



**MEETING** : LICENSING COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : THURSDAY 4 NOVEMBER 2010  
**TIME** : 4.30 PM

**MEMBERS OF THE COMMITTEE**

Councillor M P A McMullen (Chairman)  
Councillors A L Burlton (Vice-Chairman), L O Haysey, W Ashley,  
P R Ballam, K A Barnes, R Beeching, Mrs R F Cheswright, J Demonti,  
N C Poulton, R A K Radford, P A Ruffles, R I Taylor, J J Taylor, N Wilson  
and B M Wrangles

**Substitutes:**

Conservative Group: Councillors A D Dodd, J Mayes and A L Warman  
Liberal Democrat Group: Councillor M Wood  
Independent Group: Councillor

*(Note: Substitution arrangements must be notified by the absent Member  
to Democratic Services 24 hours before the meeting)*

**CONTACT OFFICER: Linda Bevan**

## PERSONAL AND PREJUDICIAL INTERESTS

1. A Member with a personal interest in any business of the Council who attends a meeting of the Authority at which the business is considered must, with certain specified exemptions (see section 5 below), disclose to that meeting the existence and nature of that interest prior to the commencement of it being considered or when the interest becomes apparent.
2. Members should decide whether or not they have a personal interest in any matter under discussion at a meeting. If a Member decides they have a personal interest then they must also consider whether that personal interest is also prejudicial.
3. A personal interest is either an interest, as prescribed, that you must register under relevant regulations or it is an interest that is not registrable but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward(s) affected by the decision.
4. Members with personal interests, having declared the nature of that personal interest, can remain in the meeting, speak and vote on the matter unless the personal interest is also a prejudicial interest.
5. An exemption to declaring a personal interest applies when the interest arises solely from a Member's membership of or position of general control or management on:
  - any other body to which they have been appointed or nominated by the authority
  - any other body exercising functions of a public nature (e.g another local authority)

In these exceptional cases, provided a Member does not have a prejudicial interest, they only need to declare their interest if they speak. If a Member does not want to speak to the meeting, they may still vote on the matter without making a declaration.

6. A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:
  - the matter does not fall within one of the exempt categories of decisions
  - the matter affects your financial interests or relates to a licensing or regulatory matter
  - a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.
  
7. Exempt categories of decisions are:
  - setting council tax
  - any ceremonial honour given to Members
  - an allowance, payment or indemnity for Members
  - statutory sick pay
  - school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends
  - housing; if you hold a tenancy or lease with the Council, as long as the matter does not relate to your particular tenancy or lease.
  
8. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that interest and its nature as soon as the interest becomes apparent to you.
  
9. If you have declared a personal and prejudicial interest, you must leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe proceedings.

## AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

4. Minutes (Pages 7 - 12)

To confirm the Minutes of the meeting of the Committee held on 22 July 2010.

5. Licensing Sub-Committee (Pages 13 - 62)

To receive the Minutes of meetings of the Licensing Sub-Committee:

25 June 2010

12 July 2010

12 August 2010

19 August 2010

2 September 2010

13 September 2010

21 September 2010

6. Attendance at Licensing Sub-Committee (Pages 63 - 68)

7. Licensing Update (Pages 69 - 76)

8. Enforcement Update - 1 January -30 April 2010 (Pages 77 - 82)

9. Enforcement Update - 1 May - 30 August 2010 (Pages 83 - 86)

10. Review of licensing enforcement policy (Pages 87 - 110)

11. Feedback on Statement of Licensing Policy (Pages 111 - 114)

12. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information

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MINUTES OF A MEETING OF THE  
LICENSING COMMITTEE HELD IN THE  
COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON THURSDAY 22 JULY 2010,  
AT 4.30 PM

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PRESENT: Councillor M P A McMullen (Chairman)  
Councillors W Ashley, P R Ballam,  
K A Barnes, R Beeching,  
Mrs R F Cheswright, J Demonti, N C Poulton  
and P A Ruffles.

OFFICERS IN ATTENDANCE:

Martin Ibrahim	- Senior Democratic Services Officer
Paul Newman	- Interim Licensing Manager

142 APOLOGIES

Apologies for absence were submitted on behalf of Councillors A L Burlton, N Wilson and B Wrangles.

143 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that additional information relating to enforcement activity had been tabled and would be considered as part of the Licensing Statistics item (Minute 150 below refers).

He also advised that information relating to Member attendance at Licensing Sub-Committee meetings and the number of appeals submitted would be considered at the next meeting.

### RECOMMENDED ITEM

#### 144 NEW POWERS TO CONTROL LAP DANCING CLUBS

The Director of Neighbourhood Services submitted a report on the implications of the Policing and Crime Act 2009 (the Act) for the way lap dancing establishments were licensed.

The Committee noted that Section 27 of the Act reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. In order to exercise this power, the Authority was required to pass a resolution to adopt these powers, if it so wished. If adopted, the provisions would allow applications to be refused on wider grounds than is permitted under the Licensing Act 2003.

The Interim Licensing Manager advised that there were no such premises within East Herts at present.

The Committee agreed to recommend that the new powers under Section 27 of the Act be adopted.

**RECOMMENDED** – that the new powers under Section 27 of the Policing and Crime Act 2009, be adopted.

### RESOLVED ITEMS

#### 145 MINUTES

**RESOLVED** – that the Minutes of the Licensing Committee meeting held on 11 March 2010, were approved and signed by the Chairman as a correct record.



146 STATEMENT OF LICENSING POLICY

The Director of Neighbourhood Services submitted a report advising the Committee on the review of the Statement of Licensing Policy.

The Interim Licensing Manager advised that the Authority was required to review its Statement every three years in accordance with the Licensing Act 2003. He detailed the changes made to the Statement and advised that a number of typographical errors would be corrected.

The Committee noted that the draft revised Statement would be issued for public consultation before being submitted to Council for adoption.

In response to Members' questions and comments, the Interim Licensing Manager undertook to include County Councillors in the East Herts area within the consultation.

The Committee approved the draft revised Statement, as now amended, for the purposes of statutory consultation.

RESOLVED – that the draft revised Statement of Licensing Policy, as now amended, be approved for the purposes of statutory consultation. DNS

147 TAXI LICENSING CONDITIONS AND POLICY

The Director of Neighbourhood Services submitted a report on the outcome of consultation with the taxi trade on the review of taxi licensing conditions and the proposed Taxi Licensing Policy.

The Interim Licensing Manager detailed the consultation responses and his comments on them. Where necessary, the proposed Policy had been amended to take account of the consultation responses received.

The Committee approved the recommendations as now detailed.

RESOLVED – that (A) the draft licensing policy be approved; DNS

(B) the draft revised vehicle conditions be approved; and DNS

(C) the draft code of conduct and penalty points schemes be approved. DNS

148 DELEGATED POWERS TO SUSPEND A TAXI DRIVER'S LICENCE OR TAXI VEHICLE PROPRIETOR'S LICENCE

The Director of Neighbourhood Services submitted a report requesting a delegation to him on the power to suspend a taxi driver's licence or taxi vehicle proprietor's licence, pending reference to a Licensing Sub-Committee.

The Committee noted the details of a recent incident leading to a revocation of a taxi driver's licence and the inability of the Director to suspend the licence pending the Sub-Committee hearing, as such powers were not in place.

The Committee agreed with the request, but asked that the proposed delegation be in consultation with the Chairman or Vice-Chairman of the Licensing Committee.

RESOLVED – that the Director of Neighbourhood Services be given delegated authority, in consultation with the Chairman or Vice-Chairman of the Licensing Committee, to suspend a taxi driver's licence or taxi vehicle proprietor's licence, and to require return of the licences, badges, roof light and taxi licence plate, pending reference to Licensing Sub-Committee of a report on that (those) licence(s), that includes a recommendation from Officers for revocation of the licence. DNS

149 NEW ANNEXE 1 MANDATORY CONDITIONS TO PREMISES LICENCES

The Director of Neighbourhood Services submitted a report advising the Committee of recent changes to the Licensing Act, which introduced new Annexe 1 mandatory conditions to premises licences that permit the sale of alcohol for consumption on the premises.

The Committee noted that reference to the new conditions would be included in the revised Statement of Licensing Policy.

In response to Members' questions and comments, the Interim Licensing Manager agreed that the condition relating to "irresponsible promotions" was vague and would be clarified by case law, as and when made.

The Committee agreed to receive the report.

RESOLVED – that the report be received.

150 LICENSING STATISTICS

The Director of Neighbourhood Services submitted a report on SD quarterly licensing activity.

The Interim Licensing Manager provided a verbal update on Members' activity and detailed enforcement action in the tabled document.

The Committee received the report.

RESOLVED – that the report be received.

151 LICENSING SUB-COMMITTEE

The Committee received Minutes of Licensing Sub-Committee meetings held on 23 March, 20 April 3 and 14 June 2010.

RESOLVED – that the Minutes of Licensing Sub-

Committee meetings held on 23 March, 20 April 3 and 14 June 2010 be received.

The meeting closed at 5.43 pm

Chairman .....

Date .....

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON FRIDAY 25 JUNE 2010, AT  
10.00 AM

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PRESENT:

Councillors A L Burlton, J J Taylor and  
R I Taylor.

OFFICERS IN ATTENDANCE:

Claire Langley	- Licensing Officer
Peter Mannings	- Democratic Services Assistant
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager
Gina Slee	- Licensing Officer

CONSIDERATION OF A STAGE OF APPLICATION 013878 TO BE A  
TAXI DRIVER – APPLICANT WITH DRIVING LICENCE POINTS FOR  
NO INSURANCE, CAUTION FOR HARASSMENT, AND RELATED  
INFORMATION – MR M

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PC Paul Cook	- Hertfordshire Constabulary
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9      APOLOGY

An apology for absence was submitted on behalf of  
Councillor M P A McMullen.

RESOLVED ITEMS

10     APPOINTMENT OF CHAIRMAN

It was proposed by Councillor R I Taylor and seconded by  
Councillor A L Burlton that Councillor J J Taylor be  
appointed Chairman of the Licensing Sub-Committee for

the meeting.

RESOLVED – that Councillor J J Taylor be appointed Chairman of the Licensing Sub-Committee for the meeting.

11 CONSIDERATION OF A STAGE OF APPLICATION 013878 TO BE A TAXI DRIVER - APPLICANT WITH DRIVING LICENCE POINTS FOR NO INSURANCE, CAUTION FOR HARASSMENT, AND RELATED INFORMATION - MR M

The Chairman outlined the procedure to be followed during consideration of a stage of an application to be a taxi driver. Everyone present for it was introduced.

The Interim Licensing Manager reported that Officers had received a letter from Hertfordshire Constabulary in respect of the arrest of the taxi driver referred to in the report now submitted. He detailed the nature of the taxi driver's offences that had been reported to Officers.

The Sub-Committee was advised of the circumstances that had lead to the offences reported by the police. The Interim Licensing Manager stated that the taxi driver had been given a community sentence of 40 hours unpaid work.

Members were advised that East Herts taxi drivers were under an obligation to inform the Authority of any offences or convictions within 7 days of these occurring. The Interim Licensing Manager stressed that Officers had found out about the sentencing hearing from a local newspaper.

The taxi driver had failed to engage with the Council as the Licensing Authority on a number of occasions. Members were referred to paragraph 2.13 of the report for a list of occasions where the taxi driver had failed to comply with licence requirements.

The Sub-Committee was advised that a warning letter

had been sent to the taxi driver. The recommendations detailed in the report now submitted had been reached following discussions between the Director of Neighbourhood Services and the Head of Community Safety.

Members were advised that if the Sub-Committee approved the recommendations, the taxi driver would be asked to surrender his East Herts licence plate and roof light. The taxi driver would be acting illegally if he used these items in the event that the Sub-Committee supported the recommendations.

Members were advised that the taxi driver had been before the Sub-Committee previously for failing to notify the Authority of a change of address. The Interim Licensing Manager stated that the recommendation was that the dual driver's licence be revoked and the vehicle proprietor's licence be suspended.

Councillor A L Burlton sought clarification in respect of the timescales and the process the taxi driver would have to follow if the Sub-Committee supported both recommendations. Members were advised that the taxi driver would have to re-apply for both licences as if he was a new driver.

Councillor Burlton commented on whether the taxi driver had given any reason to Officers as to why he could not attend this hearing. The Interim Licensing Manager confirmed that no reason had been given to Officers.

Councillor R I Taylor queried what would happen if the taxi driver had applied to another Licensing Authority between the offences and subsequent conviction and this hearing. The Legal Services Manager stated that this was not an issue as the taxi driver would be obliged to disclose any offences.

In response to a further query from Councillor R I Taylor, Officers confirmed there had no contact with the taxi

Driver prior to this hearing. The Interim Licensing Manager stated that the Director of Neighbourhood Services and Officers did not currently have delegated powers to suspend licences in cases where serious offences had occurred.

PC Paul Cook summarised the details of an interview with the taxi driver. He stressed that the taxi driver had made it clear that he hadn't felt well on the day of the offence on 13 November 2009. PC Cook emphasised that the taxi driver had been taking medication for ill health and had felt agitated on 13 November 2009.

The Interim Licensing Manager advised that the Licensing Authority had not been made aware of any medical issues prior to this hearing. Following a query from a Member, the taxi driver's date of birth was confirmed.

Following advice from the Legal Services Manager, the Sub-Committee felt that it would be appropriate to reach a decision without a deferral to give the taxi driver an opportunity to present his case to the Sub-Committee.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Democratic Services Assistant to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee which was that the Dual Driver's Licence be revoked and the Vehicle Proprietor's Licence be suspended in view of the serious nature of the conviction.

RESOLVED - that (A) the Dual Driver's Licence be revoked; and

(B) the Vehicle Proprietor's Licence be suspended for the reasons given above.



The meeting closed at 10.40 am

Chairman .....
Date .....

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MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON MONDAY 12 JULY 2010,  
AT 10.00 AM

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PRESENT: Councillor M P A McMullen (Chairman)  
Councillors R Beeching and R A K Radford.

ALSO PRESENT:

Councillors D Andrews, W Ashley and  
Mrs R F Cheswright.

OFFICERS IN ATTENDANCE:

Martin Ibrahim	- Senior Democratic Services Officer
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager

ALSO IN ATTENDANCE:

Nick Quinlan	- Trading Standards
Gurkiran Seyan	- Trading Standards

'SZI', 155 LONDON ROAD, HERTFORD HEATH, SG13 7PN

Mr Rathore	- Owner
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'BASRA SUPERMARKET', BALDOCK ROAD,  
BUNTINGFORD, SG9 9BL

Mr Basra	- Owner
Mr Hunka	- Barrister

'OSCAR'S WINE MERCHANT', 14A HIGH STREET,  
BUNTINGFORD, SG9 9AG

Mrs M Brown	- Designated Premises
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	Supervisor
PC O'Connell	- Police
Sgt Wallace	- Police

### RESOLVED ITEMS

#### 12 APPOINTMENT OF CHAIRMAN

RESOLVED – that Councillor M P A McMullen be appointed as Chairman for the meeting.

#### 13 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT 'SZI', 155 LONDON ROAD, HERTFORD HEATH, SG13 7PN

The Chairman outlined the procedure to be followed and everyone introduced themselves.

The Interim Licensing Manager detailed the application for review that had been submitted by the police on the grounds that the protection of children from harm objective was not being upheld by SZI Ltd. He advised that the police had recommended the imposition of 12 additional conditions on the premises licence, as detailed at pages 22 – 23 of the report now submitted. He further advised that all of these conditions had been accepted and implemented by Mr Rathore, the premises licence holder.

Mr Quinlan commented that the police application and recommendations for modifying the licence conditions was supported by Trading Standards. He detailed the circumstances of the test purchase made on 23 March 2010, when a bottle of wine had been sold to a 16 year old female volunteer by Mr Shahzad.

Mr Rathore expressed regret for the incident and accepted full responsibility. He stated that he had managed the shop for 10 years without any problems. On this occasion, Mr Shahzad, on his first day of work, had not been authorised to serve behind the counter and was at fault in the incident on 23 March 2010. Mr Rathore had been at the wholesalers and

had returned to the shop as soon as he had been informed of the incident. He explained the circumstances of Mr Shahzad's employment, whom he had only met the day before, and had agreed to employ him on the proviso that he would provide the necessary documentation.

In response to a Member's question, Mr Rathore stated that he did not serve young people from Haileybury College, even if they were over 18 years of age.

At the conclusion of the representations, the Sub-Committee withdrew accompanied by the Legal Service Manager and the Senior Democratic Services Officer to give consideration to the evidence.

Following this, the Members and Officers returned and the Chairman of the Sub-Committee announced the decision. The Sub-Committee, having considered the application for review and evidence submitted, agreed that the premises licence be modified with the 12 conditions suggested by the police and detailed at pages 22 – 23 of the report submitted. The Sub-Committee emphasised that these conditions should have been in force already. Furthermore, the Sub-Committee expressed concern with the employment practices of the Premises Licence Holder and advised Mr Rathore that any future breaches of the licence conditions might lead to a revocation of the licence and/or prosecution.

RESOLVED – that, in view of the protection of children from harm objective not being upheld by SZI Ltd, the premises licence be modified with the 12 conditions suggested by the police and detailed at pages 22 – 23 of the report.

- 14 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT 'BASRA SUPERMARKET', BALDOCK ROAD, BUNTINGFORD, SG9 9BL
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The Chairman outlined the procedure to be followed and everyone introduced themselves.

The Interim Licensing Manager detailed the application for review that had been submitted by the Police on the grounds that the protection of children from harm objective was not being upheld by Basra Supermarket. He advised that the Police had recommended the imposition of 13 additional conditions on the premises licence, as detailed at pages 45 – 46 of the report now submitted. He further advised that all of these conditions had been accepted and implemented by Mr Basra, the joint premises licence holder. He tabled photographs that had been submitted by Mr Basra, which demonstrated that all of the additional conditions had been implemented.

Mr Quinlan commented that the Police application and recommendations for modifying the licence conditions was supported by Trading Standards. He detailed the circumstances of the test purchase made on 23 March 2010, when a bottle of wine had been sold to a 16 year old female volunteer by Mrs Basra, the joint premises licence holder. Mr Quinlan commented on the management arrangements at the supermarket, namely that Mr Basra managed the post office element of the business and that his son, managed the retail side. He suggested that it would be preferable for Mr Basra's son to be the premises licence holder.

In response to a Member's question, Mr Quinlan commented on the various intelligence reports of underage sales of alcohol made to the Police, which he believed had been made by a rival off-licence locally.

Mr Hunka, addressed the Sub-Committee on behalf of Mr Basra. He commented that Mr Basra was a respected member of the local community and had implemented all of the conditions suggested by the police. He had welcomed the intervention of the Police and Trading Standards, as he believed this would have a beneficial outcome for his business. He believed his wife had made the sale in question, in order to avoid a confrontation.

In response to Members' questions, Mr Basra made the following comments. He detailed the implementation of the

additional conditions and the warning he had issued to all of his staff. He advised that another son of his, a former police officer, had joined the team, and that the process for changing the names of the premises licence holders had been instigated. He and his wife would be replaced by his two sons.

At the conclusion of the representations, the Sub-Committee withdrew, accompanied by the Legal Service Manager and the Senior Democratic Services Officer, to give consideration to the evidence.

Following this, the Members and Officers returned and the Chairman of the Sub-Committee announced the decision. The Sub-Committee, having considered the application for review and evidence submitted, agreed that the premises licence be modified with the 13 conditions suggested by the police and detailed at pages 45 – 46 of the report submitted. The Sub-Committee emphasised that these conditions should have been in force already. Furthermore, the Sub-Committee expressed concern that this situation had been reached despite the available experience of a former police officer within the family and advised Mr Basra that any future breaches of the licence conditions might lead to a revocation of the licence and/or prosecution.

RESOLVED – that, in view of the protection of children from harm objective not being upheld by Basra Supermarket, the premises licence be modified with the 13 conditions suggested by the police and detailed at pages 45 – 46 of the report.

- 15 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT 'OSCARS WINE MERCHANT', 14A HIGH STREET, BUNTINGFORD, SG9 9AG

The Chairman outlined the procedure to be followed and everyone introduced themselves.

The Interim Licensing Manager detailed the application for

review that had been submitted by the Police on the grounds that the protection of children from harm objective was not being upheld by Oscars Wine Merchant. He advised that the Police had recommended the replacement of 4 current conditions and the imposition of 11 additional conditions on the premises licence, as detailed at pages 68 – 69 of the report now submitted, and a short period of suspension to give the premises licence holder the opportunity to implement the new conditions.

The Interim Licensing Manager advised that Mrs Brown, the premises licence holder, had no financial interest in the premises and had taken on the role as a favour to Mr Hossain, who was the owner, but had failed the examination for a personal alcohol licence, and was therefore unable to be the Designated Premises Supervisor himself.

PC O'Connell highlighted the details of the case resulting in the Police seeking a review. She outlined the incident of underage sale of alcohol on 31 December 2009 leading to a fixed penalty being issued. Mr Hossain had paid the penalty fine. On 23 March 2010, a joint test purchase with Trading Standards had resulted in a second failure.

Sgt Wallace confirmed the details of the incident on 31 December 2009. He commented that Mr Hossain had only purchased the shop shortly before Christmas and had been unaware of how the CCTV system operated.

Mr Quinlan commented that the Police application and recommendations were supported by Trading Standards. He detailed the circumstances of the test purchase made on 23 March 2010, which had been captured on a covert camera. He questioned whether Mr Hossain, having failed the personal licence examination, could exercise the necessary responsibility to manage an off-licence.

Mrs Brown outlined her reasons for becoming the premises licence holder and Designated Premises Supervisor, in that she had previously worked in an off-licence and thought having a licence might be worthwhile. She had advised Mr Hossain, but he did not seem to be aware of his



responsibilities.

In response to a Member's question, Mrs Brown indicated that she did not use her licence anywhere else and was unlikely to in the future.

PC Connell expressed concern that the owner appeared to be unaware of his responsibilities. She recommended that, as a minimum, Mrs Brown be removed as the Designated Premises Supervisor and that if a revocation was not agreed, then at least the conditions should be modified as suggested.

At the conclusion of the representations, the Sub-Committee withdrew, accompanied by the Legal Service Manager and the Senior Democratic Services Officer, to give consideration to the evidence.

Following this, the Members and Officers returned and the Chairman of the Sub-Committee announced the decision. The Sub-Committee, having considered the application for review and evidence submitted, agreed that in view of the serious breaches of the licence conditions and the irresponsible management of these premises, Mrs Brown be removed as the Designated Premises Supervisor. Furthermore, the Sub-Committee agreed that the premises licence be suspended for 3 months, and that the licence be modified as suggested by the police and detailed at pages 68 – 69 of the report submitted.

RESOLVED – that, in view of the protection of children from harm objective not being upheld by Oscars Wine Merchants and the serious breaches of the licence conditions and the irresponsible management of these premises:

(A) Mrs Brown be removed as the Designated Premises Supervisor; and

(B) the premises licence be suspended for 3 months and the licence be modified with the conditions suggested by the police and detailed at pages 68 – 69 of the report.

The meeting closed at 12.20 pm

Chairman	.....
Date	.....

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE WAYTEMORE ROOM, COUNCIL  
OFFICES, THE CAUSEWAY, BISHOP'S  
STORTFORD ON THURSDAY 12 AUGUST  
2010, AT 10.00 AM

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PRESENT:

Councillors J Demonti (Chairman),  
A L Warman and B M Wrangles

ALSO PRESENT:

Councillors M P A McMullen and P A Ruffles

OFFICERS IN ATTENDANCE:

Linda Bevan	- Committee Secretary
Monica Bett	- Advisor to Legal Services
Paul Newman	- Interim Licensing Manager

SADLER SPHERE, FIELD TO REAR OF 1 MUNDENBURY  
COTTAGES, NASTY SG11 1HN

PC L O'Connell	- Herts Constabulary
Mr C Sadler	- Applicant

16 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor A L Warman and seconded by Councillor B M Wrangles that Councillor J Demonti be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor J Demonti be appointed

Chairman of the Licensing Sub-Committee for the meeting.

17 MINUTES

RESOLVED – that the Minutes of the meeting of the Licensing Sub-Committee held on 20 April 2010 be confirmed as a correct record and signed by the Chairman.

18 LICENSING ACT 2003 S 105 - CONSIDERATION OF POLICE OBJECTION TO TEMPORARY EVENT NOTICE AT SADLER SPHERE, FIELD TO REAR OF 1 MUNDENBURY COTTAGES, NASTY SG11 1HN

The Chairman outlined the procedure to be followed in the consideration of the objection to the temporary event notice (TEN). All those present for it were introduced.

The Interim Licensing Manager explained the actions available to the Sub-Committee in considering the Police objection to the TEN for a music festival at Sadler Sphere, 1 Mundenbury Cottages, Nasty. He explained its decision would be final as it would be made within 5 days of the planned event and it was therefore too late for an appeal to be made. He said the applicant, Mr Sadler, had given notice of a total of 440 people attending the event so this would include marshalls and band members. The notice was for regulated entertainment only with no alcohol. It would not be possible to attach conditions at this stage. He drew attention to the additional information about the organisation of the event from Mr Sadler which had been circulated before the hearing.

PC O'Connell for the Police, said they were concerned about potential crime and disorder at the event. They were concerned that Mr Sadler lacked experience in organising such a large event. She said he had been given guidance on event safety since giving the TEN which seemed to have helped. However, the Police were still concerned about general safety of people attending. They were concerned about how widely the event had been advertised, e.g. on one

of the band's websites albeit the wrong date was given. This might attract uninvited guests who would need to be turned away by the marshalls. The Police would not be providing additional resources for the event. No request had been received. The Police were also concerned about how alcohol at the event would be controlled.

Mr Sadler, the applicant explained he had not realised he needed a licence when he first organised the event. He had intended the event to be a private party to raise donations for charity following the death of his wife. Everyone attending would be known to him or his son. He thanked the Police for the information they had given him and which he had taken on board. He realised the biggest concern was disorder. He said there would be one point of entry and attendees' names would be checked against a list of people who had been invited. No-one who did not appear on the list would be allowed in. Wristbands would be issued in different colours for guests and marshalls/band members. Marshalls would wear high visibility jackets. Mr Sadler had increased the number of portaloos to six and marshalls would check bags for alcohol and glass. He felt he had enough marshalls to prevent any trouble. The entry would be at the front of his house where he had room for 4 or 5 cars. There was a gate leading to the field to be used for the event. A desk would be provided and marshalls would control queuing. The field was fenced with barbed wire which would prevent people entering elsewhere on the boundary. The field sloped down from the house giving a good view of events from the entrance. He would also provide walkie talkies for the marshalls to help communications.

St John Ambulance had agreed to attend. He would provide a rest station in a touring caravan with an awning. Mr Sadler said he had chosen a Wednesday for the event to avoid gatecrashers. Everyone attending had been told no alcohol would be allowed.

At the conclusion of the representation the Sub-Committee withdrew with the Committee Secretary and advisor to Legal Services to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee. This was that, having listened carefully to the detailed comments of the applicant and the Police, a counter notice should not be served. However, the Sub-Committee thought the applicant should be informed of the comments now detailed.

RESOLVED - that a counter notice be not served.

The applicant be informed that the Sub-Committee has carried out a balancing exercise on the evidence presented and after careful consideration decided to allow the event to take place. However, Members do have concerns and whilst they can not impose conditions are conscious the event has been hastily arranged and ask the applicant to abide by the information he has provided on how he will control the event.

The meeting closed at 11.15 am

Chairman .....
Date .....

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE WAYTEMORE ROOM, COUNCIL  
OFFICES, THE CAUSEWAY, BISHOP'S  
STORTFORD ON THURSDAY 19 AUGUST  
2010, AT 10.00 AM

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PRESENT:

Councillors W Ashley, M P A McMullen and  
J J Taylor.

ALSO PRESENT:

Councillors Mrs R F Cheswright, J Demonti  
and P A Ruffles.

OFFICERS IN ATTENDANCE:

Monica Bett	- Legal Services Advisor
Peter Mannings	- Democratic Services Assistant
Paul Newman	- Interim Licensing Manager

'BOARS HEAD', HIGH STREET, BISHOP'S STORTFORD

Amy Armstrong	- Licensee
Mr David Dunphy	- Designated Premises Supervisor
Mr Andrew Evans	- Barrister
Elizabeth Gale	- Applicant for the Review
James Grant	- Bar Manager
Carl Howells	- Landlord for Punch Taverns
Clayton Vermaak	- Security Staff
PC O'Connell	- Police
Sgt Palfreyman	- Police
Linda Hunt	- Resident
Jenny Klincke	- Applicant for the Review

Anne O’Riordan	- Resident
Susan Smith	- Resident
Claire Voysey	- Resident
Tony Voysey	- Resident

19 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor W Ashley and seconded by Councillor J J Taylor that Councillor M P A McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor M P A McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

20 MINUTES

RESOLVED – that the Minutes of the meetings of the Licensing Sub-Committee held on 11 November 2009, 3 June 2010, 14 June 2010 and 25 June 2010 be confirmed as a correct record and signed by the Chairman.

21 LICENSING ACT 2003 - (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A REVIEW OF A PREMISES LICENCE, AT 'BOARS HEAD', HIGH STREET, BISHOP'S STORTFORD

The Chairman outlined the procedure to be followed during consideration of the review. Everyone present for it was introduced.

The Interim Licensing Manager reported that there had been 16 letters and statements in support of the review. He advised that all of these letters and statements had been forwarded to Punch Taverns.

The Interim Licensing Manager advised that there had been two separate applications for a review of the premises licence at The Boars Head.



An application had been made by Mrs Elizabeth Gale in relation to the prevention of public nuisance and the prevention of crime and disorder. The second application had been made by the Vicar and Churchwarden of St Michael's Church in the interests of public safety, the prevention of public nuisance and the prevention of crime and disorder.

The Sub-Committee was advised that The Boars Head was currently permitted to open until 2 am every day with a start time of 12 noon on Sundays. The Interim Licensing Manager reported that the most recent change to the licence had been made by Mr David Dunphy as the Designated Premises Supervisor (DPS).

Members were advised that Mrs Gale had stated that the pub was open too late and had requested that the hours permitted by the premises licence be reduced. The Interim Licensing Manager stated that patrons of the pub had been congregating in the nearby churchyard and on residents' doorsteps.

The Sub-Committee was advised that car and house windows had been vandalised and there had been glass smashed in the street and against gravestones. Members were advised that there had been reports of damage to church windows and to notice boards. There had also been instances of patrons urinating in the churchyard.

The Interim Licensing Manager commented that the Police were fully supportive of the review applications and copies of police statements had been included in the agenda papers. Police Officers had contacted the DPS to make him aware of the possible consequences of the actions of the patrons of The Boars Head.

The Sub-Committee was advised that concerns had been raised in relation to noise and patrons of the pub acting in an intimidating manner towards residents and pedestrians. The supporting letters for the review applications had made reference to possible reductions in

the hours of the premises license to 11 pm or to restricting the sale of alcohol to 11 pm or midnight.

Members were advised that another suggestion had been made that the Sub-Committee should consider restricting the licence to the standard hours of 11 pm Mondays to Saturdays and 10.30 pm on Sundays. One of the letters had raised the possibility of the licence being withdrawn altogether.

PC Leslie O'Connell expressed concerns that the Police representation on the review had not been included in the agenda papers. Jenny Klincke, the second applicant for the review, sought and was given clarification that the Police Representation had not been circulated. The Interim Licensing Manager stressed that the Police would still have an opportunity to have a say in this hearing.

The Interim Licensing Manager stated that the document had never been received by the Council, and therefore it was not admissible except with the consent of all parties. He stressed that the police would still have an opportunity to have a say in this hearing.

Andrew Evans, barrister for Punch Taverns, expressed concern that he and his client would not have had sufficient time to respond to the Police submission having not had sight of this prior to the hearing.

Monica Bett, Legal Services Advisor for the Council, advised that in the interests of a fair hearing, the Sub-Committee could adjourn for half an hour to allow Punch Taverns some time to consider the Police submission. The Sub-Committee agreed that this would be appropriate.

The meeting adjourned for 30 minutes

Following this, Andrew Evans stressed that had Punch Taverns had sight of the Police submission prior to the hearing, a meeting would have taken place with the Police to consider possible ways forward. He

emphasised that Punch Taverns would have had sufficient time to respond to the Police submission.

Andrew Evans stressed that although there was no objection in principle to the contents of the Police submission, the case of his client had been prejudiced by the Police material not being circulated with the agenda. He requested that the meeting should be adjourned and rearranged to the first possible date.

Elizabeth Gale and Jenny Klincke acknowledged that this meeting had already been a rearranged date. They stressed that the problems caused by the Boars Head had caused significant distress to residents. Elizabeth Gale stressed that the Police submission must be included. Jenny Klincke stated that she would be concerned about the Police submission being excluded from this meeting on a technicality.

Elizabeth Gale and Jenny Klincke stated that they were concerned about another adjournment as this meeting had already been a rearranged date. They stressed that the problems caused by the Boars Head had caused significant distress to residents.

Elizabeth Gale stressed that the Police submission must be included. Jenny Klincke stated that she would be concerned about the Police submission being excluded from this meeting on a mere technicality. However, Elizabeth Gale and Jenny Klincke thought that the police submission would strengthen their case and did not want the meeting to proceed without the Police being allowed to refer to their submission.

The Police stressed that they would not be able to fully state their case without referring to the submissions. The papers already circulated were insufficient.

At the conclusion of the representations, the Sub-Committee withdrew with the Democratic Services Assistant and the Legal Services Advisor to give consideration to the evidence for adjourning this hearing.

Following this they returned and the Chairman announced the decision of the Sub-Committee which was that the hearing be adjourned in order to ensure a fair hearing for all with all the information available. As a result a new date would be arranged as soon as possible in the interests of natural justice.

RESOLVED - that the meeting be adjourned in order to ensure a fair hearing for all and in the interests of natural justice.

The meeting closed at 11.08 am.

Chairman .....
Date .....

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON THURSDAY 2  
SEPTEMBER 2010, AT 2.00 PM

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PRESENT:

Councillors J Demonti, R I Taylor and  
B M Wrangles

ALSO PRESENT:

Councillors Mrs R F Cheswright and  
M P A McMullen

OFFICERS IN ATTENDANCE:

Linda Bevan	- Committee Secretary
Chris Clowes	- Licensing Enforcement Manager
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager

ALSO IN ATTENDANCE:

STAR FOOD AND WINE BAR, 4A-4B STAR STREET, WARE  
SG12 7AN

A Mahir	- Applicant
J Mahir	- Applicant's agent

BARLICIOUS, 55 SOUTH STREET, BISHOP'S  
STORTFORD CM23 3AL

PC L O'Connell	- Herts Constabulary
D Christopoulos	- Manager
Y Christopoulos	- Wife of manager
Mr Henderson	- Security firm

22 APPOINTMENT OF CHAIRMAN

Councillor J Demonti proposed and Councillor B M Wrangles seconded that Councillor R I Taylor be appointed Chairman for the item at Minute 24 below and Councillor M P A McMullen be appointed Chairman for the item at Minute 25 in the light of Councillor Taylor being the Ward Member for Minute 25.

RESOLVED – that Councillor R I Taylor be appointed Chairman for item 7 and Councillor McMullen be appointed Chairman for item 8.

23 MINUTES

RESOLVED – that the Minutes of the Licensing Sub-Committee held on 12 August 2010 be confirmed as a correct record and signed by the Chairman.

LB

24 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR PREMISES LICENCE AT STAR FOOD AND WINE BAR, 4A - 4B STAR STREET, WARE SG12 7AN

*(Councillor R I Taylor in the Chair)*

The Chairman outlined the procedure to be followed in considering the application. All those present for it were introduced.

The Interim Licensing Manager outlined the application for a premises licence for the sale of alcohol for consumption off the premises. The application had been amended following consultation with the Police and the conditions agreed were shown on page 22 and 23 of the report now submitted. He said the objectors had indicated that they would not attend the meeting but they would like their letters to be taken into account. He had summarised their relevant objections in the report. These concerned anti-social behaviour and noise. He added that the Police had asked for a Personal Licence Holder to be on the premises between 9 and 11 p.m. as this

period was considered to be a higher risk time for people being intoxicated.

Mr Mahir, for the applicant said there had been no objections from most of the nearby residents. The applicant was happy to comply with the conditions agreed with the Police. He was confident he could refuse under age sales of alcohol and would ban anyone causing a disturbance from the premises. The premises were quite small and could be managed by two people.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee which was that the application should be approved with the comments detailed below.

RESOLVED - that the application be approved subject to the conditions on page 22 and 23 of the report now submitted.

The applicant is informed of the importance the Sub-Committee attaches to condition 14 concerning the presence of the Personal Licence holder after 9 p.m

25 LICENSING ACT 2003 S 105 - CONSIDERATION OF  
POLICE OBJECTION TO A TEMPORARY EVENT NOTICE  
AT BARLICIOUS, 55 SOUTH STREET, BISHOP'S  
STORTFORD CM23 3AL

*(Councillor McMullen in the Chair)*

The Chairman outlined the procedure to be followed in considering the objection to the TEN (Temporary Event Notice). All those present were introduced.

The Interim Licensing Manager explained the actions available to the Sub-Committee in considering the Police objection to the TEN which was for a disco at Barlicious which

would end at 4 a.m. It would involve the supply of alcohol and regulated entertainment.

PC O'Connell for the Police said they were concerned that Barlicious was in a busy part of the town and there had been numerous incidents which were connected to the premises involving disorder and fighting which disturbed residents. The Police thought these would be made worse if the premises stayed open longer. Research showed people became more intoxicated after 2 a.m. She also said a serious incident was currently under investigation so she could not give details of it.

Ms Christopoulis said the premises could not be held responsible for customers who caused trouble elsewhere in the town. There were many bars in the area and troublemakers could have come from those. The management had addressed noise problems when residents of Archers Place had complained. She felt doorstaff had acted correctly in reporting a certain incident which had led to bad publicity in the local press. The Chairman assured her the Sub-Committee would not be taking the press article into account in considering the matter. Ms Christopoulis said Barlicious had to compete commercially with other bars in the town. In addition, she was in regular contact with the local PCSO and thought the Police objection was unfair.

Mr Henderson, security officer for Barlicious assured the Sub-Committee that the manager was now aware of the perpetrators of the incidents currently under Police investigation. Actions and procedures had been put into place to deal with these issues. The management were working closely with the Police and Pubwatch to improve the situation.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee. This was that a counternotice should be served for the reasons detailed below and with the comments also detailed.



RESOLVED - that a counter notice should be served because of concerns over police evidence of recent incidents of crime and disorder associated with the premises and possible further incidents if the event goes ahead.

The Sub-Committee notes the action being taken by the management and security company with the Police to improve problems that have been experienced recently.

The meeting closed at 3.30 pm

Chairman .....
Date .....

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MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE WAYTEMORE ROOM, COUNCIL  
OFFICES, THE CAUSEWAY, BISHOP'S  
STORTFORD ON MONDAY 13  
SEPTEMBER 2010, AT 2.00 PM

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PRESENT:

Councillors W Ashley, M P A McMullen and  
J J Taylor.

ALSO PRESENT:

Councillors J Demonti.

OFFICERS IN ATTENDANCE:

Monica Bett	- Legal Services Advisor
Peter Mannings	- Democratic Services Assistant
Paul Newman	- Interim Licensing Manager

'BOARS HEAD', HIGH STREET, BISHOP'S STORTFORD

Amy Armstrong	- Bar Worker
Mr David Dunphy	- Designated Premises Supervisor
Mr Andrew Evans	- Barrister for Punch Taverns
James Grant	- Bar Manager
Carl Howells	- Area Manager for Punch Taverns
Clayton Vermaak	- Spotlite Security
PC O'Connell	- Police
Sgt Hancox	- Police
Sgt Wallace	- Police
Mr and Mrs Gale	- Applicants for the Review

Mr and Mrs	
Hetherington	- Residents
Linda Hunt	- Resident
Jenny Klincke	- Applicant for the Review
Philip Smith	- Resident
Susan Smith	- Resident

26 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor W Ashley and seconded by Councillor J J Taylor that Councillor M P A McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor M P A McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

27 MINUTES

RESOLVED – that the Minutes of the meetings of the Licensing Sub-Committee held on 12 July and 19 August 2010 be confirmed as correct records and signed by the Chairman.

28 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A REVIEW OF A PREMISES LICENCE, AT 'BOARS HEAD', HIGH STREET, BISHOP'S STORTFORD

The Chairman outlined the procedure to be followed during consideration of the review. Everyone present for it was introduced.

The Interim Licensing Manager advised that there had been two separate applications for a review of the premises licence at The Boars Head. He reported that there had been 16 letters received in support of the review.

An application had been made by Elizabeth and Peter

Gale in relation to the prevention of public nuisance and the prevention of crime and disorder. The second application had been made by the Vicar and Churchwarden of St Michael's Church in the interests of public safety, the prevention of public nuisance and the prevention of crime and disorder.

The Sub-Committee was advised that The Boars Head was currently permitted to open until 2 am every day with a start time of 12 noon on Sundays. The Interim Licensing Manager reported that these hours had been approved following an application to vary the premises licence in 2006. Following statutory consultation, there had been no objections to that application.

The application by Mr and Mrs Gale had stated that the premises were open too late and the hours permitted by the premises license should be reduced. This application had also referred to problems of late night noise, vandalised cars and smashed windows.

The other application had referred to litter, in the form of glasses and bottles, being discarded in the churchyard, along with evidence of criminal damage and urination. The Interim Licensing Manager stated that letters in support of the review applications had referred to late night sleep deprivation, fighting and damage to the church and residential properties.

The Sub-Committee was advised that three interested parties had stated that the pub's opening hours should be reduced. One of these interested parties had specifically referred to 11 pm as an appropriate time for the end of licensable activities. The second interested party had stated that 11 pm should be the terminal hour for the sale of alcohol. The third interested party had commented that midnight should be the terminal hour for all licensable activities at The Boars Head.

The Police as a responsible authority had written to The Boars Head in respect of potential breaches of the

premises licence. The Interim Licensing Manager advised that four letters had been received in support of the Premises Licence Holder. Mrs Gale sought an assurance that the senders of these letters were not connected to The Boars Head. The Interim Licensing Manager was unable to give that assurance.

Mrs Jenny Klincke, applicant for the review, referred to St Michael's Church as the only Grade 1 listed building in the conservation area of Bishop's Stortford. She stressed that this should be a significant consideration for residents and for East Herts Council. She stated that it was pointless the Joint Churches Centre having to cease licensable activities at 11.30 pm if The Boars Head was permitted to remain open until 2.00 am.

Mrs Klincke commented that, despite the best efforts and intentions of Punch Taverns and the Designated Premises Supervisor (DPS), no guarantee could be given that noise, disturbance and general upset for residents would cease.

Mrs Klincke stated that unrestricted drinking until 2 am at the Boards Head resulted in anti-social behaviour and sleep deprivation for residents. The problems that often occurred were in clear contravention of the licensing objectives and the Corporate Priorities of East Herts Council.

Mrs Gale read out the contents of a letter she had recently sent to the legal representative for Punch Taverns Plc. Andrews Evans, barrister for Punch Taverns Plc, commented that the area in the vicinity of The Boars Head suffered generally from drinkers milling around. He stressed that not all the people who loitered in the area were customers from The Boars Head.

Mrs Klincke emphasised that the litter on the northern side of the churchyard was clearly from The Boars Head. She acknowledged that there were opportunities for people from elsewhere to congregate whilst drinking as it

was outside the control of alcohol designated area.

Andrew Evans, barrister for Punch Taverns Plc, advised that Punch Taverns Plc were supportive of the area being included in the Bishop's Stortford Designated Public Places Order (DPPO). He sought and was given clarification as to whether an application had been made to include the area around The Boars Head. He advised that Spotlight Security had been specifically told to keep people away from properties in King Street.

Mrs Gale stated that, despite the best efforts of the door staff and the double glazing on her property, she was still suffering from noise disturbance. She stressed that patrons of The Boars Head often still flooded out on to surrounding streets. She also referred to a residents' meeting at the Police Station where, despite crime having fallen in Bishop's Stortford, it was confirmed that Police resources were being stretched by the late night economy.

In response to a query from Councillor J J Taylor, the DPS confirmed that in the evenings exclusive use was made of plastic polycarbonate glasses. He stressed that a few regulars in the afternoons still insisted on being served in a standard pint glass.

PC Leslie O'Connell provided a summary breakdown of a number of incidents in the vicinity of The Boars Head. She advised that the past applications to vary the premises license at the Boars Head had significantly changed the dynamics and demographics of the pub. There had been a significant change in the quantity and type of incidents being reported to the Police.

PC O'Connell advised that she had visited the pub with fellow Officers. A warning letter had also been sent to the DPS in May 2010. These actions had been taken as the Police were concerned that their advice was not being taken seriously in managing problems that were of concern to residents.

The Sub-Committee was advised that there had been no reports of trouble linked to The Boars Head since 29 June 2010. PC O'Connell stressed that this could be a result of changes suggested by the Police being implemented by staff working at the premises.

Andrew Evans sought and was given clarification as to why Mr Dunphy had been advised that there were no major continuing issues as far as the Police were concerned.

In response to a query from Councillor W Ashley, PC O'Connell confirmed that the applications to vary the premises licence had significantly changed the nature of the premises. Police Sergeant Wallace advised the Sub-Committee of the police resources available to cover Bishop's Stortford. He stated that there were no plans to increase these resources.

Andrew Evans commented on whether one particular incident of disorder could be linked to a customer from The Boars Head. PC O'Connell emphasised that police custody logs did not always identify where those arrested had been drinking, other than that this was in a venue in the town.

Susan Smith, a resident in support of the review, commented that this incident could clearly be linked to The Boars Head as Mr Dunphy had apologised to the residents at the time.

Andrew Evans, barrister for Punch Taverns Plc, reminded the Sub-Committee of the nature of the operation of The Boars Head. He stated that the premises were located on the edge of the town centre. He stressed that the pub marked the boundary between the town centre and residential properties. He also commented that the pub was not in a purely residential area.

He acknowledged that the pavement outside the



premises was narrow. He also acknowledged that dispersing the patrons of the pub was a challenge. The Sub-Committee was advised that there were no live music or DJs used in the premises and the only music was from a recorded sound system or from the TV.

Andrew Evans commented that the rooms in the pub were relatively small and could hold a maximum of 110 people at any one time. He advised that the DPS, Mr David Dunphy, leased the pub from Punch Taverns Plc and he was responsible for its success or failure as a business. Mr Dunphy had been operating pubs for 15 years and had a good reputation generally. He has a good working relationship with the Police and had been instrumental in the Pubwatch scheme and also in the “behave or be banned” initiative.

Andrew Evans referred to the closure of Chicago Rock Café. He stressed that many of its customers now came to the Boars Head due to its late licence. He also emphasised that the premises would have closed had it not been for this younger clientele.

The Sub-Committee was advised that Mr Dunphy accepted that there were problems. He had identified 15 – 20 individuals who instigated noise and disorder and these people were now banned from The Boars Head. Mr Dunphy had also had problems with quality of the security staff working from the premises.

Andrew Evans stated that three security staff was the most that could be afforded at the premises. He advised however that Spotlite Security Management had now taken over the security arrangements for The Boars Head. These arrangements now included door supervisor plans and security arrangements normally only prepared for a large pub or nightclub.

The Sub-Committee was advised that the security logs kept at the premises were available for Police inspection. He detailed the instructions that were now given to the

door supervisors. He stated that, with the help of CCTV, door staff had tried to discourage patrons from hanging around in the churchyard.

Andrew Evans concluded by stating that, as far as possible, customers were encouraged to move down into the town centre to find taxis home. One of the three door staff had been given the sole task of looking after the situation outside the pub between 1 and 2.15 am on Thursday, Friday and Saturday evenings.

In response to a query from Mrs Gale, Andrew Evans stated that there was never a situation with 110 people all leaving the pub at closing time. Mrs Gale expressed concern that, even with 50 people to disperse, the door staff could not stop noise disturbance for residents. She reiterated that the pub should not be open till 2am. Mr Gale advised the Sub-Committee that the premises was in fact surrounded by a residential area.

Susan Smith stated that Church Street was opposite the Boars Head. She commented on whether the door staff were willing to stop drinkers from the pub urinating and vomiting in nearby streets. Andrew Evans stressed that the door staff could not be expected to police the streets.

Mrs Gale suggested that Mr Dunphy should change the business model of The Boars Head to that which was employed so successfully at Host Bar, which was consistently very popular and successful.

The Interim Licensing Manager highlighted the key differences between the Premises Licence for Host Bar and the Licence for the Boars Head. He stressed that the removal of the condition in respect of doors and windows being closed at 11.30 pm and all patrons being inside had followed a request from Environmental Health to ensure compliance with smoking guidelines and also noise regulations.

Mrs Hetherington commented on the responsibility of the

Premises Licence Holder to look after what was a listed building. Andrew Evans and Carl Howells, area manager for Punch Taverns, acknowledged that responsibility. Mrs Hetherington also referred to the narrow and dangerous footpath outside The Boars Head.

Mrs Klincke referred to the possibility of the side entrance to the pub being used as the egress, to ease the pressure on the pavement area to the front of the premises. Mr Dunphy stated that he had hoped to make changes but all investment in the building was on hold pending the outcome of this review. Andrew Evans confirmed that Punch Taverns Plc could not commit to any investment at this time.

Mrs Klincke stated that there was much more hard work that needed to be done for the owners and DPS for The Boars Head in building the trust and confidence of the neighbours who lived near to the premises. Mr Dunphy stressed that it had been his wish to address the concerns of residents before things had escalated to the point where review applications had been served on Punch Taverns Plc.

Councillor J J Taylor sought and was given clarification that three was the maximum number of door staff that could be afforded for The Boars Head. She sought clarification as to how many staff were employed by Spotlite Security Management. She commented on how Punch Taverns Plc saw three door staff as being adequate to cover the immediate vicinity of The Boars Head.

Andrew Evans stressed that three fully trained door staff doing a good job should be sufficient. In response to a query from Councillor W Ashley, the Sub-Committee was advised that the number of door staff had been increased from two to three.

Mrs Klincke, applicant for the review, advised that she was satisfied with all the suggested conditions. She

invited the residents present to have a say as to whether things had improved. Susan Smith commented that there had been no obvious improvement in recent weeks.

Mr and Mrs Gale, applicants for the review, stated that the licensing hours for The Boars Head should be reduced to address unacceptable levels of noise late at night, particularly between midnight and 3 am.

Mrs Gale stated that any changes implemented to date had made little material impact in reducing noise levels for residents. She commented that she and her husband had no objections to living next to a pub.

Mrs Gale stated however that the residents were suffering the kind of problems normally associated with having a nightclub operating on their doorsteps. She urged the Sub-Committee to act in line with the licensing objectives and reduce the hours covered by the premises licence for The Boars Head.

Mrs Hetherington stated that it was well known that there were insufficient numbers of Police. She commented that the pubs hours must be reduced to address the issue of The Boars Head being a drinking den for young people.

Mr Andrews urged the Sub-Committee not to be fixated with the 110 people that could be accommodated in the Boars Head. He stressed that this number often decreased late into the evening and was often down to 35 by the time the venue closed each evening.

He emphasised that his review did not have to be a destructive process. He commented that this process had given Mr Dunphy and Punch Taverns Plc the opportunity to listen to the views of the Police and local residents.

The applicants for the review summarised their views and expressed a hope that The Boars Head could be operated more effectively than was the case at the peak

of the problems being experienced by residents.

Andrew Evans, barrister for Punch Taverns Plc, stressed that this was the first time there had been review of The Boars Head Premises Licence. He urged the Sub-Committee to consider the positive steps that had been taken to address residents' concerns.

He stressed that the Premises Licence holder could only be held responsible for the incidents that took place directly connected to The Boars Head.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Advisor and Democratic Services Assistant to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee which was that the premises license be varied to restrict the sale of alcohol and licensable activities to 12 Midnight and the premises must be vacated by 12:30 am, subject to the conditions now detailed. The Sub-Committee considered these amendments to the licence a necessary and proportionate response to the evidence presented.

RESOLVED - that the premises licence be varied to restrict the sale of alcohol and licensable activities to 12 Midnight and the premises must be vacated by 12:30 am, subject to the following conditions:

1. The Premises Licence Holder to employ a minimum of three SIA door staff at the Premises on Thursday, Friday and Saturdays, when open for licensable activities after 8.00 pm hrs until close of the premises, one of these is to operate outside from 11.30 pm to 12.45 am;
2. The licence holder and the Designated Premises Supervisor shall ensure sufficient

door staff are employed to ensure the safe dispersal of patrons from the curtilage and grounds of the licensed premise immediately after the end of each period of licensable activity;

3. The licence holder and the Designated Premises Supervisor shall ensure that the door supervisors take appropriate measures to prevent the removal of bottles or glasses from the premises;
4. All door staff employed at the entrance / exit of the licensed premises will wear high visibility clothing (reflective jackets) during the hours of darkness;
5. The licence holder and the Designated Premises Supervisor shall arrange and ensure that the delivery of drinks is made only in polycarbonate containers after 8.00 pm;
6. Risk assessments carried out by or on behalf of the licence holder which relate to a licensing objective will be available for inspection by a Police officer or authorised officer for a Responsible Authority;
7. The licence holder shall erect and maintain in a prominent position at every exit a clear and conspicuous notice requesting patrons to avoid causing noise, nuisance or disturbance to local residents;
8. No new entry or re-entry into the Premises after 11.00 pm everyday. The Designated premises Supervisor and Premises Licence Holder will ensure this refusal of entry is enforced by SIA door staff;
9. All external doors to the premises to be closed at 11.00 pm each day the premises are open for business, save for egress and ingress;
10. The Designated premises Supervisor and Premises Licence Holder will ensure all windows in the licensable area at the

Premises be closed at 11.00 pm;

- 11. No use of the outside space belonging to The Boars Head PH after 11.00 pm for the consumption of any beverage; and
- 12. No use of the outside area belonging to the Boars Head from 11.00 pm to close, except for the purposes of smoking. Access of this area to be controlled by the Designated Premises Supervisor or his representative.

Removal of the condition:

‘All doors and windows to be closed at 11.30 pm and patrons outside the premises to be brought inside’

- 1. This will allow for the smoking regulations.

Reasons:

- 1. For the Prevention of Crime and Disorder;
- 2. In The Interests of Public Safety; and
- 3. For the Prevention of Public Nuisance.

The meeting closed at 4.30 pm.

Chairman	.....
Date	.....

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MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE WAYTEMORE ROOM, COUNCIL  
OFFICES, THE CAUSEWAY, BISHOP'S  
STORTFORD ON TUESDAY 21  
SEPTEMBER 2010, AT 2.00 PM

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PRESENT:

Councillors P R Ballam, R Beeching and  
J Demonti

ALSO PRESENT:

Councillors M P A McMullen

OFFICERS IN ATTENDANCE:

Linda Bevan	- Committee Secretary
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager
Brian Simmonds	- Head of Community Safety

ALSO IN ATTENDANCE:

CONSIDERATION OF LICENSING SUB-COMMITTEE DECISION AND  
STAGE OF APPLICATION FOR TAXI DRIVER'S LICENCE

- Taxi driver

PARADISE AND LUNCH, 5 CHURCH STREET, BISHOP'S STORTFORD  
CM23 2LY

David Rawsthorne	- Applicant
Sue Smith	- Resident
Linda Hunt	- Resident

29 APPOINTMENT OF CHAIRMAN.

Councillor PR Ballam proposed and Councillor J Demonti seconded that Councillor R Beeching be appointed Chairman for the meeting. It was noted that Councillor MPA McMullen was in attendance as a substitute for Councillor PR Ballam for items 7 and 9 and for Councillor J Demonti for item 8.

RESOLVED – that Councillor R Beeching be appointed Chairman for the meeting.

30 EXCLUSION OF PRESS AND PUBLIC.

RESOLVED – that under section 100(A)(4) of the Local Government Act 1972 the press and public be excluded from the meeting during discussion of Minute 31 - Consideration of decision of Licensing Sub-Committee and Minute 33 –Consideration of stage of new or renewal application on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of part 1 of Schedule 12A of the said Act of the following description: Information relating to an individual.

31 CONSIDERATION OF DECISION OF LICENSING SUB COMMITTEE TO REVOKE TAXI DRIVER'S LICENCE - MR MCC.

The Chairman explained that the Sub-Committee would be considering whether to overturn the decision of a previous Sub-Committee to revoke the taxi driver's licence following his successful appeal against the conviction which had led to the revocation. Everyone present for the matter was introduced. The Chairman said that depending on the Sub-Committee's decision the taxi driver could be asked to make a new/renewal application for his licence which would be considered later in the meeting.

The taxi driver said he was not happy with the presence of the Interim Licensing Manager as the taxi driver had made a

complaint about the manager. The Chairman said this had been dealt with separately from the meeting.

The Interim Licensing Manager gave some details of the various stages in the appeals against the conviction and revocation of the licence.

The taxi driver said he had not pursued his appeal against the revocation of his licence as he thought this would not be needed once he was successful in his appeal against conviction. He said he was living in Southampton with his daughter and was homeless because of a malicious accusation. He had been in hospital when the revocation occurred.

At the conclusion of the representation the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee which was that the previous decision be overturned and the taxi driver be invited to apply for a renewal of his licence.

RESOLVED – that having considered the report now submitted, the decision of the Licensing Sub-Committee held on 25 June 2010 be overturned and the taxi driver be invited to apply for a renewal of his licence.

32 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR A PREMISES LICENCE AT PARADISE AND LUNCH, 5 CHURCH STREET, BISHOP'S STORTFORD, CM23 2LY.

The Chairman outlined the procedure to be followed in considering the application. All those present for it were introduced.

The Interim Licensing Manager outlined the application which was to licence the whole premises for the sale of alcohol from 11 am to 11 pm each day.

The applicant explained he owned the Ark wine bar next to the premises. He wanted to run these premises as a restaurant where customers could enjoy a good bottle of wine with a meal. He would not be operating it as a bar. He would not be joining the premises to the Ark with a door; they would be kept separate. In answer to a question, he said that in addition to a toilet for the customers there was a staff toilet. His staff already cleared the area outside of litter left by smokers. He would expect everyone to have left the premises by 11pm. He would restrict how many people were let outside to smoke as the pavements were narrow and it was a residential area. Music would be of background type only suitable for a restaurant. He had security staff at the Ark. He would be serving lunch boxes and pizzas during the day but would not be seeking to attract takeaway trade from people leaving pubs. There would be no off-sales of alcohol. He was dedicated to helping the residents and asked for full details of any complaints.

Mrs Smith said she did not understand why this road had not been included in the Designated Public Places Order, which prohibited drinking in the street and had started a petition for this to be extended. She was disappointed that the Police had not objected to the application. Residents' objections were based on previous incidents. She had recently contacted the Police about people drinking in public in the area. The doors of the Ark were not kept shut because of inadequate air conditioning and noise was a nuisance to residents. She could hear music from the Ark in her living room. She said residents had not been clear about what the use of these premises would be.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee which was that the application should be approved as detailed below. The Chairman reminded residents that if noise from the premises caused a

nuisance they could seek a review of the licence.

RESOLVED - that the application be approved as amended by the Environmental Health conditions on page 21 of the report now submitted and with the addition of the following condition:

- No drinks to be taken outside the premises.

33 CONSIDERATION OF A STAGE OF A RENEWAL APPLICATION FOR A TAXI DRIVER'S LICENCE - MR MCC.

The Interim Licensing Manager said he had accepted a renewal application from Mr McC as agreed earlier, subject to the receipt of fees and necessary documentation. He said the taxi driver needed to show he was a fit and proper person to hold the licence. He referred to the report submitted and outlined various misdemeanors on the part of the applicant and also some questions over his health.

The Chairman took the taxi driver through the points in the report and he responded to each. He said he was now in good enough health to drive a taxi. He said he had been a taxi driver since 1998 and had enjoyed the work. He was good at the job but not so good at the paperwork required. He said if he got his licence back he could rebuild his life.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and Committee Secretary to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee which was that the application should be allowed to proceed to the next stage subject to the comments detailed below. He had come close to losing his licence and the situation he now found himself in could have been avoided if he had followed the rules.

RESOLVED - that the renewal application be allowed to proceed to the next stage. However, the applicant is

reminded he must take more responsibility for the paperwork and information needed from him by the Licensing Officers. Failure to provide this had added to his problems. He must also seek to moderate and control his interactions with other people.

The meeting closed at 4.45 pm

Chairman .....
Date .....

## EAST HERTS COUNCIL

### LICENSING COMMITTEE - 4 NOVEMBER 2010

#### REPORT BY DIRECTOR OF INTERNAL SERVICES

#### ATTENDANCE AT LICENSING SUB-COMMITTEES

WARD(S) AFFECTED: None

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### **Purpose/Summary of Report**

Members have asked for details of attendances at Licensing Sub-Committees including Members attending as observers. These are provided in Essential Reference Paper 'B'.

<b><u>RECOMMENDATION FOR DECISION</u></b>
that the report be received

#### 1.0 Background

1.1 Members of Licensing Sub-Committees are drawn from the Members of the Council's Licensing Committee. These Members are required to complete appropriate training and attend meetings before serving on Licensing Sub-Committees.

#### 2.0 Report

2.1 The tables in Essential Reference Paper 'B' give details of attendances at Licensing Sub-Committee during the current civic year.

#### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

Licensing Sub-Committee minutes

Contact Member: Councillor M Alexander, Executive Member for  
Community Safety and Protection.

Contact Officer: Jeff Hughes, Head of Democratic and Legal  
Support Services – Extn: 2170.

Report Author: Linda Bevan, Committee Secretary - Extn: 2175.



ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<b>Fit for purpose, services fit for you</b> <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	None
Legal:	The Council is required to ensure that licensing matters are dealt with by suitably qualified Members in an impartial manner.
Financial:	No financial implications
Human Resource:	No Human Resource implications
Risk Management:	The Council's reputation could be at risk if licensing matters are not dealt with in a correct manner.

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ESSENTIAL REFERENCE PAPER 'B'

<b>Licensing Committee Members attending as Members of Sub-Committee</b>									
<b>Members</b>	<b>Total</b>	<b>From 12 May 2010</b>							
Ashley W	2	19/8	13/9						
Ballam P	2	21/9	14/10						
Barnes K	3	3/6	14/6	14/10					
Beeching R	2	12/7	21/9						
Burlton A	2	14/6	25/6						
Cheswright R Training needed									
Demonti J	3	12/8	2/9	21/9					
McMullen M	3	12/7	19/8	13/9					
Poulton N	1	14/10							
Radford R Attendance needed(1)	1	12/7							
Ruffles PA Training needed									
Taylor J	5	3/6	14/6	25/6	19/8	13/9			
Taylor R	3	3/6	25/6	2/9					
Wilson N									
Wrangles B	2	12/8	2/9						

<b>Substitutes:</b>									
Vacancy									
Dodd T Training/attendance needed									
Mayes J Training/attendance needed									
Warman A	1	12/8							
Wood M									

### Licensing Committee Members attending as Observer

Members	Total	From 12 May 2010							
Ashley W	1	12/7							
Ballam P									
Barnes K									
Beeching R									
Burlton A									
Cheswright R Training needed	1	12/7	19/8						
Demonti J	2	19/8	13/9						
McMullen M	4	3/6	14/6	12/8	21/9				
Poulton N									
Radford R Attendance needed									
Ruffles PA Training needed	2	12/8	19/8						
Taylor J									
Taylor R									
Wilson N	1	3/6							
Wrangles B									

Substitutes:									
Vacancy									
Dodd T Training/attendance needed									
Mayes J Training/attendance needed									
Warman A									
Wood M									

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 4 NOVEMBER 2010

#### REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

#### LICENSING UPDATE

WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report**

To update members on activity processing licences.

<b><u>FOR INFORMATION</u></b>
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#### 1.0 Background

1.1 This report presents data by full quarters on licences, notices, and permits, and applications for;

- Alcohol, entertainment, and late night refreshment licences under the Licensing Act 2003,
- Gaming under the Gambling Act 2005,
- Taxi drivers, vehicle proprietors, and operators.

#### 2.0 Report

Data is presented in Essential Reference Paper B for 1 April – 30 June, and for 1 July – 30 September 2010, for the numbers of applications or notices received, and totals of current licences.

#### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers:

Contact Member: Councillor Malcolm Alexander – Executive Member

for Community Safety and Protection

Contact Officer: Brian Simmonds – Head of Community Safety and  
Licensing – Extn 1498

Report Author: Paul Newman – Interim Licensing Manager

## ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<b>Promoting prosperity and well-being; providing access and opportunities</b> <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	For information only, and no partner or external consultation has taken place.
Legal:	No issues identified by report author or contact officer
Financial:	No issues identified by report author or contact officer
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer

## ESSENTIAL REFERENCE PAPER 'B'

Licences Q2 1 April to 30 June 2010

Licensing Act 2003		
Premises Licences		
New;	0	
Reviews		
<i>SZI Ltd</i>		
<i>Basra Supermarket</i>		
<i>Oscars Wine Merchant</i>		
<i>Boars Head</i>	4	
<u>Variation;</u>		
<i>The Navigator</i>	1	
Minor Variation	1	
Disapply DPS	0	
Transfer	9	
Change DPS	1	
Total number of premises licences re-issued		11
Club Certificates	0	
Other licences and notices		
Personal Alcohol Licence		
New applications	31	
Other processes	14	
		45
Temporary Event Notices		
1 January to 31 March 2010		
Served	154	
Police Objections	0	
Objections upheld	0	
		154
Gambling Act 2005		
New and varied premises;	0	
Gaming Machine Notices	10	
Small Society Lotteries – New and renew	28	
Taxis		
New Dual Drivers	3	
Renewed Dual Drivers	65	



	New Private Hire Drivers	4	
	Renewed Private Hire Drivers	3	
	Total driver applications processed this quarter		75
	New Operators	0	
	Renewed Operators	4	
	Total Operator applications processed this quarter		8
	New Hackney Carriage	7	
	Renewed Hackney Carriage	44	
	New Private hire Vehicles	5	
	Renewed Private hire Vehicles	8	
	Total vehicle applications processed this quarter		64
	All applications this quarter		357

Licences Q3 1 July to 30 September 2010

Licensing Act 2003		
Premises Licences		
New;		
Other On sales licences;	3	
<i>Baroosh (Bishops Stortford)</i>		
<i>Paradise and Lunch</i>		
<i>Millars One (Licensed Restaurant)</i>		
Off licences;	5	
<i>Star Food and Wine (Ware)</i>		
<i>Esso Snack Shop</i>		
<i>Your Local Shop</i>		
<i>The Cellar</i>		
<i>Village Shop</i>		
Review		
<i>The Sugar Hut, Hertford</i>	1	
Variation;	3	
<i>Hertford Star Take away food)</i>		
<i>Empire Cinema (Bishops Stortford)</i>		
<i>Scorch Night Club (was H20)</i>		
Minor Variation	0	
Disapply DPS	0	
Transfer	3	
Change DPS	2	
Total number of premises licences re-issued		17
Club Certificates	0	
Other licences and notices		
Personal Alcohol Licence		
New applications	29	
Other processes (change of details)	8	
		37
<b>Temporary Event Notices</b>		
<b>1 January to 31 March 2010</b>		
<b>Served</b>	<b>112</b>	
<b>Police Objections</b>	<b>0</b>	
<b>Objections upheld</b>	<b>0</b>	
		<b>112</b>
Gambling Act 2005		
New and varied premises;	0	

Cancelled Surrendered	1	
<b>Joe Jenings 3 Bull Plain Hertford</b>	0	
Gaming Machine Notices	4	
Small Society Lotteries – New and renew	5	
<b>Taxis</b>		
New Dual Drivers	2	
Renewed Dual Drivers	79	
New Private Hire Drivers	1	
Renewed Private Hire Drivers	10	
Total driver applications processed this quarter		92
New Operators	1	
Renewed Operators	8	
Total Operator applications processed this quarter		9
New Hackney Carriage	5	
Renewed Hackney Carriage	53	
New Private hire Vehicles	1	
Renewed Private hire Vehicles	15	
Total vehicle applications processed this quarter		74
		341
All applications this quarter		
<b>Numbers of licences and permits at 30 September 2010</b>		
Premises Licences		483
Club Certificates		41
Personal Alcohol Licence		1150
Betting Premises		15
Gaming Machine Notices and Permits		99
Small Society Lotteries		85
Hackney Carriage		246
Private hire Vehicles		49
Private hire Operators		30
Dual Drivers		302
Private Hire Drivers		39

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 4 NOVEMBER 2010

REPORT BY LICENSING MANAGER

ENFORCEMENT UPDATE - 1 JANUARY – 30 APRIL 2010

WARD(S) AFFECTED: ALL

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## **Purpose/Summary of Report**

- To receive data regarding Licensing compliance and enforcement activity in respect of premises licences for gambling, the sale of alcohol, Regulated Entertainment and Late Night Refreshment, and licences for Hackney Carriage and Private Hire drivers, vehicles and operators

<b>FOR INFORMATION</b>
<b>To advise the Committee on the four month compliance and enforcement activity of the service</b>

### 1.0 Background

1.1 The Council has a statutory duty to enforce the legislation in respect of the Licensing Act 2003 for the sale of alcohol, the provision of regulated entertainment and the sale of hot food and drink between 11.00pm and 5.00am. The Council is also responsible for enforcing the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions Act) 1976. These Acts deal with Hackney Carriage and Private Hire drivers, vehicles and operators. From September 2007 the Licensing Authority has also been responsible for enforcement in respect of the Gambling Act 2005. All complaints, investigations and subsequent actions have been dealt with in accordance with the Licensing Enforcement Policy.

- 1.2 The Council has been responsible for the enforcement of the Licensing Act 2003 since 24th November 2005. Currently this Council has licensed 483 premises and 41 club premises certificates for one or more of the licensable activities.
- 1.3 In respect of Hackney Carriage Drivers, Vehicles and Operators the Council currently has licensed 301 Dual Drivers, 39 Private Hire Drivers, 48 Private Hire Vehicles, 29 Private Hire Operators and 250 Hackney Carriage Vehicles. It is of interest to note that the number of licensed Hackney Carriage vehicles and Dual drivers is currently the lowest for over 3 years.
- 1.4 In respect of the Gambling Act 2005 this authority has issued 15 Betting Premises Licences since September 2007.

## 2.0 Report

2.1 For the purposes of this report all visits, inspections, complaints and enforcement actions for the period 1 January 2010 until 30 April 2010 have been included.

2.2 During the above period the enforcement team has undertaken 131 visits or inspections. These have been analysed further and are recorded as:

- Taxi Inspections and Investigations 28
- Premises Complaints and Visits 83
- Gambling Premises visits 0
- Blue Notice visits 5
- Invoice Visits/chase ups 10
- House to House Collection complaints 4
- Taxi Camera Investigations 1

All complaints regarding taxis and premises have been fully investigated. During this period it was not necessary to bring any taxi drivers to Licensing Sub-Committees for decision.

In respect of premises, the breaches of the licences have been addressed in accordance with the Licensing Enforcement Policy. In the previous report mention was made of a pending prosecution. In March 2010 the premises licence holder and Designated Premises Supervisor of Tubay Foods, South Street, Bishop's Stortford pleaded guilty at Hertford Magistrates Court to offences of unlicensed activities. They were both fined and costs awarded against them.

- 2.3 During the previous reporting period a large amount of effort had been made by the team to recover annual fees from licensed premises. During this period the number of visits has fallen dramatically. Invoices are still being collected at a rate of over 95%. Currently at the time of reporting there are 10 outstanding invoices.
- 2.4 Residents' complaints have reduced during this period from 32 to 24 complaints received. All residents' complaints were investigated and action taken. These included visits, letters, joint action with partners or enforcement in accordance with the East Herts Licensing Enforcement Policy. Significant complaints received during this period include several residents' complaints regarding Barlicious, South Street, Bishops Stortford. In Hertford numerous complaints were received regarding buskers using the Hertford Town Council licensed sites.
- 2.5 A significant part of the enforcement team's work is to ensure that all documentation for taxi drivers and vehicles is current and licences are valid. In the last enforcement report this work was analysed for the first time and it was found that during the six month period 171 letters of suspension were sent to our licensed drivers and vehicle proprietors. During this four month period 75 letters were produced. Where delay occurs without valid reason, it is hoped that the new proposed 'penalty points' system will improve drivers' and proprietors' behaviour.
- 2.6 During this period the enforcement team fed back to licensed premises the results of the drug swabbing exercise conducted around Christmas and New Year. All premises swabbed showed some level of illegal substance on the surfaces of the toilets. All premises accepted the results and have shown a willingness to be more vigilant and aware of the drug problems within the night time economy. It is anticipated that further testing will be conducted.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

None

Contact Member: Councillor Alexander, Executive Member for  
Community Safety and Protection

Contact Officer: Brian Simmonds - Head of Community Safety and  
Licensing Ext 1498

Report Author: Chris Clowes Licensing - Enforcement Manager



## ESSENTIAL REFERENCE PAPER 'A'

<p>Contribution to the Council's Corporate Priorities/ Objectives</p>	<p><b>Promoting prosperity and well-being; providing access and opportunities</b>  <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i></p>
<p>Consultation:</p>	<p>The Licensing enforcement team have established and maintained excellent links with other enforcement agencies. The Police and the Environmental Health Department have been particularly helpful in dealing jointly with crime and disorder and noise issues. New links have been established with the Gambling Commission and joint visits have already been undertaken.</p>
<p>Legal:</p>	<p>There are obvious legal implications to enforcement work. During this period no prosecutions have been undertaken but matters have been resolved with the range of options available in our Enforcement Policy together with the use of Licensing sub-Committees</p>
<p>Financial:</p>	<p>The activity detailed within this report has been met from existing resources</p>
<p>Human Resource:</p>	<p>None</p>
<p>Risk Management:</p>	<p>All enforcement is undertaken in accordance with the Licensing Enforcement Policy and the Councils overarching enforcement policy</p>

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 4 NOVEMBER 2010

REPORT BY LICENSING MANAGER

ENFORCEMENT UPDATE 1 MAY 2010 – 30 AUGUST 2010

WARD(S) AFFECTED: ALL

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## **Purpose/Summary of Report**

- To receive data regarding licensing compliance and enforcement activity in respect of premises licences for gambling, the sale of alcohol, Regulated Entertainment and Late Night Refreshment, and licences for Hackney Carriage and Private Hire drivers, vehicles and operators

<b><u>FOR INFORMATION:</u></b>
<b>To advise The Committee on the four month compliance and enforcement activity of the service</b>

### 1.0 Background

1.1 The Council has a statutory duty to enforce the legislation in respect of the Licensing Act 2003 for the sale of alcohol, the provision of regulated entertainment and the sale of hot food and drink between 11.00pm and 5.00am. The Council is also responsible for enforcing the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions Act) 1976. These Acts deal with Hackney Carriage and Private Hire drivers, vehicles and operators. From September 2007 the Licensing Authority has also been responsible for enforcement in respect of the Gambling Act 2005. All complaints, investigations and subsequent actions have been dealt with in accordance with the Licensing Enforcement Policy.

- 1.2 The Council has been responsible for the enforcement of the Licensing Act 2003 since 24th November 2005. Currently this Council has licensed 483 premises and 41 club premises certificates for one or more of the licensable activities.
- 1.3 In respect of Hackney Carriage Drivers, Vehicles and Operators we currently have licensed 301 Dual Drivers, 39 Private Hire Drivers, 48 Private Hire Vehicles, 29 Private Hire Operators and 250 Hackney Carriage Vehicles. It is of interest to note that the number of licensed Hackney Carriage vehicles and Dual drivers is currently the lowest for over 3 years.
- 1.4 In respect of the Gambling Act 2005 this authority has issued 15 Betting Premises Licences since September 2007.

## 2.0 Report

2.1 For the purposes of this report all visits, inspections, complaints and enforcement actions for the period 1 January 2010 until 30 April 2010 have been included.

2.2 During the above period the enforcement team have undertaken 131 visits or inspections. These have been analysed further and are recorded as:

• Taxi Inspections and Investigations	33
• Premises Complaints and Visits	56
• Gambling Premises visits	0
• Blue Notice visits	7
• Invoice Visits/chase ups	12
• House to House Collection complaints	0
• Taxi Camera Investigations	0
• TENS Complaints and Investigations	3

All complaints regarding taxis and premises have been fully investigated. During this period it was not necessary to bring any existing taxi drivers to Licensing Sub-Committees for decision. In respect of premises, the breaches of the licences have been addressed in accordance with our Licensing Enforcement Policy. In the previous report mention was made of a pending prosecution.

2.3 During the previous reporting period a large amount of effort had been made by the team to recover annual fees from licensed premises. During this period the number of visits has fallen

dramatically. Invoices are still being collected at a rate of over 95%. Currently at the time of reporting there are 2 outstanding invoices.

- 2.4 Residents' complaints have fallen very slightly, and 22 complaints were received compared to 24 in the last period. All residents' complaints were investigated and action taken. These included visits, letters, joint action with our partners or enforcement in accordance with the East Herts Licensing Enforcement Policy. Significant complaints received during this period include a resident complaint regarding The Brown Bear, Braughing.
- 2.5 A significant part of the enforcement team's work is to ensure that all documentation for taxi drivers and vehicles is current and licences are valid. During this four month period 75 letters were produced. Where delay occurs without valid reason, it is hoped that the new proposed 'penalty points' system will improve drivers' and proprietors' behaviour.
2. Following the report of the drug swabbing exercise conducted around Christmas and New Year, further visits to Licensed Premises have indicated a higher level of awareness of the problem, and a greater willingness on the part of SIA door staff to co-operate with the police to obtain arrests of persons found to be in possession of illegal drugs. It is anticipated that further testing will be conducted.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

None

Contact Member: Councillor M Alexander, Executive Member for Community Safety and Protection

Contact Officer: Brian Simmonds - Head of Community Safety and Licensing Extn 1498

Report Author: Paul Newman - Interim Licensing Manager

ESSENTIAL REFERENCE PAPER 'A'

<p>Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i></p>	<p><b>Promoting prosperity and well-being; providing access and opportunities</b> <b><u>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</u></b></p>
<p>Consultation:</p>	<p>The Licensing enforcement team have established and maintained excellent links with other enforcement agencies. The Police and the Environmental Health Department have been particularly helpful in dealing jointly with crime and disorder and noise issues. New links have been established with the Gambling Commission and joint visits have already been undertaken.</p>
<p>Legal:</p>	<p>There are obvious legal implications to enforcement work. During this period no prosecutions have been undertaken but matters have been resolved with the range of options available in our Enforcement Policy together with the use of Licensing sub-Committees</p>
<p>Financial:</p>	<p>The activity detailed within this report has been met from existing resources</p>
<p>Human Resource:</p>	<p>None</p>
<p>Risk Management:</p>	<p>All enforcement is undertaken in accordance with the Licensing Enforcement Policy and the Councils overarching enforcement policy</p>

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 4 NOVEMBER 2010

#### REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

#### REVIEW OF LICENSING ENFORCEMENT POLICY

WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report**

- To present a revised Licensing Enforcement Policy

<b><u>RECOMMENDATION FOR DECISION:</u></b>	
<b>(A)</b>	<b>that the Committee approve the revised Licensing Enforcement Policy.</b>

#### 1.0 Background

1.1 On 11th October 2000 East Herts Council signed up to the Enforcement Concordat as commended by the Cabinet Office and the Local Government Association, which lays down the principles of good practice to ensure fair, practical and consistent enforcement. BV166 – Checklist for Environmental Health and Trading Standards places a requirement on Local Authorities to have an Enforcement Policy approved by Members. The Community Safety and Licensing Department has produced its Enforcement Policy in accordance with these principles, to secure compliance with the law whilst minimising the burden on individuals, businesses and the Council.

#### 2.0 Report

2.1 In 2010 the Enforcement Policy was reviewed and this report presents the updated policy.

2.2 Changes have been made to take account of:

- Change of department name and officer post titles (throughout the policy);

- New responsibilities under the Police and Crime Act 2001, and the Gambling Act 2005 (2);
- More detailed reference to the enforcement arrangements under the Gambling Act 2005 (6.4);
- Additional enforcement options of taxi penalty points system under the Authorities revised Taxi Licensing Policy (9.1 and 9.18), and use of closure orders under the Police and Crime Act 2001 (9.1 and 9.20);
- Reference to new delegated powers for the Director of Neighbourhood Services to suspend taxi licences pending a Sub-Committee reference (9.18);

### 3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

Attached Revised Licensing Enforcement Policy.

Contact Member: Councillor Malcolm Alexander – Executive Member for Community Safety and Protection

Contact Officer: Brian Simmonds – Head of Community Safety and Licensing – Extn 1498

Report Author: Paul Newman – Interim Licensing Manager



## ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	<b>Promoting prosperity and well-being; providing access and opportunities</b> <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	To be reported at the meeting
Legal:	No implications other than those detailed in the report
Financial:	No implications other than those detailed in the report
Human Resource:	No implications other than those detailed in the report
Risk Management:	No implications other than those detailed in the report

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# **NEIGHBOURHOOD SERVICES**

## **Community Safety and Licensing**

### **Enforcement Policy**

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# **COMMUNITY SAFETY AND LICENSING ENFORCEMENT POLICY**

## **1. BACKGROUND**

On 11<sup>th</sup> October 2000 East Herts Council signed up to the Enforcement Concordat as commended by the Cabinet Office and the Local Government Association, which lays down the principles of good practice to ensure fair, practical and consistent enforcement. BV166 – Checklist for Environmental Health and Trading Standards places a requirement on Local Authorities to have an Enforcement Policy approved by Members. The **Community Safety and Licensing Department** has produced its Enforcement Policy in accordance with these principles, to secure compliance with the law whilst minimising the burden on individuals, businesses and the Council.

Full Council approved an Enforcement Policy for East Hertfordshire District Council on 25 February 2004. This **Community Safety and Licensing** Enforcement Policy is supplementary to the core policy.

## **2. INTRODUCTION & SCOPE**

The **Community Safety and Licensing Service** forms part of Neighbourhood Services. Within Neighbourhood Services, other services are undertaken by Environmental Health, Building Control and Development Control.

This document outlines the Council's approach to enforcement of the following

- House to House Collections
- Street Collections
- Lotteries & Amusements
- The Licensing Act 2003
- Section 19 Criminal Justice & Police Act 2001**
- Taxis & Private Hire Vehicles
- Taxis & Private Hire Drivers
- Private Hire Operators
- The Gambling Act 2005**

This policy lays down the principles that will be followed in exercising the enforcement functions and deciding upon enforcement action, whether it is criminal proceedings at one end of the spectrum or informal advice and warnings at the other.

Each area of work uses different legislation to secure its aims and each has its own extensive body of guidance, which has been developed by Government bodies, Legal authorities, Public authorities and

Industry. This policy does not try to capture all of this detailed, complex and often changing guidance, but in all of its enforcement activities the **Community Safety and Licensing Service** gives due weight to current relevant guidance. This Policy may therefore be supplemented by more specific documents, where appropriate, relating to the areas of work mentioned above and detailing working protocols and procedures.

This Policy commits the Council to implementing procedures which officers follow when undertaking their statutory duties to ensure that they act in an equitable, practicable and consistent manner.

The Policy cannot be absolutely prescriptive because the circumstances of each individual case and the evidence available are likely to vary so much. But this Policy document should leave most readers in no doubt as to what they can expect by way of enforcement from the **Community Safety and Licensing Service** of East Herts Council.

### **3. APPROVAL & REVIEW**

The **Licensing Committee of East Herts Council** approved this **Enforcement Policy** on.....following review.

This Enforcement Policy will be reviewed periodically and in response to relevant new legislation or guidance and amended accordingly.

### **4. ACCESS TO THE POLICY**

In accordance with BV166- Checklist of Enforcement Best Practice for Environmental Health, the Council will ensure this Enforcement Policy is open to the public and ensure that officers follow the Policy and associated procedures.

A full copy of this Policy can be obtained by contacting Community Safety and Licensing on 01279 655261 or by requesting a copy at any Council Office or on the website [www.eastherts.gov.uk](http://www.eastherts.gov.uk). A short leaflet on the policy is also available entitled 'The Guiding Principles of Our Enforcement Policy'. Copies of both these documents can be provided in other languages, in large print or Braille if required. Also see 'Diversity' on page 17.

### **5. THE PRINCIPLES OF GOOD ENFORCEMENT - POLICY AND PROCEDURES**

The primary function of central and local government enforcement work is to protect the public, the environment and stakeholders such as

residents and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. The council is committed to promoting compliance and maintaining a fair and safe environment.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. It is recognised that most businesses want to comply with the law, therefore care will be taken to help businesses meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety.

## Policy

Enforcement of legal requirements will be based on the following principles:

- Measuring performance against agreed **standards**;
- **Openness** in dealing with businesses and others;
- **Helpful**, courteous and efficient enforcement officers;
- Publicised **complaints** procedures;
- Enforcement decisions taken in a **proportionate** manner;
- High standards of **consistency** in enforcement action.

## Standards

In consultation with business and other relevant interested parties, including technical experts where appropriate, the Council will produce and publish standards setting out the level of service and performance the public and business people can expect to receive. The Council's Directors Board monitors the performance against set standards. Any service standards such as speed of response will be available on request and information will be provided in plain language wherever appropriate.

## Openness

The Council will provide information and advice in plain language on the rules that apply and will disseminate this as widely as possible. The Council has interpreting and translation services available for business or the public who do not have English as their first language. It will be open about how it sets about its work, including any charges that are set. It will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

In carrying out all of its enforcement duties, the **Community Safety and Licensing Service** will help those it deals with to understand what is expected of them, and what they can expect from the Community Safety and Licensing Service in terms of formal action, informal action and advice.

The **Community Safety and Licensing Service** will make it clear in written and where possible, verbal communication what must be done, distinguishing between statutory requirements and what is desirable but not compulsory, to those who are potentially subject to enforcement action.

Anonymous complaints will be investigated where possible. Generally, anonymous complaints do not provide us with enough information to enable us to undertake a full investigation and so we may be restricted in our ability to resolve or take further action in some cases.

## Helpfulness

The Council believes that prevention is better than cure and that its role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. It will provide a courteous and efficient service and staff will identify themselves by name. It will provide contact point and telephone number for further dealings with the service and will encourage business to seek advice/information from officers. Applications for registrations, licences etc will be dealt with efficiently and promptly. It will ensure that, wherever practicable, the enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

## Complaints about the Service

The Council undertakes regular customer satisfaction surveys and regularly reviews comments and complaints it receives regarding the nature and quality of its services and enforcement functions. In addition, if anyone wishes to complain about enforcement action they may do so initially by contacting:

**The Head of Community Safety and Licensing** or one of the Licensing Managers on Tel: 01279 655261



or by writing to them at Wallfields, Pegs Lane, Hertford,  
Herts SG13 8EQ

Or by e-mail at [community.protection@eastherts.gov.uk](mailto:community.protection@eastherts.gov.uk)

If a complainant is dissatisfied with the result of their complaint, they may then complain through the Council's formal complaints procedure. This is available at all council offices or on the website [www.eastherts.gov.uk](http://www.eastherts.gov.uk)

All formal complaints will be investigated in accordance with laid down procedures. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained.

### Proportionality

The Council will minimise the costs of compliance for business by ensuring that any action required is proportionate to the risks involved and the seriousness of any breach. As far as the law allows, it will take account of the circumstances of the case and the attitude of the operator when determining action but will seek to secure the most appropriate standard in the particular circumstances.

It will have regard to various courses of remedial action and will consider what is 'reasonably practicable'. Officers, when considering enforcement, will take into account the cost as well as the degree of risk. However some risks may be so serious that they cannot be permitted.

It will take particular care to work with small businesses, voluntary and community organisations and minority groups so that they can meet their legal obligations without unnecessary expense, where practicable.

Officers of the Council will, in appropriate circumstances, facilitate training and education if this is what is most needed to address problems attracting enforcement action.

### Consistency

The Council will carry out its duties in a fair, equitable and consistent manner. Decisions on enforcement always entail a degree of judgement and the circumstances of each case will inevitably differ in detail. Furthermore, guidance upon which officers rely changes over time and a decision made one day may differ from one made the next for that reason. Because of this there may be times when enforcement appears inconsistent but through no fault of the Council.

To try to ensure enforcement action is consistent within the East Herts District and with other enforcing authorities the Council will ensure that its officers:

- follow current internal procedural and guidance notes where available,
- take due account of appropriate guidance from other authoritative bodies such as the Local Authorities Co-ordinating body on Regulatory Services (LACORS),
- liaise with other enforcement agencies as necessary e.g. Health and Safety Executive, Police, Environmental Health etc
- operate an inter-agency approach where the local authority's powers are insufficient,
- are aware of any new legislation or guidance, which impacts on their duties.

The above measures will be supplemented by training for enforcing officers and managerial checks on performance.

## Transparency

Advice from officers will be put clearly and simply and will be confirmed in writing, explaining why the remedial work is necessary and over what time-scale and making sure that legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health & safety or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action is required will be given at the time and confirmed in writing later. Where the provision of such information is a legal requirement in relation to action taken, and is more stringent than this, the appropriate timescale will be adhered to.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (this advice will be issued with the enforcement notice).

## Targeting

Resources will be targeted on those persons, premises or businesses whose activities give rise to the most serious risks or where hazards are least well controlled.

The frequency and priority of proactive inspections of premises for the purpose of enforcement will be based on a risk rating system where possible: premises or activities with the highest hazards, greatest risks, poorest compliance and worst management being inspected more frequently than low risk premises. Some very low risk premises may not form part of the inspection programme at all but will generally be given literature or guidance to help them run their business safely and with the least impact on their local environment. It follows therefore that most of the Council's enforcement activity arising from its pro-active programmes is targeted on the cases most requiring it.

The second targeting mechanism is the investigation of complaints where evidence, experience and this policy are used to determine enforcement action.

The third targeting mechanism is planned, special surveys and enforcement initiatives on the back of national concerns as voiced by the government or its agencies, or local concerns as voiced by Members of the Council, or residents.

Risk rating will be determined in accordance with advice and guidance issued by the Government, advisory bodies, relevant representations, requests for a licence review, incident of complaints etc. This may result in particular types of business or particular sectors of the community being targeted from time to time.

## **6.0 SHARED ENFORCEMENT RESPONSIBILITIES**

- 6.1 The Licensing Act 2003 identifies or confers certain shared or specific powers/functions on 'responsible authorities' and 'authorised persons'. In some cases these are functions that are either exercised by other parts of the Council or separate enforcement agencies.

The Council will provide a co-ordinated approach to those licensing functions and activities that lie within its own area of control and liaise with all other relevant agencies including other Council services where relevant.

- 6.2 Responsible authorities under the Licensing Act 2003 are:

- Chief Officer of Police
- Fire Authority
- Enforcing authority under the Health & Safety at Work etc Act 1974
- Local Planning Authority

- The body responsible for or interested in matters relating to the protection of children from harm
  - Environmental Health Authorities
  - Other licensing local authorities
  - Trading Standards
  - In relation to a vessel – the navigation authority, the Environment Agency, the British Waterways Board, the Secretary of State.
- 6.3 In order to facilitate joint working under the Licensing Act 2003, the Council has entered into a joint Enforcement Protocol between the Hertfordshire Licensing Authorities, the Environmental Health Authorities, Police, Fire and Rescue Service and Trading Standards Service.
- 6.4 **The Gambling Act 2005 also introduced Responsible Authorities within the Act. All the above Authorities are included together with:**
- The Licensing Authority
  - The Gambling Commission
  - Her Majesty's Revenue and Customs
  - Any person prescribed by the Secretary of State.
- 6.5 The Council recognises there are areas of work within the **Community Safety and Licensing Service** where there may be shared or complimentary enforcement roles with other agencies that may benefit from an inter-agency or multi-agency approach. This can arise where the local authority powers alone are insufficient, shared with another agency, or required as a matter of good practice or safety. In all such circumstances the Council will aim to work in conjunction with all other agencies as appropriate.
- 7.0 ENFORCEMENT AND THE 24-HOUR ECONOMY**
- 7.1 The Council recognises that many licensable activities take place outside normal office hours and has made provision to visit businesses outside normal office hours at times when the business is operating. **The Community Safety and Licensing Service** is therefore able to carry out a range of inspection, complaint response and monitoring activities outside the Councils normal service hours.
- 8.0 SECURING COMPLIANCE WITH THE LAW**
- 8.1 It is the policy of East Herts Council to maintain and enhance the amenity of East Herts and to protect the health, safety and well-being of its residents. The Council considers that its powers to initiate formal action and prosecutions under the law are a vital tool to secure essential improvements to the environment of the district. The Council's aim is to achieve co-operation and promote a positive culture to achieve compliance with legal requirements.

The **Community Safety and Licensing Service** will, however, enforce against or prosecute those who neglect or wilfully fail to comply with their legal obligations, especially where that failure constitutes a risk to the public or where action is required to minimise adverse environmental impacts within the district.

The use of enforcement will be proportional to any offence committed, consistent in application (including consistency with other local authorities or enforcement agencies), transparent in its use and appropriate to the circumstances of the particular case in question.

Where enforcement is necessary because of ignorance of the law (which is not of course a defence against criminal proceedings) rather than wilfulness, officers will give advice and guidance to those involved in addition to any enforcement action.

Enforcement action will not generally, therefore, be a punitive response to minor technical contraventions of law but will be forceful in situations where the public's health, safety or well being is put at risk or there is a significant environmental impact or there is a consistent failure to meet legal obligations.

In carrying out enforcement action, the **Community Safety and Licensing Service** complies with the Data Protection Act, Regulation of Investigatory Powers Act and the Human Rights Act e.g. the right to fair trial, right to respect for private and family life, prohibition of discrimination and protection of property.

Authorised officers of the Council will abide by this policy when making enforcement decisions and all operational procedures will be written to accord with it. Any departure from policy must be exceptional, capable of justification and be fully considered by Management before the decision is made, unless it is believed that there is significant risk to the public or the environment in delaying the decision.

## **8.2 Authorisation of Officers**

The full range of legislative powers available to undertake the range of duties are found in the East Herts Council Constitution, which is available on request or on the Council's website.

The constitution gives delegated power to the Director of Neighbourhood Services to appoint and authorise officers, subject where appropriate to officers possessing such qualifications as required by law or in accordance with the Council's policy and having the necessary competency and experience. All enforcement

officers will be authorised in writing by the Director of  
**Neighbourhood** Services

The authorisation of each officer is dependant on the duties they have been appointed to undertake and their training, experience and competency. A copy of the documentation detailing each enforcement officer's areas of responsibility, credentials and warrant are held on file and are regularly reviewed and updated as necessary.

### **8.3 Exercise of Powers of Entry**

In order to enforce the various statutory provisions relating to the different enforcement areas, the powers of entry prescribed under the applicable legislation vary. Such powers may allow an officer to request entry to a business address without notice. Alternatively, officers seeking access to primarily residential addresses used as business premises may be required to give notice to an owner/occupier that he/she wishes to gain entry for a specified purpose on a specified day. Entry may be sought for a number of purposes, including inspection, collection of evidence, checking for compliance with a licence etc.

The obstruction of an officer is a criminal offence and it is the policy of East Herts Council to refer cases of obstruction to the Solicitor to the Council, with a view to prosecution. In such cases the investigating officer will also apply to a Magistrate for a warrant to enter the premises by force if necessary, to enable the purposes of such entry to be fulfilled.

It is the policy of East Herts Council to issue all investigating officers with identification cards which have a photographic image of the officer indelibly imprinted on them. Officers will carry their I.D. cards with them at all times and will produce them on request to verify their identity. If any person has any doubts or suspicions concerning an officers identity they can contact East Herts Council, at the address listed at the end of this policy document.

## **9.0 ENFORCEMENT OPTIONS**

- 9.1 The options that are available to the Council and its officers to secure compliance with the law following a compliance inspection, monitoring, investigation of a complaint or referral from another responsible authority and having considered all the relevant information, are:

- To take no action
- To take informal action (either written or oral)
- To issue a formal caution
- To prosecute
- To review, amend, condition, vary, revoke or suspend a licence or certificate.
- To take out an injunction.
- To use the Penalty Points System within the Hackney Carriage and Private Hire Policy
- Issue a closure notice under Criminal Justice and Police Act 2001

In any situation which requires action to ensure compliance with the law, officers will consider the following when deciding on the most appropriate enforcement method: -

- the degree of risk from the situation,
- the seriousness of the legal contravention,
- the different technical means of remedying the situation,
- the particular circumstances of the case and likelihood of its continuation or recurrence,
- the general attitude of the offender to his or her responsibilities,
- the past history of the person(s) or company involved,
- the impact of the enforcement choice in encouraging others to comply with the law,
- the likely effectiveness of the various enforcement options,

## **9.2 No action**

If it found that there has been no breach of relevant legislation or a licence condition and there is no risk to health and safety, then no further action by the Council may be required. Notwithstanding this, the investigation officer will note their findings and the reason for the decision, which must be recorded in writing for future reference.

## **9.3 Informal action**

This sort of action will be appropriate where the degree of risk (or in some cases environmental impact) from any given situation is minor, or it is technical and insignificant. The person responsible would have no recent history of non-compliance and the officer would have good reason to expect them to put right the matters in question without the need for further intervention. The other enforcement options would be inappropriate and disproportionate bearing all of these things in mind. In some instances, the law allows discretion in whether formal or informal action should be taken. Examples of informal action include written and oral warnings. Other legislation may not allow such discretion.

Informal action will be recorded on files and will be used as a basis for judgements on future enforcement action if there are recurrent problems with an offender or premises.

#### **9.4 Simple Cautions**

Simple cautions will be issued in accordance with guidance in Home Office Circular 016/2008. The aim of the simple caution is to deal quickly and simply with less serious offences, divert offenders from unnecessary appearance in the criminal courts and reduce the chances of their re-offending. A simple caution is likely to be appropriate where there has been a contravention of the law giving rise to a potential risk or environmental impact or persistent failure to put a matter right

9.5 Simple cautions will only be offered where the Council has confidence that this is in the public interest and where there is sufficient evidence to support a prosecution should the offender refuse to accept the caution, i.e.:

- The evidence available must comply with the Crown Prosecution Service code on criteria for prosecution i.e. a conviction should be more likely than an acquittal before a court;
- The offender must admit to the offence;
- The offender must agree to the caution.

9.6 There should be a presumption in favour of cautioning rather than prosecution for certain categories of offenders, e.g. the elderly or those who suffer from mental illness or impairment or a severe physical illness. However, membership of these groups does not of itself provide protection against prosecution.

9.7 The offender must be given a full explanation of the significance of the caution before being allowed to accept it, as a simple caution is an admission of guilt to a criminal offence and is recorded as such. It may be cited if the offender is found guilty of the same or similar offence on a later occasion. It remains “on record” for 3 years and will be reported to the Office of Fair Trading.

The authorisation to issue formal cautions is delegated to the Director of Neighbourhood Services.

#### **9.8 Prosecutions**

9.9 The decision to prosecute an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. Prosecution can have serious implications for all involved.



The Council has regard to the Code for Crown Prosecutors so that it can make fair and consistent decisions about prosecutions. The authorisation to prosecute is delegated to the Director of Neighbourhood Services

- 9.10 The Council has the discretion whether or not to prosecute for an offence and the decision to prosecute will be based on the circumstances of each individual case. The criteria for prosecution must be related to the risk or the seriousness of the offence rather than being a punitive response to minor technical transgressions. Not every breach of legislation will result in legal action. Relevant factors will be assessed by the investigating officer, Licensing Manager, Head of Community Safety and Licensing and, where appropriate, the Director Neighbourhood Services and the Director of Corporate Governance or their nominated representative.
- 9.11 Circumstances that warrant prosecution will include at least one of the following:
- The alleged offence involves an obvious breach of the law such that the safety, health or well being of residents, others or the environment has been put at risk;
  - The alleged offence involves a knowing or wilful failure to comply in full or in part with the requirements of a statutory notice, statutory instrument or other legal duty;
  - The alleged offence involves a failure to comply in full or part with a statutory requirement after having been given reasonable opportunity to do so;
  - A history of similar offences involving risk to the safety, health or well being of the public or the environment.
- 9.12 The enforcement officer must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person/company. This is known as the **evidential test**.
- 9.13 Having satisfied the evidential test the following factors will be taken into consideration, forming the basis of the **public interest test**:
- The seriousness of the alleged offence;
  - The previous history of the person or business concerned;
  - The ability of witnesses and their willingness to co-operate;
  - The willingness of the party concerned to prevent recurrence of the offence;
  - The probable public benefit of prosecution;
  - Any explanation offered by the alleged offender;
  - The likelihood of the defendant being able to establish, where appropriate, a due diligence/best practicable means defence;

- Whether other action (formal cautioning, improvement notices) will be more appropriate or effective.

9.14 Further factors which may influence the decision to prosecute

<b>Factors in favour of prosecution</b>	<b>Factors against prosecution</b>
Significant sentence likely	Nominal penalty probable
Defendant a ringleader or organiser of offence	Offence committed as result of genuine mistake or misunderstanding (balanced against seriousness of the offence and consequences)
Evidence of premeditation	One-off minor occurrence due to misjudgement
Offence motivated by any form of discrimination	Defendant already subject of sentencing and further conviction unlikely to result in imposition of further penalty, unless the particular offence requires a prosecution
Victim of offence was vulnerable or in fear of offender	Prosecution likely to have a detrimental effect on the victim's physical or mental health
Marked difference in actual or mental ages of defendant and victim	Defendant is particularly elderly, mentally or physically vulnerable, unless the seriousness of the offence or likelihood of its being repeated is such that it cannot be ignored
	There has been undue delay between the offence taking place and the date of trial, subject to the seriousness and complexity of the offence, unless caused in part by the defendant or offence only recently came to light

9.15 Officers investigating offences will seek to ensure that their investigations and decision making is not unduly prolonged and that complainants, witnesses and other parties are kept informed of progress with the case. To this end all cases for prosecution will be referred to the Director of Corporate Governance within 6 weeks of the decision to prosecute being made.

9.16 Fully documented contemporaneous notes will be kept of all cases.

**9.17 Forfeiture or suspension of a licence**

The Council has the power to suspend certain licences relating to individuals where the holder has failed to comply with relevant requirements. In other cases following, successful prosecution, the court may order forfeiture or suspension for a prescribed period. The Council will consider making application for a forfeiture order,

following conviction for a relevant offence, where there are sufficient grounds to believe that such action is warranted to prevent an occurrence or halt an existing occurrence.

### **9.18 Revocation of Licences**

The Council has the power to revoke certain licenses.

The criteria for revocation of an individual licence will be assessed by the investigating officer, **Licensing Manager, Head of Community Safety and Licensing and, authorised by the Director of Neighbourhood Services.**

**Where Director of Neighbourhood Services recommends revocation of licence, they may, after consulting with Chairman or Deputy Chairman of Licensing Committee, also suspend the licence or licences pending consideration by sub committee of the recommendation to revoke.**

Where there are rights of appeal against a revocation, advice on the appeal mechanism, including referrals to Licensing Committee will be clearly set out in writing at the time the action is taken.

### **9.19 Hackney Carriage and Private Hire Penalty Points System**

**The Council has approved the use of a penalty points system to deal with minor breaches of the legislation or breaches of the Policy.**

**Full details of the system and how it will operate can be found in the Hackney Carriage and Private Hire Policy.**

### **9.20 Section 19 Criminal Justice and Police Act 2001 Closure Notice**

**The Council has authorised the use of Closure Notices where:**

- Any premises are being used or have been used within the last 24 hours for the sale or consumption of alcohol on or in the vicinity of the premises without a licence;**
- Any premises that have not acted in accordance with the conditions of their licence for the sale of alcohol by retail**

**The notice informs the licence holder that if unauthorised sales continue or the licence conditions are not corrected, application may be made to the Court for an order to close the premises.**

### **9.21 Variation and amendment of Licence Conditions**

The Council has the power to attach, amend, or vary licence conditions where these are considered proportionate and necessary in accordance with Council Policy or in accordance with advice and guidance issued by the Government and advisory bodies.

## **9.22 Injunction**

An injunction from the High Court may be sought where there are sufficient grounds to believe that such action is warranted to prevent an occurrence, halt an existing occurrence or deal with dangerous circumstance.

An injunction may be sought from the courts where the circumstances of any case cause a significant problem or threat to an individual's or group of individual's health, and the normal process of law is likely to be ineffective because the perpetrator has shown a careless disregard for earlier similar requirements, or where the process of law would take an unacceptable period of time having regard to the particular circumstances.

## **10.00 IMPLEMENTATION OF THE ENFORCEMENT POLICY**

- 10.1 The **Director of Neighbourhood Services, Head of Community Safety and Licensing and Licensing Managers** will be responsible for ensuring that all enforcement officers are familiar with the requirements of and carry out their duties in accordance with this Enforcement Policy.

## **11.0 DIVERSITY**

- 11.1 The Council is committed to equality of access to its services and has adopted a 'Diversity and Equality Policy'. This policy will be followed by officers when carrying out their duties. The policy statement reads as follows:
- 11.2 "East Herts Council is firmly committed to providing and promoting equality for all its employees and the wider community. The Council has adopted this policy to ensure equality influences the way we provide services and the employment of staff. To achieve this we will endeavour to create an environment in which there is respect for every individual and recognition that no member of the public, employee, potential employee, service user or Councillor will be discriminated against irrespective of their gender, race, ethnicity, colour, marital status, disability, age, sexuality, family

responsibilities, religion, trade union involvement or political beliefs. Neither shall they be disadvantaged by conditions or requirements that cannot be shown to be justifiable for health and safety or legal reasons. This is not an exhaustive list and the Council recognises that there are other groups who may face unlawful discrimination.”

In respect of race equality the Council has adopted the McPherson’s definition of a racist incident ‘a racial incident is any incident which is perceived to be racist by the victim or any other person’.

The Council follows the Codes of Practice of the Commission for Racial Equality and Equal Opportunity Commission, and it is committed to achieving the Equality Standard for local government.

We believe in the need to eliminate unlawful discrimination and to promote equality of opportunity in all that we do. We recognise the rich diversity of East Hertfordshire’s population as a strength and we aim to treat all people with dignity and respect whilst recognising the value of each individual and the positive contribution they make to the divers community and workforce.’

## **12.0 HAVE YOUR SAY**

Our enforcement policy is regularly reviewed and updated - please tell us your views on the policy and include any comments or questions you have for us via email:

community.protection@eastherts.gov.uk OR

use the space below and return to Community Safety and Licesning, East Herts Council, Wallfields, Pegs Lane, Hertford. Herts. SG13 8EQ

Name: (Optional)

Address: (Optional)

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LARGE PRINT BY TELEPHONING 01279 655261 AND  
ASKING TO SPEAK WITH THE COMMUNICATIONS  
TEAM.**

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## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 4 NOVEMBER 2010

#### REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

#### FEEDBACK ON STATEMENT OF LICENSING POLICY

WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report**

- To present responses to consultation on Statement of Licensing Policy

<b><u>RECOMMENDATION FOR COUNCIL:</u></b>	
(A)	<b>that the Committee note the lack of response to consultation; and</b>
(B)	<b>recommends the revised Statement of Licensing Policy for approval by Council.</b>

#### 1.0 Background

1.1 Section 5 of the Licensing Act requires the Licensing Authority to determine its Licensing Policy and publish every 3 years the Statement of Licensing Policy that sets out the principles it applies in exercising its functions under the Licensing Act 2003. The Act also requires that the Statement of Licensing Policy is kept under review, and appropriate revisions are made.

#### 2.0 Report

2.1 In 2010 the Statement of Licensing Policy was reviewed, and on 22 July 2010 the Licensing Committee approved the draft revised policy subject to consideration of responses to public consultation at this meeting. No responses were received to the consultation.

#### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Licensing Policy Statement submitted 22 July 2010

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Report Author: Paul Newman – Interim Licensing Manager



## ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<b>Promoting prosperity and well-being; providing access and opportunities</b> <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	Public consultation took place during the period 26 July to 1 October 2010. No responses were received from the Public or partner organisations.
Legal:	To comply with the council's legal responsibilities, the revised Statement of Licensing Policy must be published by 30 January 2011.
Financial:	No implications other than those detailed in the report
Human Resource:	No implications other than those detailed in the report
Risk Management:	No implications other than those detailed in the report

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