation of CCTV, if it is considered necessary to meet an identified pressing need and for a specified purpose, in addition to being appropriate for the promotion of one or more of the licensing objectives.
- 31.6.2 In the absence of a condition requiring it, it will be for the licence-holder to decide whether to operate a CCTV system in their premises. The Code of Practice, while binding on public authorities, is voluntary for private operators, although adherence to the principles therein is encouraged.

¹²<https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

31.6.3 Where CCTV is in use in licensed premises, the Licensing Authority will expect its use to comply with the provisions of the Data Protection Act. This will mean that:

- The licence-holder must register with the Information Commissioner as a Data Controller.
- Clear signage is displayed advising of the usage of CCTV.
- The CCTV is under the control of and accessible only by management and supervisory staff, who are conversant in its usage.
- The licence-holder has a clear policy on the retention of recorded images, and disposes of them after a set period (typically around 28 days) unless an incident is reported.

31.6.4 To ensure the most effective use of CCTV, it is also encouraged that:

- The date and time on the system is correctly set.
- The system is kept operational at all times while the premises are open to the public.
- There is camera coverage of the key parts of the premises, including all entrances/exits, bars, checkouts and dancefloors.
- Where recordings are required by police to assist in an investigation, that these can be accessed and supplied within a reasonable period – a maximum of 24 hours from receipt of a request is suggested.

31.6.5 Essex Police's crime prevention officers can offer advice on the installation and setup of CCTV systems to ensure best evidential quality.

32 Drugs and New Psychoactive Substances

32.1 The Licensing Authority expects all licensed premises to adopt suitable measures to detect and discourage persons from using controlled drugs (which for the purposes of this section means substances which are proscribed under the Misuse of Drugs Act 1971) while on those premises. Examples of such measures may include, but are not limited to, the following:

- Ensuring a highly visible staff presence throughout the premises.
- Regular checks by staff of ancillary areas such as lobbies, toilets, cloakrooms and corridors.
- Redesigning toilet facilities to remove horizontal surfaces, and niches and other areas where illicit items could be concealed.
- Ensuring that all staff, and door staff in particular, are trained to recognise visible signs that a person is under the influence of an illegal substance, and to refuse such persons entry to the premises.
- Operating robust 'search on entry' policies, with procedures in place to confiscate controlled drugs found during searches and hand these to police at the earliest opportunity.
- Carrying out testing on surfaces within the premises to detect the presence of traces of controlled drugs.
- Enforcing a zero-tolerance policy to the use or supply of controlled drugs within the premises, ejecting or refusing entry to persons known to be linked to the use or supply of controlled drugs, and reporting to the police any person suspected of supplying controlled drugs.

- 32.2 Where a licence holder believes that there may be an issue with the illegal use or supply of controlled drugs within their premises, they are strongly encouraged to contact Essex Police for advice and assistance in remedying that issue. This may involve a degree of ‘target hardening’ – redesigning parts of the premises or operating procedures to more easily detect and discourage such practices. Where premises are co- operating with the Police to deal with such issues, the Licensing Authority is less likely to take action to remove or restrict the licence, than it would with premises which do not offer co-operation.
- 32.3 For the purposes of this part of the Policy, the Licensing Authority will regard new psychoactive substances (widely referred to as ‘legal highs’) in the same way as it does controlled drugs, and will expect that the measures taken in licensed premises to detect and discourage the use of controlled drugs will also extend to these substances, which generally mimic the effect of a controlled drug.
- 32.4 The Licensing Authority expects that licensed premises will not engage in, sanction nor condone the sale or supply of new psychoactive substances in or from their premises, and may seek to take enforcement action against premises that are found to be doing so.
- 32.5 The Licensing Authority recognises that Government has committed to strengthening the legislation around the supply and use of new psychoactive substances and welcomes such moves.

33 Modern Slavery

- 33.1 Modern slavery is a crime. The UK Modern Slavery Act 2015 includes the following under the offence of modern slavery:
- Slavery, where ownership is exercised over a person.
 - Servitude, where a person is obliged to provide services imposed by coercion.
 - Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily.
 - Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.
- 33.2 In the UK, estimates go as high as 136,000 when quantifying the number of hidden victims living in conditions of slavery. In the European hospitality sector, which includes bars and restaurants, a recent study found 110,000 victims of exploitation annually. Government agencies in the UK have specifically identified hospitality as a high-risk area for modern slavery.

Licensed premises might be unwitting hosts to modern slavery in two ways:

- (1) Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.

- (2) Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.

33.3 Identification and reporting

33.3.1 Staff at licensed premises can have the power to identify and report any exploitation they encounter. A licence holder may ensure awareness of modern slavery by:

- **Identifying any risks** at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.
- **Actively informing those working on the premises** of their rights and how they can confidentially seek help or advice on modern slavery if required.
- Provide **regular training** to all staff on the indicators of modern slavery and how to report concerns.
- Establishing **strong relationships with local police and victims service providers**, such as the national Modern Slavery Helpline (0800 0121 700), in advance of any incident.

33.4 Reporting protocols

33.4.1 Having **clear and straightforward protocols** for when an incident is discovered is crucial to ensure that victims get appropriate support. Where employees identify a potential victim, they can follow a specific internal procedure in order to protect the safety of that individual.

33.4.2 The procedure should **1) not be overly complex, 2) should involve senior level staff and 3) should account for when reporting should go immediately to the police** (i.e. if certain indicators are met, if the potential victim is in immediate danger, if the potential victim is a child).

The Modern Slavery Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.

34 Child Sexual Exploitation (CSE)

34.1 High-profile cases around the UK have acted to highlight the potential links between victims of child sexual exploitation and licensed premises. As Licensing Authorities have a statutory duty to ensure the protection of children from harm through the exercise of their licensing functions, it is important that licence-holders are aware of the potential for premises to be used by persons who are exploiting children for sexual purposes and take appropriate measures to detect and discourage this.

34.2 Child sexual exploitation generally involves a young person being encouraged, coerced or forced into participating in a sexual relationship or activity by an adult. It frequently involves the victim being offered something in exchange for this, such as money, gifts, food, alcohol, cigarettes, drugs, involvement in adult situations, or

sometimes just attention. Victims may have been subject to a grooming process lasting for weeks, months or years.

- 34.3 There is no single model of sexual exploitation – different cases will all have different circumstances. Similarly, victims can be quite different. While some victims may have had troubled backgrounds, others may come from prosperous and loving families.
- 34.4 There are a number of indicators which may indicate child sexual exploitation. These include, but are not limited to:
- Relationships which develop between a child and an adult;
 - Children accompanied by a group of unrelated adults;
 - Children regularly attending premises and meeting with a number of different adults, particularly if alcohol is being purchased for the child;
 - Children outside of licensed premises who develop relationships with adults, particularly if alcohol is being purchased for the child;
 - Children leaving the premises with unrelated adults, particularly with a group of adults;
 - Children looking uncomfortable in the company of or leaving the premises with adults, or groups of adults.
- 34.5 It must be stated that not every instance of the behaviours listed above will indicate exploitation, and many interactions between children and adults will be perfectly innocent. However, if staff at licensed premises have reasonable grounds for suspicion (for example, if the child does not appear to know the adults they are with or appears distressed) then they should be urged to report this.
- 34.6 The Licensing Authority expects licence-holders and applicants for new licences to be aware of the possibility of child sexual exploitation taking place in or around licensed premises, and to adopt suitable protective measures to assist in the detection and reporting of incidents of this. These may include:
- Inclusion of child sexual exploitation issues within training programs for new and existing staff,
 - Written management procedures for identifying and reporting suspicious behaviour to police,
 - Frequent monitoring of all areas of the premises and immediate vicinity, including external areas, to detect behaviours of the types listed above.

35 Film Classification

- 35.1 Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the Licensing Authority. Where recommendations have been made by both bodies, and the Licensing

Authority has notified licence- holders of this, the Licensing Authority's recommendation will take precedence.

- 35.2 For the purposes of sections 20 and 74 of the Act, the Licensing Authority recognises the British Board of Film Classification (BBFC) as the film classification body and will specify this body within the licences and certificates it issues.
- 35.3 The Licensing Authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or Licensing Authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 35.4 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a Licensing Authority recommendation should be displayed at or near the entrance to the screening.
- 35.5 The Licensing Authority anticipates that the BBFC's recommendations will apply to most films shown at licensed premises within the district. However, in a small number of cases, the Licensing Authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the district. Such situations can be approximately characterised in one of three groups:
- In cases where the Licensing Authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
 - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
 - In cases where the Licensing Authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 35.6 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The Licensing Authority is aware that some cinemas across the country have agreed schemes whereby the applicable Licensing Authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and young children to special screenings of that film with only parents of such children in attendance.

- 35.7 It is recommended that any premises considering the provision of such screenings contact the Licensing Authority to discuss the proposals first. The authority will typically expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.
- 35.8 Issue of recommendations by the authority
- 35.8.1 When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, it is proposed that the authority will adhere to the BBFC's Classification Guidelines ([Age ratings and film classification | BBFC](#)), and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 35.8.2 In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the Licensing Authority.
- 35.9 Alternate recommendations for parent and baby screening.
- 35.9.1 Where the Licensing Authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Issues will be assessed on a film-by-film basis, but it is anticipated that scenes of strong violence and gore, sex and strong threat will lead to greater concern around viewing by children of that age than strong language, mild nudity and discriminatory content will.
- 35.9.2 Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

36 Promotion of Quality

- 36.1 The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different characteristics. The 2010 Act provides for a number of protected characteristics, as follows:
- Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion and belief
 - Sex
 - Sexual orientation
- 36.2 The Licensing Authority expects that licensed premises will not discriminate against any person based solely on any of these characteristics – for example, refusing a person entry to a licensed premises based on their race, gender or age unless it is a legal requirement or within their premises policy to not admit persons of a certain age i.e. no under 21s.
- 36.3 The sole exception to this will be where such action is necessary to comply with legal requirements or licence conditions, particularly in respect of ensuring an individual's age in situations where licence-holders must restrict access to age-restricted goods or services to any person who is below the legal age for that good or service – for example, the sale of alcohol to under-18's, or admission of under 15's or under 18's to a film with a '15' or '18' certificate.
- 36.4 The Licensing Authority will also expect members clubs to ensure that their membership rules do not result in discrimination against a person because of a protected characteristic – for example, maintaining different membership classes for persons of different genders.

37 Other Considerations

- 37.1 Licensed premises are subject to many statutory requirements including fire safety, trading standards, food hygiene, health and safety, and planning. These different regulatory systems will be properly separated as described in the Guidance.
- 37.2 In addition, section 17 of the Crime and Disorder Act 1998 requires the Council when exercising its functions to do all it reasonably can to prevent crime and disorder.

- 37.3 By consulting widely prior to this policy statement being published the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies
- 37.4 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their operating schedule.
- 37.5 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Licensing Authority may, when appropriate, receive reports on:
- The needs of the local tourist economy;
 - The cultural strategy for the area;
 - The employment situation in the area and the need for new investment and employment opportunities where appropriate;
 - Planning considerations which might affect licensed premises.
- 37.6 Live music, dance and theatre
- 37.6.1 The Licensing Authority will monitor the impact of its licensing decisions on the provision of regulated entertainment within the district, and particularly live music, dancing and plays.
- 37.6.2 Many events which consist solely of these activities will now fall outside of licensing requirements, following deregulation.

The Licensing Authority is aware of the Covenant on Economic, Social and Cultural Rights and the requirements of Article 15 of the International Convention on Economic, Social and Cultural Rights¹ which require that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. Care will be taken to ensure that only appropriate, proportionate and reasonable licensing conditions are imposed on these events.

- 37.6.3 Account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community of these activities.
- 37.6.4 When attaching conditions the Licensing Authority will generally seek to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature. However, the Licensing Authority notes that on occasion it may have no choice but to impose such requirements in order to safeguard the licensing objectives – for example, requiring the installation of safety equipment to ensure the safety of persons attending an entertainment performance.

Appendix 1 - Consultation

The consultation on this Statement of Licensing Policy was open to the public and has been widely publicised. Anyone who wanted to make comment was welcome to do so during the 4-week consultation. Below is a list of individuals, organisations and / or representatives directly consulted in the preparation of the Licensing Policy. The list is not exhaustive but gives a good indication of the scope of the consultation exercise.

- The responsible authorities designated under the Licensing Act 2003
- Holders of existing premises licences and club premises certificates issued by the Licensing Authority
- Representatives of residents associations in the area
- Uttlesford Councillors
- Town Councils
- Parish Councils
- Town Centre Management Boards
- Community Voice
- Youth Council
- Essex County Council
- British transport police
- Public transport providers
- Neighbouring Local Authorities
- Licensed Victuallers Association
- Chamber of Commerce
- Local Pubwatch groups
- Essex Environmental Forum
- Essex Local Enterprise Partnership (LEP)
- Federation of Small Businesses
- Solicitors and agents that have previously submitted applications
- Spectrum Drug & Alcohol Services
- Uttlesford Licensed Taxi Trade
- Community Safety Partnership (CSP)
- Safety Advisory Group (SAG)

Appendix 2 – Glossary of Terms

These definitions are provided to aid understanding of the policy by residents and applicants. They do not replace the meaning given to the terms in the Act or the statutory guidance. Reference should therefore be made to these publications to clarify any of these terms for legal purposes.

Alcohol includes spirits, wine, beer, cider, or any other fermented, distilled, or spirituous liquor of or exceeding 0.5% alcoholic strength at the time of sale.

Club Premises or Qualifying Clubs can supply alcohol to members or guests and can provide regulated entertainment. These clubs must comply with general and specific conditions in relation to size, membership and the nature of their operations.

Designated Premises Supervisor (DPS) is a personal licence holder who is specified on the premises licence so that it can authorise the sale of alcohol. This may be any person with a personal licence.

Guidance means the guidance to Licensing authorities published by the Secretary of state under section 182 of the Licensing Act 2003.

Licensing Authority means Uttlesford Council.

Licensing Committee is a committee of 10 to 15 councillors, appointed by the Council.

Licensing Sub-Committee/Panel is a committee of at least two but usually three councillors, appointed from the licensing committee to whom the functions of the licensing committee can be delegate under the Act.

Personal Licence - permits individuals to supply, or to authorise the supply of alcohol. The licensing of individuals separately from the licensing of premises allows the movement of personal licence holders from one premise to another, allowing greater flexibility. It ends the outdated regime where publicans are tied by licence to the premises they manage.

Regulated Entertainment is entertainment that is provided to the public, or exclusively to members of a qualifying club and their guests, or entertainment provided for profit/personal gain.

Representations are objections or comments, against an application and can be made by responsible authorities (e.g. police) or other persons (e.g. residents). They must be made in writing and will only be relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. Representations by other parties will not be relevant if they are considered by the licensing authority to be frivolous (i.e. not serious) or vexatious (i.e. arising out of unrelated disputes).

Temporary Events Notice, used for small-scale events held in or on any premises involving licensable activity and no more than 499 people at any one time (including staff & performers).

“The Act” means the Licensing Act 2003.

Appendix 3 – Useful Resources

The links below were accurate at the time of publication of the Policy

Age verification

No ID No Sale campaign - www.noidnosale.org

Alcohol awareness

Drinkaware - www.drinkaware.co.uk

Alcohol promotions

Code of Practice of the Naming, Packaging and Promotion of Alcoholic Drinks (Portman Group) - » [25 Years of Responsible Alcohol Regulation: A Spotlight on 2021 \(portmangroup.org.uk\)](http://portmangroup.org.uk)

Child sexual exploitation

Operation HALO (Essex Police) - [Child sexual exploitation | Essex Police](#)

Say Something If You See Something resources (Essex Safeguarding Children's Board) - [Home \(escb.co.uk\)](http://escb.co.uk)

Counter-terrorism

Protecting Crowded Places from Terrorism (National Counter-Terrorism Security Office) - www.gov.uk/government/collections/crowded-places

Crowd safety

Managing Crowds Safely: a guide for organisers at events and venues (HSE Publications) - [Event safety - Crowd management \(hse.gov.uk\)](http://hse.gov.uk)

Film classification

Classification guidelines (British Board of Film Classification) - [Home | BBFC](#)

Fire safety

Fire safety advice documents (Department for Communities and Local Government) - www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents

Essex Fire & Rescue Service - [Welcome to Essex County Fire & Rescue Service \(essex-fire.gov.uk\)](http://essex-fire.gov.uk)

Modern Slavery

The Modern Slavery Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.

Blueprint training ([You searched for blue print - Shiva Foundation](#))

Indicator list (<http://www.shivafoundation.org.uk/>)

Example policies ([Policy Archives - Shiva Foundation](#))

Noise control

Guidelines on Community Noise (World Health Organisation) - [Guidelines for community noise \(who.int\)](#) Effective Management of Noise from Licensed Premises (British Beer and Pub Association) – [Home | BBPA \(beerandpub.com\)](#)

Code of Practice on Environmental Noise Control at Concerts (Noise Council) – www.cieh.org

Outdoor events

The Purple Guide to Health, Safety and Welfare at music and other events - www.thepurpleguide.co.uk (subscription required)

The 'Can Do' guide to Organising a Voluntary Event (Cabinet Office) - www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events

Uttlesford Safety Advisory Group (SAG) - [Health and safety Uttlesford District Council](#)

Revised guidance issued under section 182 of the Licensing Act 2003 v Dec 2022 – [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#)

Security and CCTV

Security Industry Authority website - www.sia.homeoffice.gov.uk

Surveillance Camera Code of Practice (Surveillance Camera Commissioner) - www.gov.uk/government/publications/surveillance-camera-code-of-practice

Appendix 4 – Contact Details

Licensing

Uttlesford Council
London Road
Saffron Walden
Essex CB11 4ER

Phone: 01799 510510

Emails:

(General enquiry): licensing@uttlesford.gov.uk

(Complaint): licensingenforcement@uttlesford.gov.uk

Website: www.uttlesford.gov.uk/licensing

Most applications can be made online by following the links from the above page.

Please note that, due to the complexity of the legislation that governs these activities, we can only give basic advice about which activities do and do not require authorisation, and about application processes.

If you are unsure as to the legality of a particular activity, or require more detailed information or advice than we are able to offer, we recommend that you consult an independent specialist advisor or a legal representative.

Responsible authority contact details:

[Licensing Act 2003 statutory consultees - Uttlesford District Council](#)

Appendix 5 – General

General – all four licensing objectives

This section provides guidance on good practice for the general promotion of all four licensing objectives at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the general promotion of the licensing objectives after a licence has been granted.

Licensees and their staff have responsibility for the effective and safe management of their premises and the promotion of the four licensing objectives. Training is the key to giving licence holders, premises managers and staff the knowledge and skills to deal with and manage risks associated with licensed premises. Training should be provided to all staff and should be about both preventing and managing problems occurring at premises. Training should be regularly updated.

Risk		Good Practice Measure
<p>Lack of knowledge or understanding of the Licensing Act 2003</p>	<p>G1</p>	<p>(a) Well trained staff will contribute to well-run premises and a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment. Formal qualifications for your staff, either to personal licence level or to another appropriate standard recognised by bodies such as the British Institute of Innkeepers (BII) would be preferential.</p> <p>(b) All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</p> <p>(c) Training should also be provided on premises' specific policies relevant to the operation of the business.</p> <p>(d) A record should be kept of the date and name of person trained or advised and be made available for inspection by the police or licensing authority.</p>

Prevention of crime and disorder

This section provides guidance on good practice for the prevention of crime and disorder from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of crime and disorder from their premises after a licence has been granted.

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs. This can result in theft, conflict, violence and anti-social behaviour. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing crime and disorder from their premises.

All applications for new licences and variations should address the steps proposed to prevent crime and disorder and this is best achieved through a premises risk

assessment. Alcohol can be a significant contributory factor to levels of crime and disorder in an area. Good management and good practice along with adequate physical controls can make a significant difference to the level of alcohol related crime at premises. Such measures should be reflected in the operating schedule.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to minimise the potential for crime and disorder.

Licence holders should have clearly documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

Risk		Good Practice Measure
<p>Security in and around the premises</p>	<p>CD1</p>	<p>(a) An alarm or other security measure should be installed at the premises to protect it when closed or empty.</p> <p>(b) Emergency exits should be alarmed when the premises are open to the public so that staff are immediately notified of unauthorised opening or tampering.</p> <p>(c) Any staff or private areas and cellars should be kept locked and secured whilst the premises are open to the public.</p>
	<p>CD2</p>	<p>(a) CCTV should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct.</p> <p>(b) The recordings should be in real time and on hard drive with the availability to copy disks for other agencies such as the police.</p> <p>(c) For analogue systems, tapes should be changed daily and used no more than 12 times.</p> <p>(d) Recordings should be kept for a minimum period of 28 days.</p> <p>(e) Staff should be trained in the maintenance and operation of such systems with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(f) A trained member of staff should be on duty to operate the system whenever the premises are open.</p>

	CD3	External lighting provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.
	CD4	(a) Security systems should be integrated so that the alarm, CCTV and lighting work together in an effective manner. (b) The alarm should be linked to a system that will notify the police if it is activated.
	CD5	(a) Door staff and / or stewards should be employed at the venue supervise admissions and customers inside the venue. (b) Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed whilst working. (c) Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.
		(d) Door staff should sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded. (e) Stewards and other staff at the premises should also be easily identifiable. Stewards must not be used for supervision of the door.
	CD6	(a) Effective security policies , based on risk assessments, can protect your premises, staff and customers from threats, conflict or violence. (b) Security policies should be formulated in consultation with a police crime prevention officer. (c) All staff must be aware of a premises security policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority. (d) Premises should be searched inside and out for suspect packages before, during and after opening hours. Staff should be trained to remain vigilant during opening hours and report any suspicious activity to the police.
	CD7	Security reviews should be held regularly and at least every three months with minutes kept.

	CD8	<p>(a) Daily staff briefing and debriefing will enable licensees to improve working practices in their premises.</p> <p>(b) Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.</p>
Crime and disorder in and around the premises	CD9	<p>(a) Promoted events may attract larger than usual crowds.</p> <p>(b) Such events must have a comprehensive risk assessment undertaken by the licence holder and submitted to the Uttlesford District Council.</p> <p>(c) It is expected that promoters should have obtained the BIIAB level 2 for large scale music events for over 1500 people.</p> <p>(d) If a problem should arise during a promoted event, this should be documented by the licence holder and it is expected that a written debrief will be provided to the Uttlesford District Council licensing officer and the police licensing officer within 48 hours of the event.</p>
Crime including conflict, violence or	CD10	<p>(a) Proper management of the door will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment considering the size of venue and the type of crowd the entertainment is likely to</p>

aggression in and around the premises		<p>attract, but at the very least on a ratio of 1 door supervisor per 50 customers.</p> <p>(b) Consideration should be given to a sufficient provision of male and female door supervisors, but at least one female door supervisor should be used.</p>
	CD11	<p>A door admissions policy including any age restrictions, expected dress standards or the screening of handbags should be widely publicised on any promotional material or website and clearly displayed at the entrance to the premises.</p>
	CD12	<p>(a) Ejecting or refusing entry to persons from the premises if they do not meet your admissions standards or they are known to be violent or aggressive.</p> <p>(b) In such cases, an entry should be made in an incident or logbook.</p> <p>(c) Identification scanners should be considered if this would aide</p> <p>(i) swift entry procedures and (ii) identify customers with a</p>

		history of problems at other venues.
	CD13	<p>(a) A policy to manage capacity should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.</p> <p>(b) For promoted events and large venues, the use of clickers is essential to record the number of patrons inside the premises.</p> <p>(c) For other events or smaller venues, ticket sales or head counts may be appropriate.</p> <p>(d) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.</p> <p>(e) Where a premises holds a special event which is expected to attract a greater than usual number of patrons more than 1500 people, the premises licence holder will be expected to notify the Council's licensing officer and the police licensing officer licensing team at least 14 days in advance of the event.</p>
	CD14	<p>(a) Alternatives to glass drinking vessels should be considered to prevent glassware being used as an assault weapon, particularly during promoted events.</p> <p>(b) Drinking vessels made from plastic or polycarbonate would be preferential particularly in outside areas.</p> <p>(c) Where alternatives are not used, there should be a robust glass collection policy in place. This should include regular collection of glassware by staff and prevention of glassware being removed from the premises.</p>
	CD15	<p>(a) Measures to preserve a crime scene until police arrival, following the outbreak of disorder or any other crime should be clearly documented in a policy.</p> <p>(b) Such a policy should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must receive training on the policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>

	CD16	<p>(a) Staff training in conflict management should be provided to give them the knowledge and confidence to deal with demanding situations and reduce crime and disorder at the premises.</p> <p>(b) Training should also cover dealing with, logging and reporting incidents if they occur.</p> <p>(c) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	CD17	<p>Sharing of information with others in the industry. Regular meetings, the use of local radio networks or membership of a local pub / club watch scheme will enable information to be passed on about troublemakers and common problems in the area.</p>
Drugs and weapons being brought into the premises	CD18	<p>(a) A zero-tolerance policy to the use of drugs, including 'legal highs' and carrying of weapons in the premises should be adopted with a clear "<i>No search. No entry</i>" message.</p> <p>(b) Posters can be displayed throughout the premises to remind customers of zero tolerance policy.</p>
	CD19	<p>(a) Effective search policies will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made.</p> <p>(b) The use of search arches and wands may be appropriate in some cases.</p> <p>(c) Search policies should be formulated in consultation with the police licensing officer.</p> <p>(d) Search policies must be advertised widely on tickets, promotional leaflets and on websites and prominently in the premises entrance and queuing area.</p> <p>(e) Searches should always be carried out in public areas and covered by CCTV.</p> <p>(f) All staff must be trained on search policies with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>

	CD20	Calling the police if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.
	CD21	(a) Seizing, retaining and documenting any drugs or weapons found with a clear audit trail and a process for surrendering them to the police. (b) A search policy should clearly set out procedures that must be followed by staff should they find drugs or weapons during a search including circumstances when the police should be called; the use of tamper proof bags and safe storage of seized items in a lockable box; details that need to be recorded and how / when seized items should be surrendered to the police.
	CD22	(a) Supervising toilet areas can be effective in discouraging drug selling or use. (b) A toilet attendant may be appropriate for promoted events or on busy nights such as Friday and Saturday. (c) Regular toilet checks such as swabbing should be considered and where conducted, these should be documented with date, time and finding recorded. (d) Removal of flat surfaces in toilet areas can reduce the likelihood of drug misuse.
	CD23	Drug awareness training should be provided for all staff. A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.
Theft from premises or lost property	CD24	Bag hooks (Chelsea clips) and bag bells should be provided to prevent bag snatching.
	CD25	Clear signage should be displayed throughout the premises about crime prevention and to warn customers of the potential for pickpockets and bag / laptop snatchers.
	CD26	Property patrols, managed cloakrooms and toilet attendants can be employed to prevent theft from patrons or the premises.
	CD27	Premises layout and lighting should be considered. Secluded or dimly lit parts of the premises should be avoided as they can encourage crime.

	CD28	Mirrors used throughout the premises can aid supervision and act as deterrents to thieves.
	CD29	A lost and found policy should be in place in relation to lost / found property at the premises. The policy should include procedures regarding the logging and disposal of property and in particular any valuable property. Passports and any other ID found should be handed in to any police station.
	CD30	(a) Carefully positioning alcohol in retail premises can reduce theft from the premises. Alcohol is a key target for shop thieves so it is best not to place alcoholic beverages within the first few metres near the door as this allows thieves to 'grab and run'. (b) It may be helpful for alcohol display areas to be covered by CCTV if possible.
	CD31	Security tagging any items considered a specific target for theft, particularly alcoholic drinks over a certain price level will deter thieves.
Disorder from customers queuing to enter the premises or when leaving the premises	CD32	(a) Reduce the potential for excessive queue lines with a well-managed and efficient door policy. Long queuing times can cause people to become agitated or aggressive. Searches should therefore be conducted as quickly and effectively as possible. (b) Door staff will be required to refuse entry to premises to customers who do wait outside premises in a quiet and orderly fashion.
	CD33	(a) A customer dispersal policy can minimise the potential for disorder from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels. (b) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.
	CD34	(a) Staff training in preventing disorder should be provided to give them the knowledge and confidence to deal with demanding situations. (b) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or Licensing Authority

<p>Customers getting drunk and dealing with drunken customers</p>	<p>CD35</p>	<p>(a) Drinks promotions should be socially responsible and not encourage excessive drinking.</p> <p>(b) A documented policy on responsible drinks promotions should be in place at the premises and should adhere to industry codes such as those recommended by the British Beer and Pub Association (BBPA) and The Portman Group. This is in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.</p> <p>(c) Any drinks promotion should market the availability of soft drinks.</p>
	<p>CD36</p>	<p>(a) Staff training on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.</p> <p>(b) Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate 'cut off' points for serving drunken customers, to reduce the likelihood of fights or aggressive behaviour.</p> <p>(c) When staff are collecting glasses, they can interact with customers and assess the levels of drunkenness. Any concerns should be reported back to a manager.</p> <p>(d) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<p>CD37</p>	<p>A duty of care policy regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.</p>
	<p>CD38</p>	<p>Drink-aware posters can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.</p>
<p>Consumption of alcohol on the street and street drinkers</p>	<p>CD39</p>	<p>Restrict the sale of strong beer and cider above 5.5% ABV (alcohol by volume) and the sale of single cans or bottles of beer and cider. Such sales can contribute to anti-social behaviour and disorder through the consumption of alcohol on the street and in open spaces by street drinkers or persons who are already drunk.</p>

Sale of alcohol outside permitted hours	CD40	Lockable shutters can be fitted on display units for alcohol in retail premises, which can be closed and locked at the end of permitted hours.
Tackling sexual harassment and discrimination	CD41	Staff and SIA operatives training in a zero-tolerance policy to sexual harassment and discrimination to deal with: (a) unwelcome sexual gestures and sexual innuendos confidence to deal with drunken patrons. (b) groping, pinching or smacking someone's body without consent (c) exposing sexual organs to someone (d) entering the opposite sexes toilet derogatory comments or gestures based on someone's age, gender, race orientation or ability.
Reporting criminal offences	CD42	Premises licence holders are requested to report all criminal allegations to the police , eg theft, drug possession, fraudulent documentation. It is then a matter for the police as to what is the appropriate action to take.

Public Safety

This section provides guidance on good practice for the promotion of public safety at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the promotion and management of public safety at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks to the safety of the public (including performers) attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing public safety at their premises.

All applications for new licences and variations should address the steps proposed to promote public safety and this is best achieved through a premises risk assessment.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to achieve the highest possible standard of safety.

Licence holders should have clearly documented policies and procedures in place which identify all public safety risks associated with their premises and measures implemented to prevent, manage and respond to those risks.

Risk		Good Practice Measure
General safety of staff and customers	PS1	<p>(a) A full risk assessment considering public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards. A risk assessment should be regularly reviewed, at least once every 12 months.</p> <p>(b) All staff should be made aware of the risk assessment and precautionary measures therein.</p> <p>(c) A copy of the risk assessment should be kept at the premises and made available for inspection.</p>
	PS2	First aid boxes should be available at the premises and maintained with sufficient in-date stock.

	PS3	<p>(a) A recognised qualification in first aid should be held by at least one member of staff who should be always on duty at all times the premises licence is in use.</p> <p>(b) Other staff should be trained to a basic first aid standard with records kept of the date and name of person trained.</p>
	PS4	A first aid room or quiet room should be made available to anyone requiring medical attention.
	PS5	Temperature levels and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. Premises should be adequately heated and ventilated to avoid this. This can be achieved through use of air conditioning systems or natural ventilation in non-residential areas. Before installation, please check with the Council's Planning Department for advice as to whether this is permissible.
Overcrowding	PS6	A documented capacity should be set for the premises overall and for individual rooms within the premises. Capacity can be determined by a risk assessment in consultation with the fire safety authority. The risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time and available fire exits.
	PS7	<p>(a) A policy to manage the capacity should be adopted to prevent overcrowding and localised overcrowding.</p> <p>(b) The use of electronic clocking systems, clickers, ticket sales or head counts may be appropriate.</p> <p>(c) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</p>

Accumulation and disposal of glasses / drinking vessels	PS8	<p>(a) A glass collection policy should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</p> <p>(b) Perimeter checks should be made outside the premises for any glasses or bottles.</p> <p>(c) All staff must be made aware of the glass collection policy and their responsibility for the task.</p>
	PS9	Spillages and broken glass should be cleaned up immediately to prevent floors from becoming slippery and unsafe.
	PS10	Bottle bins should be secure at all times and away from public areas.
Accident or other emergency incident on the premises	PS11	<p>(a) A written policy to deal with all types of accidents and emergency incidents should be in place at the premises.</p> <p>(b) The policy should be based on risk assessments and include matters such as emergency management, contingency planning and evacuation procedures in the event of fire, bomb threats or suspect packages and when to contact emergency services.</p> <p>(c) Evacuation responsibilities and roles should be clearly communicated to staff, routes and exits should be well defined and evacuation plans exercised regularly.</p> <p>(d) A copy of the fire risk assessment should be kept at the premises and made available for inspection by the fire authority and licensing authority.</p>
	PS12	A fire detection system should be in place at the premises and should be fully functional at all times. The system should be tested regularly with records kept and made available for inspection.
	PS13	<p>(a) Means of escape in case of any emergency must be clearly visible, unobstructed and well-maintained including areas outside exits leading to a place of ultimate safety such as the street.</p> <p>(b) Checks should be carried out before opening each day to ensure that exits are unlocked and unobstructed.</p>
	PS14	Equipment should be checked and maintained regularly with a record kept of the date and findings of the checks.

	PS15	(a) Staff training in fire safety and any premises safety policy should be provided for all staff to give them the knowledge and confidence to deal with emergency situations, including location of equipment, utilities, services and layout of premises. Training should include how to use fire extinguishers. (b) Records should be kept of the date and name of person trained and made available for inspection.
	PS16	An accident book should be kept to record all accidents or incidents and made available for inspection.
Drug use or drink spiking	PS17	(a) A zero-tolerance policy to the use of drugs in the premises should be adopted. (b) Posters can be displayed throughout the premises to remind customers of the zero-tolerance policy.
	PS18	Refusing entry to anyone who is showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log-book.

	PS19	(a) A duty of care policy regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary. (b) All staff must be briefed on the policy. A record should be kept of the date and name of person trained.
	PS20	(a) Prevent the possibility of drink spiking by offering various anti-drink spiking products to customers. (b) If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this should be clearly set out in your duty of care policy.
	PS21	A 'chill out' area should be provided. This should be cooler and quieter than rest of venue.
Smoking on the premises	PS22	Staff should be aware of their responsibilities regarding smoke-free legislation and for monitoring compliance.
Safety of customers when leaving the premises	PS23	Discourage drink driving by promoting schemes such as designated driver, with notices clearly displayed throughout the premises.

	PS24	(a) Display information to customers with regards to safe options for travelling home. Information should include access to licensed taxi cabs or licensed private hire vehicles, the location of taxi ranks and public transport facilities including night bus options. (b) Provide a free taxi phone service and a safe waiting area for customers inside the premises.
	PS25	(a) A 'chill out' period at the end of an evening can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues. (b) Provision of food and non-alcoholic drinks during a chill out period can be effective in allowing customers to sober up before leaving the premises.
	PS26	(a) Increased lighting inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises. (b) Increased external lighting particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises. Care should be taken so that lighting does not impact on neighbours, particularly in and close to established residential areas.

Prevention of public nuisance

This section provides guidance on good practice for the prevention and management of public nuisance from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of noise and other public nuisance issues from their premises after a licence has been granted.

Excessive noise and nuisance from licensed premises is a major concern for persons living or working in the area. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing public nuisance from their premises.

All applications for new licences and variations should address the steps proposed to prevent public nuisance. Where entertainment or other potentially noisy activity is planned, a noise assessment should be carried out. For some premises, the assessment will need to be carried out by a suitably qualified consultant.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose. Sound attenuation measures can include wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems. Consideration should also be given to historical noise problems at the premises with measures put in place to prevent them from recurring.

Licence holders should have clearly documented policies and procedures in place which identify all public nuisance risks associated with their premises and measures implemented to prevent, manage and respond to those risks. Licence holders should also engage with local residents and businesses on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

Risk		Good Practice Measure
<p>Music, singing and speech noise breakout from the premises</p>	<p>PN1</p>	<p>(a) A noise management policy should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</p> <p>(b) The policy should be based on the findings of an acoustic consultant's assessment.</p> <p>(c) All staff should be trained on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by the licensing authority or environmental health responsible authority.</p> <p>(d) DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</p>
	<p>PN2</p>	<p>(a) Windows and doors should be kept closed whilst the premises licence is in use to prevent noise breakout. Ventilation should be provided by mechanical means.</p> <p>(b) Windows should be sound insulated.</p> <p>(c) Emergency exits should be sealed acoustic doors.</p> <p>(d) A lobbied area should be provided at the entrance and exit to the premises.</p> <p>(e) Doors should be fitted with self-closing devices.</p>
	<p>PN3</p>	<p>(a) A sound limiting device should be installed, set and sealed at a level approved by an acoustic consultant.</p> <p>(b) The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events.</p> <p>(c) Only the premises licence holder or a nominated deputy and the designated premises supervisor should have access to the sound limiting device.</p>

	PN4	<p>(a) Locate entertainment facilities such as DJ booth, stage and loudspeakers away from doors and windows.</p> <p>(b) Rubber speaker mounts can be used to minimise structure borne noise.</p>
	PN5	<p>(a) Methods for monitoring noise should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder / staff to a detailed measurement taken by a qualified consultant using sound measuring equipment.</p> <p>(b) Noise monitoring should actively be carried out on a regular basis and when a new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made directly to the venue.</p>
	PN6	<p>(a) A logbook should be kept of any noise monitoring carried, the findings and any remedial action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint.</p> <p>(b) The logbook should be made available for inspection by the licensing authority or environmental health responsible authority.</p>
	PN7	A contact telephone number should be made available to local residents and businesses which they can use to report noise disturbances to a responsible person at the venue as and when they occur. The telephone line should be available at all times the licence is in use.

Noise and nuisance from customers arriving and leaving the premises	PN8	<p>(a) Reduce the potential for excessive queue lines with a well-managed and efficient door policy.</p> <p>(b) Long queues should be avoided and any queues should be directed away from residential properties.</p> <p>(c) Queues should be actively managed by door staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated.</p> <p>(d) Door staff should refuse entry to anyone behaving in an anti- social way.</p> <p>(e) Restrict admittance or re-admittance to the premises after 23:00.</p>
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	PN9	<p>(a) A customer dispersal policy can minimise noise disturbance to local residents from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.</p> <p>(b) A gradual change in music style and reduction in volume, for example quiet or mellow music towards the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.</p> <p>(c) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p>
	PN10	<p>(a) Display prominent notices close to the exit doors, requesting patrons to leave the premises quickly and quietly.</p> <p>(b) Display notices in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.</p> <p>(c) Make announcements at the end of an evening, requesting patrons to (i) leave the premises and area quickly and quietly; (ii) to use toilet facilities before leaving.</p>
	PN11	<p>(a) Provide a free taxi phone service and an internal waiting area for customers to prevent noise disturbance to neighbours.</p> <p>(b) Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.</p>
Noise and nuisance from customers using external areas such as beer gardens or forecourts	PN12	Display prominent signs in external areas such as beer gardens and forecourts asking customers to keep noise to a minimum.

	PN13	Restrict the use of external areas after 22:00 if premises are in a residential area.
	PN14	<p>(a) Door supervisors or staff should regularly monitor and manage external areas to ensure that customers are not causing a disturbance to local residents.</p> <p>(b) For private forecourts, a physical barrier such as a rope should be used to mark the boundary of the area outside the premises where customers are allowed.</p> <p>(c) Limit the number of smokers permitted outside at any one time after a certain time.</p> <p>(d) Discourage smokers from loitering outside by not permitting them to take their drinks with them and removing external furniture after a certain time.</p> <p>(e) Locate smoking areas away from residential premises.</p> <p>(f) Do not permit customers to congregate on and block the public highway to passersby.</p>
Noise from staff and entertainment providers leaving the premises	PN15	Staff and performers who depart late at night or in the early hours on the morning when the business has ceased trading, should conduct themselves in such a manner as to avoid causing disturbance to nearby residents. This includes the loading and unloading of artists' equipment.
Noise and disturbance caused by deliveries, collections and waste disposal	PN16	Commercial deliveries, collections and storage / disposal of waste , including beer deliveries, refuse collections and storage / disposal of waste and recyclables in external areas should be restricted to normal working hours between 08:00 and 18:00 Monday to Friday.
Litter and waste around the premises	PN17	<p>(a) Flyers should not be distributed outside the premises by the licence holder or any staff employed by the licence holder.</p> <p>(b) Licence holders should ensure that promoters of events at their premises do not distribute flyers outside the premises.</p>
	PN18	(a) Procedures should be in place for the prompt collection of street litter generated by the premises for example flyers,

		<p>cigarette butts or food wrappers.</p> <p>(b) Regular patrols of the area outside the premises should be undertaken by staff to clear any litter attributable to the premises.</p> <p>(c) Use wall or floor mounted cigarette bins in designated smoking areas for customers.</p>
Disturbance from external lighting	PN19	External lighting for the premises should be turned off after the premises are closed to the public.
Noise or odours from plant and machinery	PN20	Plant and machinery should not cause nuisance to local residents by way of noise, odours or vibration. Acoustic measures such as screening, enclosures, anti-vibration mounts, silencers or timing clocks should be used if necessary.

Protection of children from harm

This section provides guidance on good practice for the protection of children from harm at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the protection and management of children from harm at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks of harm to children attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing the well-being of children at their premises.

All applications for new licences and variations should address the steps proposed to protect children from harm and this is best achieved through a premises risk assessment.

Licence holders should have clearly documented policies and procedures in place which identify all age restricted risks at their premises and measures implemented to prevent, manage and respond to those risks.

Risk		Good Practice Measure
Children accessing licensed premises	CH1	<p>(a) A documented policy setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises.</p> <p>(b) All staff including door staff and bar staff should be trained on the policy.</p>

	CH2	<p>(a) Restrict access to children depending on the nature of the business and / or circumstances.</p> <p>(b) The admission of children can be restricted up until a specified time in the evening.</p> <p>(c) The admittance of children can only be permitted if they are accompanied by an adult.</p>
Underage sales of alcohol	CH3	<p>(a) Operate a strict 'No ID, No Sale' policy. 'Challenge 25' scheme serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p> <p>(b) A 'Challenge 25' scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.</p> <p>(c) Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID. If you accept other forms of ID such as EU National ID cards, these must bear a photograph, date of birth and holographic mark.</p> <p>(d) Use till prompts to remind staff to ask for proof of age.</p> <p>(e) Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.</p>
	CH4	Display posters at the premises stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).
	CH5	Adverts or promotions for alcohol should not appeal to young persons.
	CH6	<p>(a) Keep a refusals book (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.</p> <p>(b) The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.</p> <p>(c) The book should be made available to police and authorised council officers on request.</p>

		(d) The book should be reviewed on a regular basis to see if any patterns emerge.
	CH7	(a) Staff training in the age-related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers' identification where necessary. (b) A record should be kept of the date and name of person trained.
Access to age restricted films	CH8	(a) Adequate provisions for restricting children from viewing age restricted films should be in place at the premises. (b) Staff should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC).
Access to age restricted gaming machines	CH9	Age restricted gaming or vending machines should have suitable signage setting out the age restrictions and should be in full view of staff for monitoring.
Access to entertainment of an adult nature	CH10	Children under the age of 18 should be excluded from the premises or part of the premises when specified activities such as adult entertainment are taking place.
	CH11	Adverts for entertainment of an adult nature should not be displayed externally on the premises or in any part of the premises internally where they can be seen by young people.

Appendix 6 – Exercise and Delegation of Functions

All decisions on decisions on licensing matters under the 2003 Act, except for the approval and review of the statement of licensing policy will be taken in accordance with the following scheme of delegation aimed at underlining the principles of timely efficient and effective decision making.

Delegation of Functions

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officer
Application for personal licence with no unspent relevant convictions			All cases
Application for personal licence with unspent relevant convictions		If a police objection	If no police objection
Application for premises licence / club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence / club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence / club premises certificate		All cases	

Decision on whether a complaint is irrelevant frivolous vexatious etc		Non- straightforward cases that the licensing officer or legal officer consider whether the matter should be referred to the licensing sub-committee.	Straightforward cases in consultation with legal officer
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police or Environmental Health objection to a Standard temporary event notice		All cases	
Determination of a police or Environmental Health objection to a Late temporary event notice			All cases – automatic refusal
Minor variations			All cases
Amendment to licences when conditions and / or activities are made redundant through legislation		All cases	All cases
More than two amusement with prizes machines on licensed premises		All cases	All cases

This form of delegation is without prejudice to officers referring an application to a licensing sub-committee, or to the full committee, if considered appropriate by the licensing officer or sub-committee in the circumstances of the particular case and where permitted by legislation.

Agenda Item 4

Committee: Licensing & Environmental Health

Date:

Title: Revision to the Hackney Carriage & Private Hire Licensing Policy

10 August 2023

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

Summary

1. This report outlines the necessary revisions made to the Hackney Carriage & Private Hire Licensing Policy to include the new Restricted Home to School Private Hire Driver's licence.

Recommendations

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

Financial Implications

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

Background Papers

4. A – Existing Hackney Carriage & Private Hire Licensing Policy V5
B – Revised Hackney Carriage & Private Hire Licensing Policy V6

Impact

5.

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

Situation

6. At the Licensing & Environmental Health Committee of the 11 July 2023, Members approved the adoption of the new type of Private Hire Driver's Licence, referred to as the Restricted Home to School Private Hire Driver's Licence.
7. As a result, the Council's Hackney Carriage & Private Hire Licensing Policy has been revised for the necessary inclusion of the licence. The existing Policy is attached to this report as **Background Paper A**, and the revised Policy is attached as **Background Paper B**. For the assistance of the Committee, the specific amendments are outlined in this report.
8. On page 4 of the revised Policy – V6 – the below text has been included to refer to the new licence;

1. *Licensing of Drivers*

- 1.1 *In accordance with the relevant Acts, the Council must be satisfied that an applicant is considered to be a 'fit and proper' person to hold a Private Hire or Hackney Carriage Driver's licence in order to have one granted. Once granted, this extends to the duration of the licence and where the Council has information to suggest the holder is no longer 'fit and proper' the licence will be suspended or revoked accordingly.*

- 1.2 *Uttlesford District Council issue three types of driver licences:*

- *A Private Hire Driver's Licence*
 - o *This means the driver can only drive Private Hire Vehicles*
- *A Combined Hackney Carriage & Private Hire Driver's Licence*
 - o *This allows drivers to drive both Private Hire and Hackney Carriage vehicles.*
- *Restricted Home to School Private Hire Driver's Licence*
 - o *This means the driver can only drive Private Hire Vehicles that are being used under a Home to School contract issued by a Local Education Authority or Academy Trust.*

9. On page 29/Appendix D of the revised Policy – V6 - new Conditions applying to holders of the Restricted Home to School Private Hire Driver's Licence have been included;

Restricted Home to School Private Hire Driver's Licence Conditions

Drivers will:

1. *Be polite*
2. *Wear smart clothing. The following are deemed to be unacceptable:*
 - a. *Bare chests;*
 - b. *Clothing or footwear which is unclean or damaged;*
 - c. *Clothing printed with words, logos or graphics which might offend;*
 - d. *Sports shirts e.g. football, rugby or cricket t-shirts or track suits;*
 - e. *Footwear that prevents the safe operation of the licensed vehicle;*
3. *Not to eat or drink in the vehicle during the course of a hiring.*
4. *Not play any radio, tape recorder, CD/DVD player or similar device, during the course of hiring, without the contractee's permission.*
5. *Not use equipment of the type referred to in paragraph 4 above so as to cause a nuisance either to passengers in the vehicle or to others.*
6. *Take all reasonable steps to ensure the safety of passengers.*
7. *Ensure that any child passengers are secured in the vehicle using an appropriate and approved restraint/seat or wheelchair harness/strap (if applicable) before commencing each journey.*
8. *Not carry more than the number of passengers specified in the licence for the vehicle.*
9. *Search the vehicle at the end of each journey for lost property.*
10. *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.*
11. *Report any issues or concerns experienced with a child passenger during a journey relating to behaviour or conversations etc. to an appropriate school staff member upon arrival.*
12. *Not carry out any private hire or hire and reward work other than that in connection with a home to school contract issued by a Local Education Authority or Academy Trust.*

13. *Display both internal driver identification cards within the vehicle at all times in a clear and conspicuous position.*
14. *Notify UDC in writing of:*
15. *Any change of address within 7 days of the change of address occurring.*
16. *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.*
17. *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.*
18. *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.*
19. *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.*

DRIVERS WHO FAIL TO COMPLY WITH THESE CONDITIONS MAY HAVE THEIR LICENCE SUSPENDED OR REVOKED

10. On page 87/Appendix N of the revised Policy – V6 – the below text has been included to refer to the new licence;

Restricted Home to School Private Hire Driver's Licence

From the 1 September 2023, the Council will issue licences for restricted Private Hire use on Home to School transportation through contracts issued by a Local Education Authority or Academy Trust. Holders of this licence will only be permitted to use the licence for this purpose and not for any other private hire or hire and reward work.

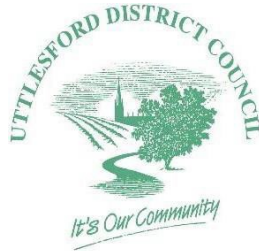
The licensing process will be the same as for any other type of driver licence offered by the Council, however, the driver training course required to be undertaken as part of the application will be one which is tailored to the specific type of work that the driver will be carrying out, in substitute of the broader content covered within the course for other driver licence types.

No licence will be granted to an applicant until evidence is provided confirming an approved contract with a Local Education Authority or Academy Trust is in place. The Private Hire Operator of the driver may produce this on their behalf.

Holders of the licence will be subject to the licence conditions shown at Appendix E. The driver must display both of their driver identification cards within the Private Hire Vehicle at all times, which will be identifiable by a blue coloured background with the words "Home To School" stated.

Any holder of this licence found to be carrying out any other form of private hire or hire and reward work shall expect enforcement action to be taken against the licence, with revocation the likely outcome.

11. The revised Policy – V6 – was agreed to by the Licensing & Compliance Manager and Chair of the Licensing & Environmental Health Committee, under the delegated authority passed at the Committee meeting of the 11 July 2023. The report is therefore for information purposes only and for Members to note.



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 2nd March 2022
- V4 – amendment relating to Manual DBS and their frequency
- V5 February 2023, update to emissions policy

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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 do so, 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 by 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

Revised February 2023

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.

First Licence Application:

- ALL vehicles must meet or exceed Euro 6 emissions standards, except for;
- 8 PASSENGER SEAT vehicles must meet or exceed Euro 6 emissions standards from **01/04/2025**
- 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, except for;
- From **01/04/2025** any 8 PASSENGER SEAT vehicle due for its annual licence renewal must meet or exceed Euro 6 emissions standards
- From **01/04/2025** any WHEELCHAIR ACCESSIBLE vehicle due for its annual licence renewal must meet or exceed Euro 6 emissions standards

It is the responsibility of the vehicle proprietor to ascertain the Euro emission standard of their vehicle in advance of submitting any application. This can be found on either the vehicle log book (V5C), or on the HPI online checker tool:

[HPI | Euro Emission Standards, Euro 6 Diesel Emissions Standards Explained.](#)

Whilst this will be avoided where possible, should a vehicle undergo a compliance test at a Council approved MOT testing station and subsequently fail due to the Euro emission standard, the proprietor will be liable for any charge incurred.

If the vehicle proprietor disagrees with the Euro emission standard given by the above methods, they should enquire with and subsequently supply documentary evidence from the vehicle manufacturer.

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** be 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.

Exemptions

Whilst the minimum Euro emission standards shown above are fixed, each application will be considered on its own merits. A clear and evidenced business case must be made in writing for the attention of the Licensing Manager. However, the Authority is minded to apply standards consistently so there should not be an expectation that an exemption would be granted. Where an exemption is granted, it shall only last until the vehicle licence is next due for renewal.

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.

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

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.

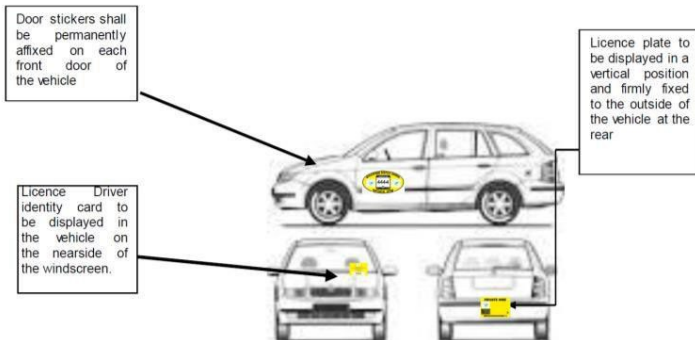
Surrender of Licence

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 safe-guarding 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.**

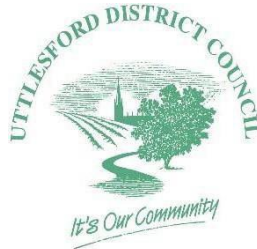
Management Responsibilities of the Provider

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 2nd March 2022
- V4 – amendment relating to Manual DBS and their frequency
- V5 February 2023, update to emissions policy
- V6 10 August 2023 – Inclusion of Restricted Home to School Private Hire Driver's licence

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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 The Council has a processing time of up to 28 days for a licence to be determined once all documentation relating to the application has been submitted, though it endeavours to keep this time to a minimum.

2. Licensing of Drivers

- 2.1 In accordance with the relevant Acts, the Council must be satisfied that an applicant is considered to be a 'fit and proper' person to hold a Private Hire or Hackney Carriage Driver's licence in order to have one granted. Once granted, this extends to the duration of the licence and where the Council has information to suggest the holder is no longer 'fit and proper' the licence will be suspended or revoked accordingly.

2.2 Uttlesford District Council issue three types of driver licences:

- A Private Hire Driver's Licence
 - This means the driver can only drive Private Hire Vehicles
- A Combined Hackney Carriage & Private Hire Driver's Licence
 - This allows drivers to drive both Private Hire and Hackney Carriage vehicles.
- Restricted Home to School Private Hire Driver's Licence
 - This means the driver can only drive Private Hire Vehicles that are being used under a Home to School contract issued by a Local Education Authority or Academy Trust.

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 Carriage 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**

**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**

CONDITIONS OF LICENCE – RESTRICTED HOME TO SCHOOL PRIVATE HIRE DRIVER’S LICENCE

Drivers will:

1. Be polite
2. Wear smart clothing. The following are deemed to be unacceptable:
 - a. Bare chests;
 - b. Clothing or footwear which is unclean or damaged;
 - c. Clothing printed with words, logos or graphics which might offend;
 - d. Sports shirts e.g. football, rugby or cricket tops or track suits;
 - e. Footwear that prevents the safe operation of the licensed vehicle;
3. Not to eat or drink in the vehicle during the course of a hiring.
4. Not play any radio, tape recorder, CD/DVD player or similar device, during the course of hiring, without the contractee’s permission.

5. Not use equipment of the type referred to in paragraph 4 above so as to cause a nuisance either to passengers in the vehicle or to others.
6. Take all reasonable steps to ensure the safety of passengers.
7. Ensure that any child passengers are secured in the vehicle using an appropriate and approved restraint/seat or wheelchair harness/strap (if applicable) before commencing each journey.
8. Not carry more than the number of passengers specified in the licence for the vehicle.
9. Search the vehicle at the end of each journey for lost property.
10. 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.
11. Report any issues or concerns experienced during a journey relating to behaviour or conversations etc. to an appropriate school staff member upon arrival.
12. Not carry out any private hire or hire and reward work other than that in connection with a home to school contract issued by a Local Education Authority or Academy Trust.
13. Display both internal driver identification cards within the vehicle at all times in a clear and conspicuous position.

14. Notify UDC in writing of:
15. Any change of address within 7 days of the change of address occurring.
16. 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.
17. 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.
18. 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.
19. 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.

**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**

**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 by 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.

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

Revised February 2023

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.

First Licence Application:

- ALL vehicles must meet or exceed Euro 6 emissions standards, except for;
- 8 PASSENGER SEAT vehicles must meet or exceed Euro 6 emissions standards from **01/04/2025**
- 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, except for;
- From **01/04/2025** any 8 PASSENGER SEAT vehicle due for its annual licence renewal must meet or exceed Euro 6 emissions standards
- From **01/04/2025** any WHEELCHAIR ACCESSIBLE vehicle due for its annual licence renewal must meet or exceed Euro 6 emissions standards

It is the responsibility of the vehicle proprietor to ascertain the Euro emission standard of their vehicle in advance of submitting any application. This can be found on either the vehicle log book (V5C), or on the HPI online checker tool:

[HPI | Euro Emission Standards, Euro 6 Diesel Emissions Standards Explained.](#)

Whilst this will be avoided where possible, should a vehicle undergo a compliance test at a Council approved MOT testing station and subsequently fail due to the Euro emission standard, the proprietor will be liable for any charge incurred.

If the vehicle proprietor disagrees with the Euro emission standard given by the above methods, they should enquire with and subsequently supply documentary evidence from the vehicle manufacturer.

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** be 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.

Exemptions

Whilst the minimum Euro emission standards shown above are fixed, each application will be considered on its own merits. A clear and evidenced business case must be made in writing for the attention of the Licensing Manager. However, the Authority is minded to apply standards consistently so there should not be an expectation that an exemption would be granted. Where an exemption is granted, it shall only last until the vehicle licence is next due for renewal.

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.

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

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.

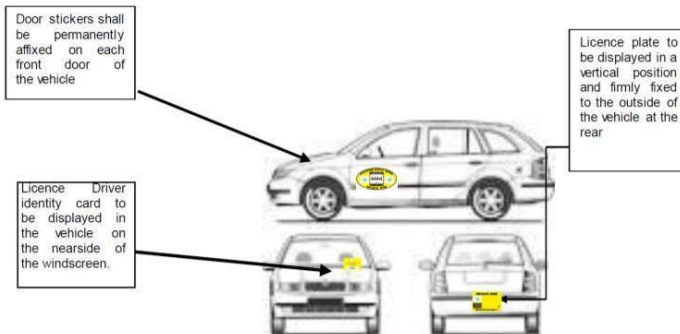
Surrender of Licence

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.**

Appendix N

Restricted Home to School Private Hire Driver's Licence

From the 1 September 2023, the Council will issue licences for restricted Private Hire use on Home to School transportation through contracts issued by a Local Education Authority or Academy Trust. Holders of this licence will only be permitted to use the licence for this purpose and not for any other private hire or hire and reward work.

The licensing process will be the same as for any other type of driver licence offered by the Council, however, the driver training course required to be undertaken as part of the application will be one which is tailored to the specific type of work that the driver will be carrying out, in substitute of the broader content covered within the course for other driver licence types.

No licence will be granted to an applicant until evidence is provided confirming an approved contract with a Local Education Authority or Academy Trust is in place. The Private Hire Operator of the driver may produce this on their behalf.

Holders of the licence will be subject to the licence conditions shown at Appendix E. The driver must display both of their driver identification cards within the Private Hire Vehicle at all times, which will be identifiable by a blue coloured background with the words "Home To School" stated.

Any holder of this licence found to be carrying out any other form of private hire or hire and reward work shall expect enforcement action to be taken against the licence, with revocation the likely outcome.