



MEETING : LICENSING COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : THURSDAY 17 MARCH 2016
TIME : 7.00 PM

MEMBERS OF THE COMMITTEE:

Councillor Mrs R Cheswright (Chairman).
Councillors A Alder, P Ballam, R Brunton, G Cutting, B Deering, J Jones
(Vice-Chairman), P Kenealy, M McMullen, T Page, P Ruffles, N Symonds,
R Standley, J Taylor and C Woodward.

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

CONTACT OFFICER: PETER MANNINGS
TEL: 01279 502174.
peter.mannings@eastherts.gov.uk

DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:
 - fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
 - fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
 - participate in any discussion or vote on a matter in which a Member has a DPI;
 - knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

Audio/Visual Recording of meetings

Everyone is welcome to record meetings of the Council and its Committees using whatever, non-disruptive, methods you think are suitable, which may include social media of any kind, such as tweeting, blogging or Facebook. However, oral reporting or commentary is prohibited. If you have any questions about this please contact Democratic Services (members of the press should contact the Press Office). Please note that the Chairman of the meeting has the discretion to halt any recording for a number of reasons, including disruption caused by the filming or the nature of the business being conducted. Anyone filming a meeting should focus only on those actively participating and be sensitive to the rights of minors, vulnerable adults and those members of the public who have not consented to being filmed.

AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

To receive any Member(s)' declaration(s) of interest.

4. Minutes – 19 November 2015

To confirm the Minutes of the meeting of the Committee held on Thursday 19 November 2015 (Previously circulated as part of the Council Minute book for 16 December 2015).

5. Licensing Sub-Committee (Pages 5 – 14).

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

30 November 2015

21 January 2016

2 March 2016 – 'To Follow'.

6. Guidance on the Licensing of Late Night Refreshment (Pages 15 – 26).

7. Licensing Activity Q4 October – December 2015 (Pages 27 – 36).

8. Attendance at Licensing Sub-Committee (Pages 37 – 42).

9. 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.

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON MONDAY 30 NOVEMBER
2015, AT 2.00 PM

PRESENT: Councillor Rose Cheswright (Chairman).
Councillors R Brunton and G Cutting.

ALSO PRESENT:

Councillors L Haysey, J Jones, P Ruffles and
N Symonds.

OFFICERS IN ATTENDANCE:

Robin Clark	- Licensing Enforcement and Community Safety Manager
Claire Mabbutt	- Licensing Enforcement Officer
Peter Mannings	- Democratic Services Officer
Jenny Mills	- Licensing Enforcement Officer
George Robertson	- Legal Services Manager

8 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor R Brunton and seconded by Councillor G Cutting that Councillor Mrs R Cheswright be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor Mrs R Cheswright be appointed Chairman of the Licensing Sub-Committee for the meeting.

9 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that she had agreed to change the running order of the agenda so that the consideration of whether the holder of a Dual Drivers Licence remained a 'fit and proper' person would be considered before the matters referred to in Minutes 13 and 14.

10 MINUTES – 7 OCTOBER 2015

RESOLVED – that the Minutes of the meeting held on 7 October 2015 be confirmed as a correct record and signed by the Chairman.

11 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100(A) (4) of the Local Government Act 1972 as amended, to exclude the press and public during consideration of the business referred to in Minutes 12 – 14 on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

12 CONSIDERATION OF WHETHER THE HOLDER OF A DUAL DRIVERS LICENCE REMAINS A 'FIT AND PROPER' PERSON

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors L Haysey, J Jones, P Ruffles and N Symonds and Licensing Enforcement Officers in training could remain in the room as observers.

The Licensing Enforcement and Community Safety Manager detailed why this matter had been reported to the Licensing Sub-Committee with a recommendation from Officers that the Dual Drivers Licence be revoked.

The Sub-Committee was advised that the holder of the

Dual Drivers Licence had requested an adjournment to allow more time for him to secure legal representation. This would also allow time for disclosure of the relevant police reports. The Legal Services Manager confirmed that the applicant was entitled to be represented at this or any future meeting of the Sub-Committee.

The Chairman announced that Members had decided to adjourn a decision to allow for the disclosure of police reports and to allow the driver the opportunity to secure legal representation.

RESOLVED – that the decision on whether the holder of a Dual Drivers Licence remained a ‘fit and proper’ person be adjourned.

13 APPLICATION FOR A TAXI DRIVERS LICENCE –
APPLICANT WITH SPENT CONVICTIONS – APPLICATION
NUMBER: 029986

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors J Jones, P Ruffles and N Symonds and Licensing Enforcement Officers in training could remain in the room as observers.

The Licensing Enforcement Officer summarised the application for a Taxi Drivers Licence that had been submitted on 18 September 2015. She stated there was no additional information and the starting point for Members was a recommendation from Officers that the application be refused.

The applicant detailed the circumstances that led to a police caution in September 2011. He advised that he had made a mistake and this had been an out of character incident. He concluded that he was a suitable candidate to hold a Taxi Drivers Licence. He also stated that he had passed his cab driving test and had received an offer of employment should his application be approved.

In reply to Members' questions, the applicant gave a more detailed account of the circumstances leading to his police caution. He also undertook to conduct himself professionally in transporting all his passengers in a safe and courteous manner.

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

Following this they returned, and the Chairman announced that the Sub-Committee had listened to the comments of the applicant and Officers and had decided to approve the application for a Taxi Drivers Licence. The Chairman stated that this had been a very difficult decision that had been reached by a majority and was not unanimous. The Sub-Committee hoped that the applicant understood the importance of dealing with the public in an appropriate way.

RESOLVED – that, for the reasons now detailed, the application for a Taxi Drivers Licence be approved.

14 APPLICATION FOR A TAXI DRIVERS LICENCE –
APPLICANT WITH SPENT CONVICTIONS – APPLICATION
NUMBER: 029766

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors J Jones and N Symonds and Licensing Enforcement Officers in training could remain in the room as observers.

The Licensing Enforcement Officer detailed the nature of the application which had been submitted on 24 August 2015 for a Taxi Drivers Licence. The Sub-Committee was advised that the applicant had not disclosed a conviction that subsequently came to light during the

usual background checks.

Members were also advised that it was for the driver to convince the Sub-Committee that he was a 'fit and proper' person to hold the licence and Members had not been given a specific recommendation from Officers.

The applicant detailed the specific circumstances that had resulted in his conviction. He explained that he had previously worked in takeaways in Staffordshire and had also managed a restaurant.

In response to Members' questions, the applicant explained his non-declaration by stating he was under the impression that the conviction would not remain on his record.

The applicant assured the Sub-Committee that he had received a job offer from a taxi company and as he had experience of dealing with people who were under the influence of alcohol, the public would be safe going home in his taxi after visiting pubs and nightclubs.

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

Following this they returned, and the Chairman announced that the Sub-Committee had listened to the comments of the applicant and Officers and had decided to approve the application for a Taxi Drivers Licence on the basis that the applicant was a "fit and proper" person.

RESOLVED – that, for the reasons now detailed, the application for a Taxi Drivers Licence be approved.

The meeting closed at 3.30 pm

Chairman

Date

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON THURSDAY 21 JANUARY
2016, AT 2.00 PM

PRESENT: Councillor Michael McMullen (Chairman)
Councillors P Ballam and R Brunton.

ALSO PRESENT:

Councillors A Alder, Mrs R Cheswright,
J Jones, P Ruffles and N Symonds.

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Robin Clark	- Licensing Enforcement and Community Safety Manager
Claire Mabbutt	- Licensing Enforcement Officer
Jenny Mills	- Licensing Enforcement Officer
Oliver Rawlings	- Senior Specialist Licensing Officer
George Robertson	- Legal Services Manager

15 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor P Ballam and seconded by Councillor R Brunton that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

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

16 MINUTES – 30 NOVEMBER 2015

RESOLVED – that the Minutes of the meeting held on 30 November 2015 be confirmed as a correct record and signed by the Chairman.

17 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100(A) (4) of the Local Government Act 1972 as amended, to exclude the press and public during consideration of the business referred to in Minute 18 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

18 CONSIDERATION OF WHETHER THE HOLDER OF A DUAL DRIVERS LICENCE REMAINS A 'FIT AND PROPER' PERSON

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors A Alder, R Cheswright, J Jones, P Ruffles and N Symonds and other Licensing Enforcement Officers in training could remain in the room as observers.

The Licensing Enforcement Officer summarised why the matter had been reported to the Licensing Sub-Committee. In order to clarify the Officer's statement, the applicant's representative advised that the appeal had been discontinued due to a lack of funds and because it was a lengthy process.

The applicant's representative provided a detailed summary of the applicant's background, work experience and the events which had transpired. He assured Members that the holder of the licence had an

unblemished career as a taxi driver and he had formally registered a complaint with the Independent Police Complaints Commission (IPCC) in relation to the police caution. The applicant provided a detailed summary of the events.

In response to a query by Councillor R Brunton, the applicant explained that the passenger had decided to remain in the vehicle until the Police had arrived.

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

Following this, they returned and the Chairman announced that the Sub-Committee had carefully considered the evidence put forward and agreed that, the licensed driver remained a “fit and proper” person to hold a Dual Drivers’ Licence.

RESOLVED – that for the reasons now detailed, the holder remained a “fit and proper person” to hold a Dual Drivers’ Licence.

The meeting closed at 2.35 pm

Chairman
Date

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 17 MARCH 2016

REPORT BY CHIEF EXECUTIVE

GUIDANCE ON THE LICENSING OF LATE NIGHT REFRESHMENT

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To present Members with details of the Home Office guidance on licensing late night refreshment and consider the new power to exempt premises from the requirement to be licensed.

RECOMMENDATIONS FOR LICENSING COMMITTEE: that	
(A)	The consideration of an exemption to the requirement to be licensed for the supply of late night refreshment as part of the wider consultation on the revised Statement of Licensing Policy be approved; and
(B)	Members recommend which combination of the available exemptions should be consulted upon.

1.0 Background

- 1.1 The Deregulation Act 2015 provides for the removal or reduction of burdens relating to areas of businesses, the administration of Justice, public authorities and legislative reform.
- 1.2 The Act also provides for a duty on those exercising specified regulatory functions to have regard to the desirability of promoting economic growth. In addition, the Act repeals legislation that is no longer of practical use.
- 1.3 Schedule 2 to the 2003 Act provides a definition of what constitutes the provision of late night refreshment. It involves only the supply of 'hot food and hot drink' between the hours of 11pm and 5am.
- 1.4 Under Schedule 2, food or drink is considered to be 'hot' if, before it is supplied, it has been heated on the premises or elsewhere for

the purpose of enabling it to be consumed at a temperature above the ambient air temperature and at the time of supply it is above that temperature; or after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

- 1.5 There are existing exemptions from the requirement to licence and these are detailed in section 2 of Home Office Guidance on the licensing of late night refreshment, attached as **Essential Reference Paper 'B'**.
- 1.6 The Deregulation Act 2015 amends Schedule 2 of the Licensing Act 2003 giving licensing authorities the power to exempt the supply of late night refreshment based on designated locations, premises types and times.
- 1.7 Licensing authorities do not have to use the exemptions at all and can continue to require all late night refreshment providers to be licensed. However, licensing authorities should consider deregulation where appropriate.

2.0 Report

- 2.1 Paragraph 3.1 of the Home Office guidance states:

'The provision of late night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at fast-food take-aways where late-night drinkers congregate. However, these safeguards may not be needed everywhere or for every type of late night refreshment business.'

- 2.2 Paragraph 3.2 of the Home Office guidance states:

'Decisions to exempt supplies of late night refreshment are best made with local knowledge. The powers therefore allow licensing authorities to choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with anti-social behaviour or disorder associated with the night-time economy.'

- 2.3 The power allows the licensing authority to exempt the supply of late night refreshment if it takes place:

- a) from a premises situated in a designated area;

- b) from premises which are of a designated description;
 - c) during a designated period, between 23:00 and 05:00.
- 2.4 If the licensing authority chooses to designate an area or areas, those areas can be of any size..
- 2.5 The licensing authority can designate which type of premises the exemption will apply to from the list given in the regulations. The exemption can be for one or more of the types of premises detailed in paragraph 3.5 of the Home Office Guidance on the licensing of late night refreshment, attached as **Essential Reference Paper 'B'**.
- 2.6 The licensing authority can determine the times between 23:00 – 05:00 at which any exemption applies. Once the time is determined it would apply to the designated area or areas.
- 2.7 Any combination of the above exemptions can be used so a specific area could be designated (not necessarily the whole District), it could apply to only schools and apply only between 23:00 – 00:00.
- 2.8 When considering whether or not to use an exemption the licensing authorities should first consider what the risks are in terms of the promotion of the licensing objectives. As this is a licensing function the details of any exemption or the fact that there is no exemption should be included in the Licensing Policy.
- 2.9 Members may feel that they do not have enough information to make a recommendation regarding which exemptions should be used. If this is the case then officers would suggest that all of the exemptions be consulted on and the responses considered at a later meeting.
- 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

Deregulation Act 2015 -

<http://www.legislation.gov.uk/ukpga/2015/20/section/71/enacted>

Licensing Act 2003 -

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

Contact Member: Graham McAndrew – Executive Member for Environment and the Public Space.
graham.mcandrew@eastherts.gov.uk

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.
brian.simmonds@eastherts.gov.uk

Report Author: Oliver Rawlings – Senior Specialist Licensing Officer, Extn: 1629. oliver.rawlings@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	N/A
Legal:	The authority could be open to challenge if it cannot demonstrate that it has considered implementing the exemptions.
Financial:	There would be a cost implication if the authority was judicially reviewed. There may be implications for income depending on if/which exemptions are chosen. The impact of this is likely to be minimal as we do not have many premises that would be exempt from the requirement to licence late night refreshment that wouldn't still need a licence.
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer
Health and wellbeing – issues and impacts:	Due to types of premises that the authority could choose to exempt there are unlikely to be any issues or impacts.

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Home Office

Guidance on the licensing of late night refreshment

1. Introduction

- 1.1 This guidance sets out what activities are to be treated as the provision of late night refreshment and as such are regulated under the Licensing Act 2003 ("the 2003 Act"). It also sets out which activities are exempt from the late night refreshment aspects of the licensing regime. In particular, it includes guidance on the provisions in the Deregulation Act 2015 which amends the 2003 Act to give licensing authorities powers to opt to exempt supplies of late night refreshment from the licensing requirements of the 2003 Act which are made at or from certain designated locations, types of premises or times.
- 1.2 This guidance is not issued as part of the statutory guidance under section 182 of the 2003 Act but will be incorporated into the section 182 guidance when it is next updated. It is intended to assist licensing authorities and police forces with monitoring and enforcement activity in relation to the provision of late night refreshment. It may also help businesses who wish to provide hot food or drink to determine whether they will require a licence under the 2003 Act in order to do so.

2. General

- 2.1 Schedule 2 to the 2003 Act provides a definition of what constitutes the provision of late night refreshment. It involves only the supply of 'hot food and hot drink' between the hours of 11pm and 5am. Under Schedule 2, food or drink is considered to be 'hot' if, before it is supplied, it has been heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and at the time of supply it is above that temperature; or after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.
- 2.2 Shops, stores and supermarkets selling cold food and cold drink, whether it is immediately consumable or not, from 11.00pm are not licensable as providing late night refreshment. The 2003 Act affects premises such as night cafés and takeaway food outlets where people may gather to purchase hot food or drink at any time from 11.00pm and until 5.00am. In this case, supply takes place when the hot food or hot drink is given to the customer and not when payment is made. For example, supply takes place when a table meal is served in a restaurant or when a takeaway is handed to a customer over the counter.
- 2.3 Some premises provide hot food or hot drink between 11.00pm and 5.00am by means of vending machines. The supply of hot drink by a vending machine is not a licensable activity and is exempt under the 2003 Act provided the public have access to and can operate the machine without any involvement of the staff.
- 2.4 However, this exemption does not apply to hot food. Premises supplying hot food for a charge by vending machine are licensable if the food has been heated on the premises, even though no staff on the premises may have been involved in the transaction.
- 2.5 It is not expected that the provision of late night refreshment as a secondary activity in licensed premises open for other purposes such as public houses, cinemas or nightclubs or casinos should give rise to a need for significant additional conditions.
- 2.6 The supply of hot drink which consists of or contains alcohol is exempt under the 2003 Act as late night refreshment because it is licensed by the provisions relating to the sale or supply of alcohol.
- 2.7 The supply of hot food or hot drink free of charge is not a licensable activity. However, where any charge is made for either admission to the premises or for some other item in order to obtain the hot food or hot drink, this will not be regarded as "free of charge". Supplies by a registered charity or anyone authorised by a registered charity are also exempt.

2.8 Supplies made on moving vehicles (for example boats, trains or coaches) are also exempt. However supplies made from a vehicle which is permanently or temporarily parked, such as from a mobile takeaway van, are not exempt (see section 3.4 below for more detail on provisions for 'Vessels, vehicles and moveable structures').

2.9 Supplies of hot food or hot drink from 11.00pm are exempt from the provisions of the 2003 Act if there is no admission to the public to the premises involved and they are supplies to:

- a member of a recognised club supplied by the club;
- persons staying overnight in a hotel, guest house, lodging house, hostel, a caravan or camping site or any other premises whose main purpose is providing overnight accommodation;
- an employee of a particular employer (for example in a staff canteen);
- a person who is engaged in a particular profession or who follows a particular vocation (for example, a tradesman carrying out work at particular premises);
- a guest of any of the above.

3. Exemptions based on designated locations, premises types and times

3.1 The provision of late night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at fast-food takeaways where late-night drinkers congregate. However, these safeguards may not be needed everywhere or for every type of late night refreshment business. For example, some late-night cafés serving hot drinks after 11pm may be located nowhere near pubs and nightclubs or areas associated with alcohol-related crime and disorder.

3.2 Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. Decisions to exempt supplies of late night refreshment are best made with local knowledge. The powers therefore allow licensing authorities to choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with anti-social behaviour or disorder associated with the night time economy. As well as freeing up the businesses in question from unnecessary costs, this can also provide greater flexibility for licensing authorities to target their resources more effectively.

3.3 The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- a) on or from premises which are wholly situated in a designated area;
- b) on or from premises which are of a designated description; or
- c) during a designated period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.).

3.4 When choosing to designate a particular area as exempt, the relevant licensing authority must define the location, which can be of any size.

Vessels, vehicles and moveable structures

Under section 189 of the 2003 Act, a vehicle which is not permanently situated in the same place and is or is proposed to be used for one or more licensable activities while parked at a particular place, is to be treated as if it were premises situated at that place. Therefore, a mobile provider of late night refreshment, such as a kebab van, could be treated as exempt if it supplied hot food to the public late at night in an area which had been designated as exempt. If the mobile van drove to and began operating in a non-exempt area, a licence to carry on this activity would be required. Should the licensing authority introduce an exemption, and subsequently wish to revoke it if problems arise, it has the power to do so. Areas which are likely to be considered for exemption by licensing authorities (for example, an area outside a town centre) are unlikely to be areas in which mobile kebab vans would frequently operate. As such, mobile vehicles selling late night refreshment are likely to still require licences in the areas in which they are more commonly found.

- 3.5 When choosing to designate particular categories of premises as exempt, a licensing authority can only exempt types of premises set out in the regulations. These are:
- Motorway service areas;
 - petrol stations;
 - local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
 - schools (except domestic premises) unless there is an event taking place at which more than 500 people are present;
 - hospitals (except domestic premises);
 - community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present;
 - licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.
- 3.6 When choosing to exempt the provision of late night refreshment at particular times, the relevant licensing authority must determine the times between 11pm and 5am when the exemption applies. The exemption and any subsequent change to the time will apply to the whole licensing authority area.
- 3.7 A relevant licensing authority may use more than one type of exemption at the same time, for example by changing the times across the licensing authority area during which licensing requirements will apply and also exempting premises by type across the whole licensing authority area. However, it cannot use different forms of exemption in conjunction with one another – for example, it would not be permitted to change the times in one geographic area only.
- 3.8 Where a premises is situated in the areas of two or more licensing authorities, any of those authorities may be the relevant licensing authority and it would be advisable for an authority wishing to apply an exemption to discuss it with the other authority concerned. This might apply, for example, where an area or premises type exemption is being applied and the licensing authority is aware that a particular premises such as a motorway service area sits across the boundary of two or more licensing authority areas.

- 3.9 Licensing authorities do not have to use the exemptions at all and can continue to require all late night refreshment providers to be licensed. However, licensing authorities should consider deregulation where appropriate.
- 3.10 Existing late night refreshment licences for premises that become exempt from regulation will remain extant unless the holder chooses to surrender it to the licensing authority, but there will be no requirement on the licence holder to pay annual renewal fees and any conditions on the licence will cease to apply for as long as the exemption is in place. In cases where an exemption in relation to late night refreshment provision is applied, other licensing is unaffected. For example if a premises is licensed to sell alcohol and is exempt from requiring a late night refreshment licence, their licence in respect of the sale of alcohol is unaffected. Where a premises benefits from an exemption applied by the licensing authority, any existing conditions on a licence relating solely to the provision of late night refreshment will have no effect during the period of the exemption.
- 3.11 When deciding which exemption to use, if any, the relevant licensing authority should always first consider what the risks are in terms of the promotion of the licensing objectives. The decision to make an exemption is a licensing function that licensing authorities should include within their statement of licensing policy. It would then therefore be subject to the statutory consultation process with other responsible authorities and relevant parties set out in section 5 of the 2003 Act. However, it is for the licensing authority to decide on the detail and extent of the consultation beyond the statutory minimum. The licensing authority may decide to only consult on the proposed exemption or, alternatively, it may form part of a wider review of other matters within its statement of licensing policy. It is also for the licensing authority to decide within its statement of licensing policy whether the decision to grant exemptions is delegated to its licensing committee or to an officer.
- 3.12 When applying any of the exemptions the relevant licensing authority must publicise the changes and should decide on the most appropriate way to do this, in addition to updating its statement of licensing policy as soon as is practical. There is no requirement for licensing authorities to tell premises individually, however they should publicise the exemption in a way that ensures that those who are likely to be affected may benefit from it. If any fees are paid prior to an exemption coming into effect, licensing authorities should consider whether a refund or partial refund is appropriate. It is for each individual licensing authority to develop its own refund policy and ensure that it is communicated appropriately to all licence holders that are likely to be affected by an exemption.
- 3.13 Licensing authorities can review the exemptions at any time, to change the times, locations or types. However, unlike many other types of licensing decision, the late night refreshment exemptions are not made on a case by case basis and there is no recourse to bring an individual premises back into the licensing regime if there is a problem with that particular premises. In such cases the licensing authority would have to take a decision about the entire exemption and apply it across the whole area. Alternatively, depending on the scale of the problem, other powers could be used such as closure powers under the Anti-social Behaviour, Crime and Policing Act 2014. Environmental health legislation around noise nuisance may also offer a solution.

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 17 MARCH 2016

REPORT BY HEAD OF COMMUNITY SAFETY AND HEALTH SERVICES

REPORT ON LICENSING ACTIVITY QUARTER 4 OF 2015

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

To update Members on activity in the licensing department re:

- Processing licences,
- Enforcement activity, and
- Other implementation of the Service Plan
- Due to the transition to a new Licensing computer system, this data is limited on this occasion.

<u>RECOMMENDATION FOR LICENSING COMMITTEE:</u> that
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(A)	The report be received.
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1.0 Background

1.1 This report usually presents data by full quarters on processing and enforcement data, and Licensing Sub Committee involvement, on licences, notices, and permits, and applications including:

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

1.2 This report usually also records developments in the service that implement the Service Plan.

1.3 Due to the closure of the LALPAC Licensing system and the introduction of the new IDOX computer system data is very limited on this occasion.

2.0 Report

2.1 See **Essential Reference Paper 'B'** for performance data for quarter 4 of 2015: 1 October – 31 December 2015. This contains the numbers of applications or notices received, and totals of current licences.

2.2 This section of the report would normally contain figures as listed below; PLEASE NOTE – Due to the change of computer systems that took place in October I am not in a position to produce figures with any accuracy or meaning. However the new system will be able to produce accurate and useful information once all the modules are activated and we have all the system licences in place to operate the system fully. I would assure the Committee that all matters have been dealt with fully and to a proper conclusion.

2.3 During this quarter the enforcement team have undertaken ** actions which are divided between visits, inspections and investigations. These have been analysed further and are recorded as:

- Taxi Inspections and Investigations
- Premises Complaints
- Premises Visits
- Gambling Premises visits
- Notice checks
- Invoice visits/chase ups
- House to House Collection complaints
- Taxi Camera Investigations
- TENS Complaints and Investigations

All complaints regarding taxis and premises have been fully investigated.

2.4 In respect of premises, the breaches of the licences have been addressed in accordance with our Licensing Enforcement Policy. Currently at the time of reporting there are ** outstanding invoices. There have been ** premises suspended and no premises licence revoked due to non payment of fees.

2.5 A significant part of the enforcement team's work is to ensure that all documentation for taxi drivers and vehicles are current and licenses are valid. During this quarter ** letters were produced.

2.6 Under the licensing points system a total of ** points have been issued to ** licence holders. This is continuing to contribute to improvements in drivers and proprietors behaviour.

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

Essential Reference Paper B – Data.

Contact Member: Councillor G McAndrew, Executive Member for Environment and the Public Space.
graham.mcandrew@eastherts.gov.uk

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.
brian.simmonds@eastherts.gov.uk

Report Author: Robin Clark – Licensing Enforcement and Community Safety Manager, Extn: 1644. robin.clark@eastherts.gov.uk

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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	Promoting prosperity and well-being; providing access and opportunities <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
Health and wellbeing – issues and impacts:	No issues identified by report author or contact officer

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ESSENTIAL REFERENCE PAPER 'B'

Q4 2015 – 1 October 2015 to 31 December 2015

Licensing Act 2003

Premises Licence	Totals
New	6
Variation	15
Minor Variation	7
Transfer of premises licence	0
Change of designated premises supervisor	12
Change of name and/or address	0
Cancelled/surrendered	0
Suspended	0
Other (Amendments, renewals etc)	0

Club Premises Certificates	Totals
New	0
Variation	0
Minor Variation	0
Transfer of premises licence	0
Change of designated premises supervisor	0
Change of name and/or address	0
Cancelled/surrendered	0
Suspended	0

Personal Alcohol Licences	Totals
New	21
Amendments (change of address etc)	20

Temporary Event Notices	Totals
TENs received	175
TENs withdrawn by premises user	2
Amended by premises user	0
Objections (Police or Environmental Health)	0
Refused	3

GAMBLING ACT 2005

Club Machine Permits	17
Small Society Lotteries – New and Renewal	17
Other (fast track, amendment to permit etc)	0
Betting Premises Licence	15
Licensed Premises Gaming Machine Permit	14
Notification of Gaming Machines	125*
• This figure appears to be all that were ever issued.	

TAXIS

New Dual Drivers	4
Renewed Dual Drivers	77
Other (amendment to existing driver records etc)	4

New Private Hire Drivers	10
Renewed Private Hire Drivers	24
Cancelled/Surrendered/Lapsed	0

New Private Hire Operators	4
Renewed Private Hire Operators	8
Cancelled/Surrendered/Lapsed	0
Other (amendment, reissue of documents etc)	0

New Hackney Carriage Vehicles	17
Renewed Hackney Carriage Vehicles	85
Cancelled/Surrendered	1
Change of vehicle	14

New Private Hire Vehicles	15
Renewed Private Hire Vehicles	31
Cancelled/Surrendered/Lapsed	1
Change of vehicle	0

**TOTAL NUMBERS OF LICENSING SUB-COMMITTEE HEARINGS
BETWEEN 01 OCTOBER 2015 and 31 DECEMBER 2015**

Licensing Act 2003 – 1 new premises licence.	1
Gambling Act 2005	0
Taxi – 2 new applicants with convictions, 1 existing driver with new conviction.	1

TOTAL NUMBERS OF LICENCES	31 December 2015		
Premises Licences	457		
Club Premises Certificates	38		
Personal Licences	1641		
Dual Driver	286		
Hackney Carriage Vehicles	252		
Private Hire Drivers	60		
Private Hire Vehicles	54		
Private Hire Operators	34		

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 17 MARCH 2016

EXECUTIVE MEMBER FOR ENVIRONMENT AND THE PUBLIC SPACE

ATTENDANCE AT LICENSING SUB-COMMITTEE

WARD(S) AFFECTED: All.

Purpose/Summary of Report:

- Members have asked for details of attendances at Licensing Sub-Committees including Members attending as observers. This was in order to show work was being shared equally. These are detailed in **Essential Reference Paper 'B'**.

<u>RECOMMENDATION FOR LICENSING COMMITTEE:</u> that	
(A)	The report be received.

1.0 Background

1.1 Members of Licensing Sub-Committees are drawn from 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 G McAndrew, Executive Member for Environment and the Public Space.
graham.mcandrew@eastherts.gov.uk

Contact Officer: Jeff Hughes, Head of Democratic and Legal Support Services, Extn: 2170. jeff.hughes@eastherts.gov.uk

Report Author: Peter Mannings, Democratic Services Officer, Extn: 2174. peter.mannings@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives (<i>delete as appropriate</i>):	<p>New Priorities for 2016/17:</p> <p>Priority 1 – Improve the health and wellbeing of our communities</p> <p>Delivering services to enhance the quality of life, health and wellbeing of our residents, particularly for those who are vulnerable and encouraging local communities to help themselves.</p> <p>Priority 2 – Enhance the quality of people's lives</p> <p>Focusing on sustainability, the built environment and ensuring our towns and villages are safe and clean.</p> <p>Priority 3 – Enable a flourishing local economy</p> <p>Focusing on economic opportunities and enhancing economic wellbeing.</p>
Consultation:	None.
Legal:	The Council is required to ensure that licensing matters are dealt with by suitably qualified Members in an impartial manner.
Financial:	None.
Human Resource:	None.
Risk Management:	The Council's reputation could be at risk if licensing matters are not dealt with in a correct manner.
Health and Wellbeing Issues	None.

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ESSENTIAL REFERENCE PAPER 'B'

**Training and attendance needed (training is consider to be essential before Members are selected for a Licensing Sub–Committee hearing).

* Attendance needed at Licensing Sub–Committee to gain experience as an observer (this is considered to be a preferred prerequisite before Members are selected for a Licensing Sub–Committee hearing).

Licensing Committee Members attending as Members of Sub–Committee									
Members	Total	From 20 May 2015							
Alder A	1	02/09/15							
Ballam P	1	21/01/16							
Brunton R	3	07/10/15	30/11/15	21/01/16					
Cheswright R	3	02/09/15	30/11/15	02/03/16					
Cutting G	2	30/11/15	02/03/16						
Deering B									
Jones J	1	02/09/15							
Kenealy P**									
McMullen M	2	07/10/15	21/01/16						
Page T									
Ruffles P									
Standley R	1	02/03/16							
Symonds N	1	07/10/15							
Taylor J**									
Woodward C**									

Licensing Committee Members attending as Observer

Members	Total	From 20 May 2015							
Alder A	2	07/10/15	21/01/16						
Ballam P									
Brunton R									
Cheswright R	2	07/10/15	21/01/16						
Cutting G									
Deering B									
Jones J	2	30/11/15	21/01/16	02/03/16					
Kenealy P**									
McMullen M	1	02/09/15							
Page T	1	07/10/15							
Ruffles P	2	30/11/15	21/01/16	02/03/16					
Symonds N	2	02/09/15	21/01/16						
Standley R									
Taylor J**									
Woodward C**									