



MEETING : LICENSING COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : THURSDAY 1 NOVEMBER 2012
TIME : 4.30 PM

MEMBERS OF THE COMMITTEE:

Councillor Mrs R Cheswright (Chairman).
Councillors M McMullen, W Ashley, P Ballam, E Bedford, R Beeching,
E Buckmaster, A Burlton, K Crofton, J Demonti, N Poulton
(Vice-Chairman), J Taylor, A Warman, N Wilson and B Wrangles.

Substitutes:

Conservative Group: Councillors G Jones and P Ruffles
Liberal Democrat Group:
Independent Group: Councillor M Newman.

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

**CONTACT OFFICER:
LORRAINE BLACKBURN
01279 655261**

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.)

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 - 12 July 2012 (Pages 7 - 16).

To approve the Minutes of the meeting of the Committee held on 12 July 2012.

5. Licensing Sub-Committee (Pages 17 - 42).

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

26 June 2012

1 August 2012

20 August 2012

2 October 2012.

6. Attendance at Licensing Sub-Committee (Pages 43 - 48).

7. Gambling Act 2005: Statement of Licensing Principles: Response to Public Consultation (Pages 49 - 94).

8. Implementation of the Live Music Act 2012 (Pages 95 - 98).

9. Proposed Increase to Taxi Fees and Charges (Pages 99 - 104).

10. Revenue Forecast if the Late Night Levy were to be introduced in East Herts (Pages 105 - 110).

11. Report on Licensing Activity Quarter 2 of 2012 (Pages 111 - 118).
12. Report on Licensing Activity Quarter 3 of 2012 (Pages 119 - 126).
13. 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 12 JULY 2012,
AT 4.30 PM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors W Ashley, P Ballam, E Bedford,
R Beeching, E Buckmaster, K Crofton,
J Demonti, Mrs D Hone, M McMullen,
P Moore, N Poulton, P Ruffles and J Taylor.

OFFICERS IN ATTENDANCE:

Peter Mannings	- Democratic Services Officer
Paul Newman	- Interim Licensing Manager

180 APPOINTMENT OF VICE-CHAIRMAN

It was moved by Councillor P Ruffles and seconded by Councillor M McMullen that Councillor N Poulton be appointed Vice–Chairman of the Licensing Committee for the 2012/13 civic year.

After being put to the meeting and a vote taken, Councillor N Poulton was appointed Vice–Chairman of the Licensing Committee for the 2012/13 civic year.

RESOLVED – that Councillor N Poulton be appointed Vice–Chairman of the Licensing Committee for the 2012/13 civic year.

181 APOLOGY

An apology for absence was submitted on behalf of Councillor P Phillips. It was noted that Councillor P Ruffles was in attendance as substitute for Councillor P Phillips.

182 CHAIRMAN'S ANNOUNCEMENTS

The Chairman thanked Councillor M McMullen for his hard work as Chairman of the Licensing Committee since October 2001 and also for Chairing meetings of the Licensing Sub-Committee since May 2001. The Interim Licensing Manager also thanked Councillor M McMullen on behalf of Licensing Officers.

The Chairman welcomed the new Members of the Committee to the first meeting of the civic year, including Councillor Mrs D Hone, who had previously been a Member of the Licensing Committee.

183 MINUTES - 8 MARCH 2012

RESOLVED – that the Minutes of the meeting held on 8 March 2012 be approved as a correct record and signed by the Chairman.

184 LICENSING SUB-COMMITTEE

RESOLVED – that the Minutes of the Licensing Sub-Committee meetings held on 22 February, 11 April and 14 May 2012 be received.

185 ATTENDANCE AT LICENSING SUB-COMMITTEE

The Director of Internal Services submitted a report on details of Members' attendance at meetings of the Licensing Sub-Committee since 16 May 2012.

The Committee received the report.

RESOLVED – that the report be received.

186 AMENDMENTS TO LICENSING ACT 2003; UPDATE ON EARLY MORNING RESTRICTION ORDERS

The Director of Neighbourhood Services submitted a report in respect of the consideration of a draft response

to Home Office consultation on Early Morning Restriction Orders (EMROs) and the Late Night Levy.

The Interim Licensing Manager advised that, following debate and amendment by Members, Officers had responded to Home Office consultation in respect of EMROs and the Late Night Levy, which should come into force on 1 October 2012.

Members were advised that secondary legislation might now exempt certain types of premises from EMROs. Venues that generally operated responsibly and did not contribute to alcohol related problems would be exempt, e.g. theatres, hotels or bingo halls.

The Interim Licensing Manager detailed the likely amounts that could be paid by premises in respect of a late night levy. He stressed that the amount paid would vary depending on how long a premises remained open after midnight. 70% of the levied funds would go to the police whilst the remaining 30% would go to the Local Authority.

Members were advised that the police were in favour of EMROs, whereby a venue was not permitted to be open during certain times, for example between midnight and 3 am. EMROs could be in force as early as March 2013. The Interim Licensing Manager stated however, that EMROs and the Late Night Levy were mutually exclusive so it was likely that only one of these options would be implemented.

Councillor R Beeching commented on whether the costs associated with collecting the Late Night Levy might prove to be more than the amount that could be retrieved. In response to queries from Councillors E Buckmaster and P Moore, Members were advised that the Late Night Levy would apply to retailers and would ultimately apply to anyone selling alcohol.

The Committee received the report.

RESOLVED – that the report be received.

187 GAMBLING ACT 2005: STATEMENT OF LICENSING PRINCIPLES

The Director of Neighbourhood Services submitted a report in respect of the 12 week consultation process during July to October 2012 relating to draft changes to the Statement of Licensing Principles under the Gambling Act 2005.

Members were advised that East Herts Council was responsible for issuing premises licences, permits and registrations across the District. As the Licensing Authority, East Herts Council was also required to prepare, consult and then publish a Statement of Principles that it proposed to apply in exercising its functions under The Gambling Act 2005. The Statement must be reviewed every three years and was now due for republication by 31 January 2013.

The Interim Licensing Manager reminded Members that the Authority had passed a 'no casino' policy under Section 166 of the Gambling Act on 24 February 2010. This resolution would remain in effect for three years unless revoked by Full Council.

Members were advised that the Authority would consider renewal of the 'no casino' resolution at the appropriate time. The Interim Licensing Manager referred Members to the Statement of Licensing Principles detailed in the report for the reasons why a 'no casino' policy had been approved in 2010.

In response to a query from Councillor N Poulton, the Interim Licensing Manager confirmed that references in the Statement of Licensing Principles to 'tracks' meant any venue where football, rugby or athletics and motor racing took place, such as the activities available at Rye House near Hoddesdon.

Councillor J Taylor proposed and Councillor E Buckmaster seconded, a motion that the wording in respect of Casinos on page 74 of the report now submitted be deleted from the Statement of Licensing Principles.

After being put to the meeting and a vote taken, this motion was declared LOST.

The Committee received the report.

RESOLVED – that the draft statement as detailed in Essential Reference Paper ‘B’ of the report submitted be supported for the purposes of consultation.

188 REPORT ON LICENSING ACTIVITY QUARTER 1 OF 2012

The Director of Neighbourhood Services submitted a report updating Members on activity in the Licensing Section, including the processing of licences, enforcement activity and the implementation of the Service Plan.

Members were advised that Officers had been noticeably busier in terms of the numbers of applications that had been received. Officers were processing these applications with the same or reduced resources.

The Interim Licensing Manager stated that, although there had only been 3 Sub-Committee hearings in the first quarter of 2012, Officers had processed significant volumes of paperwork. Members were advised that 53 licence holders had amassed a total of 122 East Herts Penalty Points, mainly due to missed appointments and a number of minor infractions.

The Committee was advised of case law that had found against a Local Authority in Cardiff whereby Taxi Driver licences had been automatically suspended or revoked

following the accumulation of penalty points. The Interim Licensing Manager advised that East Herts Council was acting lawfully in that any such cases would be brought before a Sub-Committee for a decision as to whether a Taxi Driver was a fit and proper person to hold a licence.

The Committee received the report.

RESOLVED – that the report be received.

189 AMENDMENT TO LICENSING ACT 2003;
IMPLEMENTATION OF THE LIVE MUSIC ACT 2012 AND
PROPOSALS FROM THE DCMS TO DE-REGULATE
SCHEDULE 1 LICENSING ACT 2003 (REGULATED
ENTERTAINMENT)

The Director of Neighbourhood Services submitted a report updating Members regarding the Live Music Act 2012 (a Private Members Bill with Government support), which had received Royal Assent on 23 March 2012, and was likely to be implemented on 1 October 2012, to allow time for the Section 182 Guidance to be amended.

Members were reminded that Officers had reported to Licensing Committee in March 2012 that the Department for Culture, Media and Sport (DCMS) was considering the responses received regarding the proposals to remove licensing requirements for the provision of entertainment facilities.

The Interim Licensing Manager stressed that this proposal would widen the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applied to live or recorded music instead of unamplified live music. The DCMS was still considering the consultation responses that had been received to date.

The Interim Licensing Manager summarised the licensing requirements that would be removed when the Live Music Act came into effect. Members would be able to reapply

conditions should there be an application for a review.

The Committee received the report.

RESOLVED – that the report be received.

190 EXPRESSION OF INTEREST FROM TAXI VEHICLE
CONDITION GARAGE

The Director of Neighbourhood Services submitted a report in respect of expressions of interest from an MOT testing station to provide taxi vehicle condition certificate testing facilities.

Members were advised that an expression of interest had been received from an MOT testing station that wished to provide vehicle condition certificate testing to drivers and operators in Bishop's Stortford.

The Interim Licensing Manager stressed that approving this application should be conditional on an existing garage surrendering its approved status, thereby keeping the number of approved testers at 10. Members were reminded that applications from operators outside of East Herts had previously only been approved where such facilities were not reasonably available elsewhere within the District.

In response to a query from Councillor N Poulton, the Interim Licensing Manager stated that Smithers Garages, 50 London Road, Bishop's Stortford would be prepared to surrender its approved status should this application be approved, on the grounds that there was not a significant taxi clientele in that area.

In response to a query from Councillor K Crofton, Members were advised that Officers regularly visited the approved garages to ensure standards were being maintained. In response to a comment from Councillor E Buckmaster, the Interim Licensing Manager confirmed that the existing garage in Bishop's Stortford and the new

garage had been in discussions regarding the current situation.

The Committee agreed that the inclusion of an additional taxi vehicle condition garage be refused on the basis that the number of approved testers in East Herts remained at 10.

RESOLVED – that the inclusion of an additional taxi vehicle condition garage be refused for the reason now detailed.

191 FEEDBACK ON CONSULTATION WITH TRADE – TAXI LICENSING POLICY – NEGATIVE RESPONSES RECEIVED TO PROPOSAL TO LIMIT TO 250,000 MILES

The Director of Neighbourhood Services submitted a report in respect of the consultation responses regarding proposals to apply an appropriate mileage restriction beyond which vehicles would not be re-licensed as taxis.

Members were advised that, in response to a consultation suggesting a limit of 250,000 miles for private hire vehicles, Officers had been contacted by a number of taxi drivers who were opposed to such a limit. The Interim Licensing Manager summarised the responses that had been received.

The Interim Licensing Manager explained that private hire vehicles tended to experience greater wear and tear from stop start driving whereas Hackney Carriages on similar mileages suffered less when used on longer journeys involving continuous movement.

Members were advised that a mileage limit of 250,000 miles would result in 16 vehicles no longer being available as private hire vehicles in East Herts. The Committee had a general discussion regarding the merits of a mileage limit for private hire vehicles.

Councillor E Bedford commented that a visual inspection

of a vehicle was more relevant than the mileage of that vehicle. Councillor K Crofton stated that there should no limit and Members should let the inspection regime maintain standards of the private hire vehicle fleet in East Herts.

The Interim Licensing Manager stated that the vehicle condition test was a visual inspection regime and provided an objective standard over which there could be no dispute. Members were advised that the key issue was the comfort and safety of the public being protected by high standards within the private hire vehicle fleet.

Councillor N Poulton proposed and Councillor J Taylor seconded, a motion that there should be no mileage limit for private hire vehicles in East Herts and the situation be reviewed in 1 year.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

The Committee agreed that there would be no mileage limit for private hire vehicles in East Herts and the situation be reviewed after 1 year.

RESOLVED – that there would be no mileage limit for private hire vehicles in East Herts and the situation be reviewed after 1 year.

The meeting closed at 5.45 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE OLD COURTHOUSE, WINDHILL,
BISHOP'S STORTFORD ON TUESDAY 26
JUNE 2012, AT 10.00 AM

PRESENT: Councillor E Buckmaster (Chairman).
Councillors E Bedford and J Taylor.

ALSO PRESENT:

Councillors G McAndrew.

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager

1 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor J Taylor and seconded by Councillor E Bedford that Councillor E Buckmaster be appointed Chairman of the Licensing Sub-Committee for the meeting.

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

2 MINUTES – 11 APRIL 2012

RESOLVED – that the Minutes of the Licensing Sub-Committee meeting held on 11 April 2012 be confirmed as a correct record and signed by the Chairman.

3 CHAIRMAN'S ANNOUNCEMENTS

The Chairman stated that the Application to vary a Premises Licence at Dominos Pizza (8-10 Warren Place, Railway Street, Hertford) would be determined by Officers under delegated authority.

4 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 5 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

5 TAXI DRIVER APPLICANT

The Chairman outlined the procedure to be followed. The Interim Licensing Manager summarised the report. The applicant referred to issues in the report which he wished to clarify. He referred to his domestic arrangements and stated that he was being made culpable for something he had not had a part in.

The Legal Services Manager stated that the Sub-Committee had to be satisfied that he, the applicant, was a "fit and proper person" to hold a Taxi Driver's Licence and reminded him of his unspent conviction. He asked the applicant if he was fully aware of the licensing process before him. The applicant confirmed that he was.

The applicant was concerned that he had taken a number of tests and that these should be taken into account in determining that he was a "fit and proper person". He was concerned about the money which he had spent in renewing his taxi vehicle licence. The applicant was provided with an opportunity to summarise his application.

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 the decision of the Sub-Committee, which was that, having listened to the comments made, the Sub-Committee was not convinced that anything had changed from the last Sub-Committee when the applicant had submitted an application. The Sub-Committee found that the Taxi Driver was not a “fit and proper person” to hold a Taxi License.

RESOLVED – that the application for a Taxi Driver’s Licence be refused.

6 APPLICATION FOR A PREMISES LICENCE - TESCO, LANCASTER WAY, BISHOP’S STORTFORD

The Chairman outlined the procedure to be followed. All those present for the application were introduced. The Interim Licensing Manager outlined the specifics of the application for a premises licence at Tesco, (Bishop’s Stortford Park Centre, Lancaster Way, Bishop’s Stortford). He stated that the Police had no objection to the proposal but there had been 27 valid objections. The Interim Licensing Manager summarised the content of the objections which centred on noise, disturbance, vandalism, litter, youths hanging around the residential areas and also anti-social behaviour.

Councillor G McAndrew, the local ward Member and representative of the objectors read out a statement summarising residents’ concerns. He referred to the fact that Tesco already had a 24 hour alcohol licence Monday to Friday and that by extending that licence, seven days a week would exacerbate problems for local residents in terms of anti-social behaviour. Councillor G McAndrew stated that Tesco were “unhelpful” in resolving problems.

The Solicitor for the applicant addressed each specific concern. It was noted that the contents of the Tesco

supermarket trolley referred to in the statement had not been bought at Tesco, but had been bought from another local supermarket.

Members of the public in attendance were provided with an opportunity to each express their concerns. In summary, these referred to anti-social behaviour in the residential areas.

Councillor J Taylor gave assurances that she had carefully considered all the evidence which had been put forward. In response to a query, the Interim Licensing Manager clarified the specifics of the application by Tesco.

The Solicitor for Tesco introduced the Licensing Team Manager and the Designated Premises Supervisor (DPS). He emphasised that the application before the Licensing Sub Committee was, in essence, a variation of their current arrangements. He referred to the recent improvements which had been made to the store, including improved CCTV. The Solicitor explained the footprint of the site and stated that alcohol represented 7% of total sales. He reminded the Sub-Committee that no responsible authorities had objected to the application.

The Solicitor for Tesco referred to the Policies which Tesco had in place to restrict the sale of alcohol at point of sale i.e. "Think 25" and referred to test purchases and mystery shopping which they carried out to ensure no underage sales took place. Their aim was to "empower staff" to refuse any sale of alcohol if they were dissatisfied with any ID which had been shown on request. He referred to a number of other Training Policies for staff which had resulted in Tesco winning "British Inn-keeper" award. In store security arrangements were explained.

The Licensing Manager for Tesco stated that an individual would be banned who had bought alcohol for an individual under age i.e. "proxy purchasing". The Solicitor for Tesco explained that there were statistics which

proved that youths who had been caught drinking had obtained their alcohol from home.

In summary, the Solicitor for Tesco, accepted that there were some anti-social behaviour activities in the area, but that there was no evidence to corroborate that this had been generated because of Tesco or that this would be exacerbated as a result of longer opening hours.

Objectors were provided with an opportunity to ask questions of the Solicitor for Tesco.

Councillor G McAndrew referred to the need for Tesco to have a Corporate Social Responsibility to consider residents' views and concerns about the anti-social behaviour.

Councillor J Taylor sought clarification on a number of points relating to the application.

The Solicitor for Tesco explained that there were people who shopped at 3am and were restricted from buying alcohol. He agreed that there were existing problems outside of the store and of the store's limited powers in dealing with some anti-social behaviour. He stressed that there was no link between Tesco selling alcohol and under age drinking in the area.

Councillor G McAndrew was provided with an opportunity to summarise his concerns on behalf of the residents.

The Solicitor on behalf of Tesco was provided with an opportunity to summarise why Tesco application should be approved.

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 the decision of the Sub-Committee, which was that, having listened to all the comments made, the Sub-Committee found that there was evidence of nuisance from those visiting the store during the early hours of the morning, as such, the Sub Committee was not prepared to grant a licence for the 24 hour sale of alcohol 7 days a week.

The Sub-Committee commented that bearing in mind local residents' concerns, the Tesco Store Manager should liaise with local residents' / the local Neighbourhood Watch, to discuss their current concerns.

RESOLVED – that the application for a new Premises Licence for the sale of alcohol 24 hours a day, 7 days a week be refused.

The meeting closed at 12.30 pm

Chairman
Date

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON WEDNESDAY 1 AUGUST
2012, AT 2.00 PM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors J Demonti and N Poulton.

ALSO PRESENT:

Councillors P Moore and P Ruffles.

OFFICERS IN ATTENDANCE:

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

7 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor N Poulton and seconded by Councillor J Demonti 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.

8 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that she would take the matters referred to at Minute 12 below after Minute 11, to give the Applicant the opportunity to attend the hearing.

9 MINUTES - 22 FEBRUARY 2012 AND 14 MAY 2012

RESOLVED – that the Minutes of the meetings held on 22 February and 14 May 2012, be confirmed as correct records and signed by the Chairman.

10 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 11 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.

11 CONSIDERATION OF A STAGE OF AN APPLICATION TO BE A TAXI DRIVER

The Chairman outlined the procedure to be followed. All those present for the application were introduced. The applicant agreed that Councillors P Moore and P Ruffles could remain in the room as observers.

The Interim Licensing Manager advised the Sub-Committee of the details of the application and provided background information relating to the applicant. The Sub-Committee was advised to consider whether the applicant was a fit and proper person to hold a taxi driver's licence.

The Sub-Committee was further advised to consider the facts surrounding this application in relation to the taxi licensing policy, which stipulated that the overriding reason for licensing taxis was to ensure public safety.

The applicant addressed the Sub-Committee in support of his application. He also responded to a number of Members' queries.

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

Following this, they returned and the Chairman announced the decision of the Sub-Committee. The Sub-Committee had listened to the comments of the Applicant and the Officer and notwithstanding some of the evidence presented, the Sub-Committee had decided that the applicant met the fit and proper person standard.

RESOLVED – that the application for a taxi driver's licence be approved.

12 APPLICATION FOR A LICENSED PREMISES GAMING MACHINE PERMIT FOR 4 MACHINES AT BLACKBIRDS, 15 – 17 PARLIAMENT SQUARE, HERTFORD, SG14 1EX

The Chairman outlined the procedure to be followed. In the absence of the applicant, the Interim Licensing Manager summarised the application in that the applicant already had a permit for 3 category C machines at this premises. The Sub-Committee was advised that this application was to increase this by 1 to 4 category C machines.

Members were advised to consider how many additional machines were appropriate before these premises could be judged to be an adult gaming centre rather than simply a pub with opportunities for gambling on category C gaming machines. The Sub-Committee should judge the extent to which 4 machines would change the character of the premises.

The Interim Licensing Manager stated that gaming machines in pubs should be located within sight of the bar area and there should be no gaming that breached gambling commission guidelines. In particular, premises licence holders and all other staff should demonstrate a full understanding of the maximum permissible gambling

stakes and prizes.

Applicants should also have no relevant convictions and there should also be an awareness of local school holiday times and how to identify the local education office should truants be identified.

The Sub-Committee was advised to consider whether the fourth gaming machine would result in an impetus to change the layout of the pub as Officers considered that there was insufficient room to locate the extra machine next to the existing machines.

The Interim Licensing Manager advised that Members could not attach conditions should the Sub-Committee be minded to grant this application. Members could however, attach a form of words to the resolution that stipulated that all gaming machines should be located within sight of the bar area to prevent children and minors from gambling, thereby protecting children from harm. Members were advised that this should also help to ensure no one was gambling to excess.

The Sub-Committee was further advised that Officers could apply for a review of the applicant's gaming machine permit if they considered that the applicant was not acting in accordance with established gambling policies.

At the conclusion of the representations Members resolved that, having listened to the comments of the Officer and considered the written evidence, the application for a fourth category C gaming machine be approved. The Sub-Committee expected this fourth machine to be located in view of the bar to ensure customers were not gambling to excess and to prevent minors and children from gambling, thereby protecting children from harm.

RESOLVED – that the application for a fourth category C gaming machine be approved.

The meeting closed at 3.20 pm.

Chairman
Date

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MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE OLD COURTHOUSE, WINDHILL,
BISHOP'S STORTFORD (ENTRANCE
OPPOSITE CHURCHYARD AT REAR OF
BISHOP'S STORTFORD POLICE STATION)
ON MONDAY 20 AUGUST 2012, AT 10.00
AM

PRESENT: Councillor Nigel Poulton (Chairman).
Councillors Mrs R Cheswright and J Taylor.

OFFICERS IN ATTENDANCE:

George Robertson	- Legal Services Manager
Paul Newman	- Interim Licensing Manager
Lorraine Blackburn	- Democratic Services Officer

13 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor J J Taylor and seconded by Councillor R Cheswright that Councillor N Poulton be appointed Chairman of the Licensing Sub-Committee for the meeting.

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

14 MINUTES - 1 AUGUST 2012

RESOLVED – that the Minutes of the meeting held on 1 August 2012 be confirmed as correct records and signed by the Chairman.

15 APPLICATION BY JD WETHERSPOON PLC FOR A
PREMISES LICENCE AT UNITS D1/D2, RIVERSIDE PIAZZA
JACKSON SQUARE BISHOP'S STORTFORD CM23 3AJ

The Chairman outlined the procedure to be followed. All those present for the application were introduced. The Interim Licensing Manager advised the Sub-Committee that following the publication of the agenda, the applicant and responsible authorities had agreed to a number of additional conditions. The applicant summarised the content of the additional conditions. The Police and Environmental Health had stated that they were happy with the application with the additional conditions.

The Interim Licensing Manager referred to the fact that a resident had provided 98 signatures on a document from residents. It was not however, submitted as a formal "petition". The local resident summarised the concerns expressed which centred on, noise, length of operating hours and anti-social behaviour.

The Solicitor for the applicant addressed each of the local residents' concerns. She stressed that the operation of the facility would be family orientated with an emphasis on food and referred to the success of other similar arrangements locally. She assured the Sub-Committee that the applicant would be happy to work with residents on an ongoing basis to resolve any issues of concern.

The Solicitor for the application responded to a number of Members' queries and were agreeable to the inclusion of further additional conditions which would go some way to addressing residents concerns. These related to the timeframe when bottle banks should be emptied, the use of SIA and / or staff in monitoring inappropriate behaviour / directing them to taxi ranks, the installation of CCTV inside and outside the premises and the closure of windows at 11pm to minimise noise disturbance to residents.

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

Following this, they returned and the Chairman

announced the decision of the Sub-Committee. The Sub-Committee decided to approve the application (and the additional conditions), subject to the following further conditions, as detailed below:

RESOLVED – that the application be approved subject to the following conditions:

(1) Bottle Banks will not be emptied before 9am and after 10pm daily;

(2) Wetherspoons will work with residents on establishing “no- smoking” and outside seating areas;

(3) SIA and / or staff will be asked to monitor patrons leaving the premises and direct them to taxi ranks, ensuring that an inappropriate behaviour is controlled;

(4) CCTV shall be placed inside and outside the premises and in line with reasonable Police requirements; and

(5) Doors and windows shall be closed at 11pm to minimise any noise disturbance to residents.

The Sub-Committee also reminded the applicant of their commitment to work with residents before and after opening, to resolve any noise or other issues of concern.

The Sub-Committee reminded residents that at issues of concern may be reported to the Community Safety and licensing officers for reconsideration by a Licensing Sub-Committee.

The meeting closed at 11.40 am.

Chairman
Date

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE MEETING ROOM A -
CHARRINGTONS HOUSE, BISHOP'S
STORTFORD ON TUESDAY 2 OCTOBER
2012, AT 10.00 AM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors E Bedford and R Beeching.

ALSO PRESENT:

Councillors P Gray, G Jones, N Symonds
and C Woodward.

OFFICERS IN ATTENDANCE:

Jimmy Demetriou	- Assistant Environmental Health Officer
Peter Mannings	- Democratic Services Officer
Jenny Mills	- Community Protection Officer
Douglas Ochiltree	- Environmental Health Technical Officer
George Robertson	- Legal Services Manager
Maria Williams	- Licensing Officer

16 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor R Beeching and seconded by Councillor E Bedford 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.

17 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that the application to vary a Premises Licence at Flames Grill, 3 Northgate End, Bishop's Stortford had been withdrawn by the Applicant.

18 MINUTES – 20 AUGUST 2012

RESOLVED – that the Minutes of the meeting held on 20 August 2012, be confirmed as a correct record and signed by the Chairman.

19 LICENSING ACT 2003 – LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) – APPLICATION FOR A NEW PREMISES LICENCE TO PROVIDE LATE NIGHT REFRESHMENT ONLY (NO ALCOHOL), CHICKEN CORNER, 14A STATION ROAD, BISHOP'S STORTFORD, HERTS, CM23 3BL

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

The Licensing Officer advised that the applicant had applied on 21 August 2012 for a new premises licence to provide Late Night Refreshment. The premises, known as Chicken Corner, currently operated as a hot food takeaway. The Applicant had applied to extend the hours until 2 am everyday.

The Sub-Committee was advised that valid objections had been received from Hertfordshire Police, the Environmental Health Officer (EHO), a Local Ward Member and from the Licensing Service as the enforcing responsible authority under the Licensing Act.

The Licensing Officer stated that the Police were concerned that the pavement was very narrow outside the premises and pedestrians were at risk from passing vehicles, particularly if people under the influence of alcohol strayed onto the road.

The Applicant had indicated that door staff from the same company that assisted the Bridge House Pub might be used at Chicken Corner. Concerns had been raised that this could leave the pub vulnerable if door staff were shared between the two premises.

The Sub-Committee was advised that the Licensing Process Manager had observed the premises selling late night refreshments after 11 pm when no permission existed for such activity.

A representative from Hertfordshire Police reiterated the salient points of the Police Objection, in that there was significant potential for breaches of the licensing objectives, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children.

In response to a query from Councillor R Beeching, the Sub-Committee was advised that the premises was located in an area covered by a Designated Public Places Order (DPPO) and the police had powers to confiscate alcohol from young people in such areas.

In response to a further query from Councillor R Beeching, Members were advised that Hertfordshire Constabulary was concerned that a take away open at the hours applied for in this location would not assist with the late night dispersal of people from Bishop's Stortford Town Centre.

The Environmental Health Officers summarised the complaints they had received in respect of Public Safety, as well as ongoing concerns regarding the inadequacy of the extract ventilation system. The Sub-Committee was advised of a number of complaints from the public in July and September regarding pedestrians overflowing onto Station Road and odours of fried chicken. A complaint had also been received regarding a disturbance outside Chicken Corner at 12:45 am.

In response to queries from Councillors E Bedford and R Beeching, Members were advised that the pavement outside Chicken Corner was very narrow and there were two nightclub style venues in the vicinity of Chicken Corner.

The Applicant's Solicitor stated that the narrow pavement had always been this way and was beyond the applicant's control. Members were advised that the footfall past the premises would peak between 3 pm and 8 pm and the premises currently closed at 11 pm, with staff being on site for a further two hours to clean the cooking equipment.

The Applicant did not intend to serve any alcohol and after 11 pm, the intention was to operate as a takeaway so the only customers inside Chicken Corner would be those waiting for food. The applicant intended to display notices regarding the double yellow lines outside the premises.

The Sub-Committee was advised that there was no evidence of fighting outside Chicken Corner. The Applicant would not serve children unless they were accompanied by a sober adult. The Applicant would also work closely with PCSOs and if staff from Spotlight Security were used, these would not be the same staff as used by the Bridge House Pub.

Councillor P Gray, a local ward Member, commented that he was satisfied that his concerns had been addressed by the mitigation measures put in place since his concerns had been lodged with Licensing Officers.

The Applicant's solicitor stated that some of the instances that had resulted in complaints were isolated events that had taken place in the opening week of trading when discounts had been in place at Chicken Corner.

The Applicant was also of the view that the issues

regarding ventilation and odours had now been addressed. Members were advised that a twice weekly rubbish collection arrangement was in place with Veolia and all rubbish was placed in lockable bins.

The representative from Hertfordshire Constabulary confirmed that, although he was aware of a report of a fight outside Chicken Corner, no formal complaint had been made to the Police by a member of public so there was no formal evidence to present to the Sub-Committee. Members were advised that there was no formal contractual arrangement in place with Spotlight Security to support Chicken Corner.

The Environmental Health Officers confirmed that Officers were not satisfied with the flue extraction arrangements at Flames Grill and although letters had been written to the applicant stating that this issue remained unresolved, there had been no response. Officers were also not satisfied with the waste handling methods in place at Chicken Corner.

Officers were aware of clear reports of a fried chicken aroma in the vicinity that could only be attributed to these premises. Members and the Applicant were advised that various levels of flue filtration were available and a level 1 filtration system might not be sufficient.

In response to queries from Councillor R Beeching, the Applicant confirmed that only take away soft drinks were available at Chicken Corner. The Applicant also confirmed that two hours was necessary to clean up the premises each night as cooking equipment was in full view of the public and had to cool before cleaning could commence.

The Applicant assured Councillor R Beeching that waste oil was disposed of in line with standard industry guidelines. The Applicant also indicated a willingness to seek additional waste collections from Veolia if this became necessary.

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 the decision of the Sub-Committee. The Sub-Committee had listened to the comments of the Applicant, the Police, Environmental Health and Licensing Officers and decided to approve the application allowing the sale of refreshments until 1 am Sunday to Thursday and on Fridays and Saturdays until 2 am.

The Applicant was advised that Members expected him to work with the Responsible Authorities to address the Environmental Health issues and that the times be rigidly adhered to as reports of out of hours opening had been noted.

RESOLVED – that the application for a new premises licence be approved.

20 LICENSING ACT 2003 – LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) – APPLICATION FOR A NEW PREMISES LICENCE TO PROVIDE LATE NIGHT REFRESHMENT ONLY (NO ALCOHOL), SHEKOS, NORTH STREET, BISHOP'S STORTFORD, HERTS, CM23 2LR

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

The Licensing Officer stated that Sheko's had made an application on 9 August 2012, through John Gearing of Gearing Property Services Ltd, for a new premises licence to provide Late Night Refreshment.

Officers had received valid objections from the Police, the Town Councillor P Gray and also from the Licensing Section in its capacity as a Responsible Authority and

also as the enforcing authority under the Licensing Act.

The Sub-Committee was advised that the Licensing Process Manager had observed the premises selling late night refreshments after 11 pm where no permission existed for such activity. Councillor P Gray had also commented on the application in that he was concerned in respect of the unauthorised selling of late night refreshment.

The Sub-Committee was also advised that the premises did not have A5 planning consent for use as a takeaway, and the permitted use as an A3 restaurant was currently restricted after 11 pm.

The Applicant's Barrister advised the Sub-Committee that the applicant had considered the opening hours permitted for Flames Grill on Northgate End, which were Monday to Wednesday until 1 am, Thursday to Saturday until 2 am and until midnight on Sunday.

The Applicant's Barrister stated that the applicant's original application was for considerably longer hours to provide for people leaving HOST bar and another premises off North Street. The Applicant had however, been mindful of the nature of the area and residents' objections and, following discussions with John Ivens of Hertfordshire Constabulary, had agreed to amend his application to the operating hours of Flames Grill.

The Applicant was aware that Flames Grill did not enjoy a good reputation with residents and he hoped to prove he could demonstrate good management when operating Shekos. The Applicant ran another premises in Bishop's Stortford and was willing to mark all Shekos' packaging with UV markers and to clear up regularly in the vicinity of the premises.

The Applicant had installed CCTV at Shekos and had rarely experienced any problems with the existing premises in South Street. The applicant's Barrister

concluded that the applicant was willing to accept a condition regarding the clearing up an agreed extent of North Street, perhaps 30 metres either side of Shekos.

In response to a query from Councillor R Beeching, the Applicant's Barrister confirmed that a planning application had been submitted for the A5 use and if that application was not granted, there could be separate enforcement proceedings.

At the conclusion of the representations the Applicant, Officers, the Police and Local Members withdrew whilst the Sub-Committee, along with the Legal Services Advisor and the Democratic Services Officer, considered the evidence.

Following this, they returned and the Chairman announced the decision of the Sub-Committee. The Sub-Committee had listened to the comments of the Applicant, the Police and Licensing Officers and had decided to approve the application allowing the sale of refreshments until 1 am Monday to Wednesday, until 2 am Thursday to Saturday and until Midnight on Sunday, subject to the following condition:

1. the applicant must clear an area 30 metres either side of Shekos immediately after closing.

The Applicant was also advised that Members expected the times to be rigidly adhered to as reports of out of hours opening had been noted.

RESOLVED – that the application for a new premises licence be approved, subject to the condition now detailed.

The meeting closed at 11.40 am

Chairman
Date

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 1 NOVEMBER 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

6. 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 M Alexander, Executive Member for
Community Safety and Environment.
malcolm.alexander@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 (delete as appropriate):	<p>People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</p> <p>Prosperity This priority focuses on safeguarding and enhancing our unique mix of rural and urban communities, promoting sustainable, economic and social opportunities.</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.

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ESSENTIAL REFERENCE PAPER 'B'

**Training and attendance needed

* Attendance needed

Licensing Committee Members attending as Members of Sub-Committee									
Members	Total	From 16 May 2012							
Ashley W									
Ballam P									
Bedford E	2	26/06	02/10						
Beeching R	1	02/10							
Buckmaster E	1	26/06							
Cheswright R	3	01/08	20/08	02/10					
Crofton K									
Demonti J	1	01/08							
Hone D									
McMullen M									
Moore P									
Phillips P									
Poulton N	2	01/08	20/08						
Taylor J	2	26/6	20/08						
Wrangles B									
Substitutes:									
Jones G									
Newman M									
Ruffles P									

Licensing Committee Members attending as Observer

Members	Total	From 16 May 2012							
Ashley W									
Ballam P									
Bedford E									
Beeching R									
Buckmaster E									
Cheswright R									
Crofton K									
Demonti J									
Hone D									
McMullen M									
Moore P	1	01/08							
Phillips P									
Poulton N									
Taylor J									
Wrangles B									

Substitutes:									
Jones G	1	02/10							
Newman M									
Ruffles P	1	01/08							

EAST HERTS COUNCIL

LICENSING COMMITTEE – 1 NOVEMBER 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

7. GAMBLING ACT 2005: STATEMENT OF LICENSING PRINCIPLES: RESPONSE TO PUBLIC CONSULTATION

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- This report details responses to an 8 week consultation process during August to October 2012 to consider draft changes to the Statement of Licensing Principles under the Gambling Act 2005.

<u>RECOMMENDATIONS FOR LICENSING COMMITTEE: That:</u>	
(A)	The nil response to public consultation be noted; and
(B)	The draft Statement of Licensing Principles 2013 – 2016, subject to amendments proposed by Licensing Committee, be recommended to full Council for approval.

1.0 Background

1.1 The Licensing Authority (East Herts Council) is required to prepare, consult and then publish a Statement of Principles that it proposes to apply in exercising its functions under The Gambling Act 2005. The Statement must be reviewed every three years, and is now due for republication by January 31st 2013.

1.2 IT were requested to publish a public consultation, to take place in the 8 week period ending 12 October 2012. Responses were also invited from Members in their capacity as consultees, and proposed amendments were made to the draft document at Licensing Committee in July.

2.0 Report

2.1 No responses were received to the public consultation.

2.2 The determination of the Statement of Principles must be by the Full Council, and it is intended that this will take place in January 2013.

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 Malcolm Alexander – Executive Member for Community Safety and Environment
malcolm.alexander@eastherts.gov.uk

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

Report Author: Paul Newman – Interim Licensing Manager, Extn: 1521. paul.newman@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives	<i>People</i> This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	Consultation took place in the 8 week period ending 15 th October 2012 through a public consultation on the council's website. Responses were obtained from Licensing Committee Members in their capacity as consultees. No other responses to consultation were received+.
Legal:	<i>See report</i>
Financial:	<i>None</i>
Human Resource:	None
Risk Management:	None

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DRAFT 2013 -2016 AFTER CONSULTATION FOR LICENSING
COMMITTEE APPROVAL 1 NOVEMBER 2012

East Hertfordshire District Council

Statement of Licensing Principles

Gambling Act 2005

Foreword

The new Gambling Act 2005 was passed on 7 April 2005. The Act modernised the law on gambling and introduced a gambling regulator, the Gambling Commission.

The Gambling Commission regulates the gambling industry, and the Act also gives responsibility for gambling premises licensing to Local Authorities, including East Herts Council.

The Gambling Commission

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

The Commission has issued Codes of Practice under section 24 about the way in which facilities for gambling are provided, which includes provisions about advertising gambling facilities.

The Gambling Commission can be contacted at:

Gambling Commission
Victoria Square House
Victoria Square
BIRMINGHAM
B2 4BP

Website: www.gamblingcommission.gov.uk

Email: info@gamblingcommission.gov.uk

The Gambling Act is available on Her Majesty's Stationery Office website, and in Stationery Office bookshops, with explanatory notes.

East Herts Council is the licensing authority under the Gambling Act 2005 for East Hertfordshire district.

The Act requires the Licensing Authority to publish a Statement of Principles that it applies when exercising its functions under the Act. The statement must be published every three years and the Licensing Authority will keep the statement under constant review and will consult statutory

consultees as set out in the Act, and any other appropriate person, on any proposed new or revised Statement of Principles. The statement must then be re-published.

This statement of principles supports East Herts Council's vision

'To improve the quality of people's lives and preserve all that is best in East Herts'

This Statement of Principles was approved at a meeting of the Full Council on [date] January 2013. Copies are available in public libraries and in the reception areas of the Council's two main offices in Hertford and Bishop's Stortford.

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

If you have any comments about this Statement of Principles please send them by e-mail or letter to:

Community.Protection@eastherts.gov.uk

Community Safety and Licensing
East Herts Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ

1. Overriding Principles

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

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

In carrying out its licensing functions under the Gambling Act 2005, the licensing authority will have regard to:

- the Act.
- The statutory guidance issued by the Gambling Commission.
- This Statement of Principles.
- The licensing objectives

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

The Council will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities, to ensure the licensing objectives are met.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Council may impose conditions to either limit access generally or to introduce measures to prevent under-age gambling where it believes it is right to do so for the prevention of physical, moral or psychological harm, especially where it receives representations to that effect.

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

All applications will be considered on their individual merits, taking the circumstances at each premises into account. When applying this overriding principle the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case.

Under Section 153 of the Act, when making decisions about premises licences and temporary use notices the Licensing Authority should aim to permit the use of premises for gambling in so far as it thinks it is:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the authority's statement of licensing principles.

This Statement takes particular account of the Gambling Commission's Guidance (5.27) to local authorities that:

“Moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority’s decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a Licensing Authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be met.”

All relevant representations will be considered when determining an application, except those that the Licensing Authority considers are frivolous or vexatious.

In determining whether to grant a Premises Licence the licensing authority will **not** have regard to the expected demand for the facilities which it is proposed to provide. Each application will be considered on its merits without regard to demand.

The licensing authority will avoid duplication with other statutory or regulatory procedures where possible. For example, the licensing authority will not consider whether a licence application is likely to be awarded planning or building consent.

The licensing authority will however listen to, and consider carefully, any concerns about conditions which licensees will not be able to meet due to planning restrictions, should such a situation arise.

The Licensing Objectives

It is the duty of the licensing authority to have regard to the licensing objectives whilst carrying out its licensing functions under the Gambling Act 2005. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Gambling Commission has stated: 'The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling'

- **PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME AND DISORDER**

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

Applicants to the Council for a Premises Licence must hold an Operating Licence from the Commission before a licence is issued. The Council will usually not determine the applicant's suitability, and will bring any concerns to the attention of the Commission.

If representations provide evidence that an area has particular problems with crime, and an application for a licence or permit is received for premises in that area, the Council will consider, in consultation with the Police and other relevant authorities, whether specific controls are needed to prevent those premises from being a source of crime.

The Council does not intend to use the 2005 Act to deal with general nuisance issues, e.g. parking problems, which can be dealt with using other powers. Powers already exist to prevent nuisance in relation to anti-social behaviour and licensing, whether caused by noise from a building, or from general disturbance after people have left.

Disorder should only be dealt with under the 2005 Act if the disorder is more serious and disruptive than mere nuisance ***and it can be shown that gambling is the source of that disorder.*** A disturbance might be serious enough to constitute disorder if Police assistance were needed to deal with it. Another factor to be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

When making decisions about crime and disorder this Licensing Authority will take account of any comments made by the Police.

- ENSURING GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

Where an Operating Licence is needed Local Authorities are not concerned with ensuring that gambling is conducted in a fair and open way as the issue is addressed by the Commission through the operating and personal licensing regime.

As betting track operators do not need an Operating Licence from the Commission the Council may, in certain circumstances, require licence conditions relating to the suitability of the environment in which betting takes place.

- PROTECTING CHILDREN AND OTHER VULNERABLE PEOPLE FROM GAMBLING

The council will consider whether specific measures are needed to protect children and other vulnerable people, balancing those measures against its s.153 obligation to permit use of premises for gambling.

Children

With limited exceptions, the 2005 Act intends that children and young people should not be allowed to gamble and should be prevented from entering gambling premises which are 'adult-only' environments.

In practice, steps will be taken to prevent children from taking part in, or being in close proximity to gambling, especially with regard to premises in areas where there may be a high rate of reported truancy. Restrictions may be placed on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos and tracks, the Gambling Commission

has issued a Code of Practice about access to these premises by children and young persons.

When considering whether to grant a Premises Licence or Permit the Council will consider whether any measures are necessary to protect children, such as entrance supervision, the separation of gambling from areas where children are frequently present, and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the 2005 Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 years of age and over. In summary:

- Betting shops cannot admit anyone under 18 years of age.
- Bingo clubs may admit those under 18 years of age but must have policies to ensure they do not gamble, except on category D machines.
- Adult Entertainment Centres cannot admit those under 18 years of age.
- Family Entertainment Centres and premises with an alcohol premises licence (such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over 18 years of age.
- Clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 years of age do not play machines other than category D machines.
- Tracks (sites where races or other sporting events take place) will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

Vulnerable persons

The Council will seek to protect vulnerable people including:

- people who gamble more than they want to;
- people who gamble beyond their means; and

- people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

2. *Background to East Herts*

East Herts Council is located in the county of Hertfordshire, which contains 10 district or borough councils in total. It is the largest of the ten councils in Hertfordshire. East Herts covers 184 square miles, approximately a third of the county, and offers a blend of rural and town living. The district has a population of 137,700 (2010 mid year population estimate), giving it the second largest population in the county. It is located on the eastern edge of Hertfordshire, with rural areas on the western, eastern and northern boundaries but considerably more urbanisation beyond the southern boundary, which is affected by the London metropolitan area. The urban areas are shown in the map:



East Herts is an unusually varied area compared with other parts of Hertfordshire. This is particularly true of the five historic market towns,

which act as local centres of services and transport hubs and through marketing themselves as destinations for visitors and tourists. The leisure industry centres around the five main towns whilst the rural areas are mainly served by local pubs.

The rest of the district is located in an attractive area of largely metropolitan green belt. The villages in general benefit from a strong rural economy with the unemployment rate being one of the lowest in the county at 1.8% (may 2012 figure). The district also benefits from a very low crime rate with only 40.8 crimes per 1000 people, compared with 52.4 per 1000 people for Hertfordshire as a whole.

There are good transport links, both by road and rail between the East Herts district and London, however there are no direct rail links between the main towns of Hertford/Ware and Bishops Stortford. Road and bus transport connects the five main towns, supported by licensed taxis.

As at July 2012 the numbers of premises issued with licences, permits or registrations are as follows:

- 15 bookmakers or betting shops
- 87 alcohol premises with gaming machines and
- 14 registered clubs with gaming machines
- 77 small society lottery registrations

There are currently no Bingo premises, no Track Betting Premises, no Casinos, and no Adult Gaming Centres in East Herts.

3. ***Consultation***

East Herts Council has conducted a public consultation on this Statement of Principles on its website before finalising and publishing.

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

- The Chief Officer of Police.
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area.
- One or more persons who appear to the authority to represent the interests of persons likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

Our consultation took place between 16th July 2012 and 5th October 2012 and we followed the Code of Practice on Consultation (Better Regulation Authority, July 2008). This document is available at:

<http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

The full list of comments made, and the consideration by the Council of those comments is available by request to Community Safety and Licensing, East Herts District Council, Wallfields, Pegs Lane, Hertford, SG13 8EG or via the Councils website at www.eastherts.gov.uk.

4 Declaration

In producing this statement of licensing principles, this Licensing Authority declares that it has regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement of principles statement.

5 Local Authority Functions

The Licensing Authority is responsible under the Gambling Act 2005 for:

- Issuing premises licences for premises where gambling activities are to take place
- Issuing Provisional Statements
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to Commercial Clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits

- Receiving and Endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintaining registers of the permits and licences that are issued under these functions

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

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

The Authority will not be involved in licensing remote gambling - this is dealt with by the Gambling Commission via Operator Licences.

6 Responsible Authorities

Where a Responsible Body or Interested Party makes a written representation relating to one of the licensing objectives, in respect of an application for a Premises Licence, the Licensing Authority must hold a hearing to consider the representations.

Responsible Bodies

The Responsible Bodies under the Act are:

- The Council as Licensing Authority
- The Gambling Commission
- The Chief Officer of Hertfordshire police
- Hertfordshire Fire and Rescue Authority
- The Council's Development Control service
- The Council's Environmental Health service
- Customs and Excise

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

- (i) The need for the body to be responsible for an area covering the whole of the licensing authority's area.

- (ii) The need for the body to be answerable to democratically elected persons, rather than any particular vested interested group.

This authority designates Hertfordshire Local Safeguarding Children Board for this purpose.

Any concerns expressed by a responsible authority about their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. The Licensing Authority will not take into account irrelevant representations , such as :

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

The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Council's website at www.eastherts.gov.uk

7 Interested Parties

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

A person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

- a. lives sufficiently close to the premises to be likely affected by the authorised activities;
- b. has business interests that might be affected by the authorised activities; or
- c. represents persons who satisfy paragraph (a) or (b)'.

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

- Each case will be decided on its merits. This authority will not apply a rigid rule to its decision making. The benefit of doubt will be given to the party making the representation until the doubt can be resolved.
- Interested parties include trade associations, and residents' or tenants' associations, if they represent someone who would be classed as an interested party in their own right. Councillors and MPs may also be interested parties. Elected councillors may represent interested parties, but may not also sit on the Licensing sub-committee determining the application.
- In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities, or has business interests likely to be affected, the Council may take account of:
 - the size of the premises;
 - the nature of the premises;
 - the nature of the authorised activities being proposed ;

- the distance of the premises from the person making the representation;
- the characteristics of the complainant; and
- the potential impact of the premises.

The Council may receive representations which it considers to be frivolous or vexatious. A vexatious representation is one that is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally one that is lacking in seriousness, or is unrelated to either the licensing objectives, the guidance issued by the Gambling Commission or this statement of principles. Decisions on whether representations are frivolous or vexatious will usually be a matter of fact, given the circumstances of the representation. In deciding whether or not a representation is frivolous or vexatious the Licensing Authority will normally consider:

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

Any such decision will be made objectively and not on the basis of any political judgment.

8 Exchange of Information

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

This licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the Gambling Act 2005.

Protocols about information exchange with other bodies will be made available.

9 Enforcement

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

This licensing authority's principles are guided by the Gambling Commission's Guidance for local authorities:

Enforcement will be:

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

This council has an Enforcement Policy based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions.

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

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

The main enforcement and compliance role for this licensing authority will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This licensing authority keeps itself informed about the consideration of the regulatory functions of local authorities by the Better Regulation Executive.

In the interests of transparency, this licensing authority's enforcement and compliance protocols and written agreements will be available upon request, from Community Safety and Licensing, East Herts Council, Wallfields, Pegs Lane, Hertford, SG13 8EQ.

PART B - PREMISES LICENCES

General Principles

Where an individual or company proposes to offer gambling for which an operating licence is required, and which is premises based, that individual or company will need to apply for a premises licence. A premises licence is one which authorises premises (which are defined in the Act as “any place”) to be used for:-

- The operation of a casino (a “casino premises licence”)
- The provision of facilities for playing bingo (a “bingo premises licence”)
- Making Category B gaming machines available for use (an “adult gaming centre premises licence”)
- Making Category C gaming machines available for use (a “family entertainment centre premises licence”) or
- The provision of facilities for betting (a “betting premises licence”)

Premises licences will be subject to requirements in the Gambling Act 2005 and regulations, and specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities may exclude default conditions and attach others, where they find it appropriate.

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

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

- *licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a*

discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

- *licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.*

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

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

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

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for;

- fairly and reasonably related to the scale and type of premises: and
- reasonable in all other respects.

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

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

This licensing authority will expect the licence applicant to offer their own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority will consider specific measures for buildings with multiple premises licences. In accordance with the Gambling Commission's guidance, measures may include;

- the supervision of entrances;
- segregation of gambling from non-gambling areas frequented by children; and
- supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

displayed prominently informing that access to the area is prohibited to persons under 18.

These considerations will apply to all premises including buildings where multiple premises licences are applicable.

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

There are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

Door Supervisors – This licensing authority will consider whether there is a need for door supervisors to meet the licensing objectives of protecting children and vulnerable persons from being harmed or exploited by gambling, and also to prevent premises becoming a source of crime. The Gambling Act 2005 has amended the Security Industry Act and door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority.

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

which are shown to be appropriate to individual premises and subject to any codes of practice.

Adult Gaming Centres

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

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

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

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

(Licensed) Family Entertainment Centres

This licensing authority has specific regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

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

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas

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

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

This licensing authority will, following the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be set out. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

Casinos

The authority has passed a 'no casino' policy under Section 166 of the Gambling Act on 24 February 2010. This resolution will remain in effect for three years unless revoked by resolution of the Full Council.

The authority will consider renewal of the no casinos resolution at the appropriate time.

The decision to pass the resolution in 2010 was taken for the following reasons:

No prejudice or advantage to any existing operator

There are no casinos in the District at present, and there have been no applications to operate casinos in the District since coming into effect of the Gambling Act 2005.

A decision to pass a "no casinos" resolution could be reversed by resolution of the full Council, but it would place the applicant in a position of having to justify why a Casino Licence should be issued.

Sufficient existing facilities

Online gambling is available through the Internet, and there are sufficient alternative venues within the District which provide a social setting for meals, refreshments, drinking and entertainment.

Promotion of the Council's corporate objectives

A "no casinos" resolution will help to restrict the amount of gambling that takes place in the East Herts area.

Gambling affects physical, social and mental well being, and creates debt. Some people in vulnerable groups are especially prone to becoming problem gamblers.

East Herts Council therefore considers that granting licences to operate casinos within East Herts would be contrary to, and that not granting licences would not undermine the Council objective of:

enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.

Bingo premises

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

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

Commercial bingo halls will require a bingo premises licence from East Herts Council.

This licensing authority notes that the Gambling Commission's guidance states:

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

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to

prevent access other than through a designated entrance

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

The Gambling Commission will issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises.

Members' clubs and commercial clubs

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

6. Betting premises

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

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

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

This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the gaming machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature or circumstances of betting machines an operator wants to offer

7. Tracks

A track is a site where races or other sporting events take place.

Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting.

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

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

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

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

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

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

7.1 Gaming machines on tracks - Further guidance from the Gambling Commission is awaited about where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

7.2 Betting machines on track premises - This licensing authority will, in accordance with the Gambling Commission's guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

7.3 Condition on rules being displayed - In line with guidance from the Gambling Commission the Council will attach a Condition to Track Premises Licence requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. This could include printing rules in the race-card or making them available in leaflet form from the track office.

8. Travelling Fairs

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

There is a 27-day statutory maximum per calendar year for the land being used as a fair, that applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

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

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

Such applications are dealt with in the same manner as applications for premises licences. Once the premises are constructed, altered or acquired the holder of a provisional statement may apply for the necessary premises licence. The Gambling Commission's draft guidance states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority can inspect it fully.

Where the holder of a provisional statement applies for a premise licence, no further representations from responsible bodies or interested parties can be taken into account unless they concern matters which could not have

been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which in the authority's opinion reflect a change in the operator's circumstances.

This authority has noted the Gambling Commission's guidance that "A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

10. Reviews

Responsible Bodies and Interested Parties (see definitions in Section 6) may apply to the Licensing Authority for a review of a premises licence. The Licensing Authority may reject an application if it thinks that the grounds on which the review is sought do not raise an issue relevant to the principles listed below; are frivolous or vexatious; will certainly not cause the Licensing Authority to wish to alter, revoke or suspend the licence; are substantially the same as previous representations or requests for review. The principles referred to above are:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing Statement of Principles

The Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

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

PART C - Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 para 7)

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

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

A Family Entertainment Centre (FEC) gaming machine permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC and if the Chief Officer of the Police has been consulted. No conditions may be imposed upon the grant of a permit. Therefore the licensing authority will, need to be satisfied that the applicant has a full understanding of the maximum stakes and prizes of the gambling that is permitted in unlicensed FEC's; has no relevant convictions (as detailed in Schedule 2 to the 2005 Act); and that all staff employed on the premises are provided with proper training in relation to stakes and prizes.. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued.

1.1 Statement of Principles This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures or training for staff to deal with suspected truant school children on the premises, measures or training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the

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

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

This Licensing Authority will accept evidence of compliance with the Code of Practice for FECs issued by the British Amusement Catering Trade Association (BACTA) as evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above requirements.

2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

The Act provides that premises licensed to sell alcohol for consumption on the premises, are automatically authorised to have 2 gaming machines, of categories C and/or D. These premises merely need to notify the authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

If a premises wishes to have more than 2 machines, then it must apply for a permit and the licensing authority must consider that application based upon the licensing objectives and any such matters as they think relevant.

Statement of Principles

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in site of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons this applicants may wish to consider the provision of information leaflets or helpline numbers for organisations such as GamCare.

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

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

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

3. Prize Gaming Permits

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

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

Statement of Principles

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

This Licensing Authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to unequal chances prize gaming. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

Conditions

There are mandatory conditions in the Gambling Act 2005 that the permit holder must comply with, but the Licensing Authority cannot attach conditions. The conditions in the 2005 Act are:

- The limits on participation fees, as set out in regulations, must be complied with.
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.
- The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize).
- Participation in the gaming must not entitle the player to take part in any other gambling.

In making its decision on an application for this type of permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

4. Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

This Licensing Authority will wish to be satisfied that applicants for these permits meet the statutory criteria for Members' clubs contained in Sections 266 and 267 of the 2005 Act. Members Clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless gaming is permitted by separate regulations. It is anticipated that this will cover, for example, bridge and whist clubs and will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit and be controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

The Gambling Commission's guidance also notes that Licensing Authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police
(Gambling Commission's draft Guidance for Local Authorities 25.18)

It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's draft Guidance for Local Authorities

states: “Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced” and “The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.”

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5. *Small Society Lottery Registrations*

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

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

A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.

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

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

- the application is on behalf of a genuine non commercial lottery
- that all persons connected with the promotion of the lottery have no relevant convictions or cautions against them

- briefly explaining the purpose of the society and; the reasons for the fund raising
- confirmation of the appointment of 2 members of the Society who have the authority to sign and complete the necessary returns
- and where a society intends to employ an external lottery manager, evidence that person holds an operators licence issued by the Gambling Commission.

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

6. Temporary Use Notices

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

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building or site.

6. Occasional Use Notices

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

Administration, Exercise and Delegations of Functions

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

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

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

Where a councillor who is a member of a Licensing Committee or a sub-committee has had direct involvement in the affairs of an application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the premises or applicant in question.

A sub-committee may also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

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

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

Council officers will make decisions on whether representations or applications for reviews should be referred to the Licensing Committee or sub-committee(s) and upon whether representations are frivolous,

irrelevant, vexatious or repetitious. Where representations are rejected, the person making that representation will be given written reasons.

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

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

Council Enforcement Policy

Community Strategy

Drugs and Alcohol Strategy

Diversity and Equality Policy

Equality and Diversity

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 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 diverse community and workforce.'

Contact Point

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

Community Safety and Licensing
East Herts District Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ

Telephone: 01992 531467.

E-Mail communityprotection@eastherts.gov.uk

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 1 NOVEMBER 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

8. IMPLEMENTATION OF THE LIVE MUSIC ACT 2012

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To update Members in respect of the implementation of the Live Music Act 2012.

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

1.0 Background

1.1 Live music is a Licensable Activity under the Licensing Act 2003, and must be authorised under a Premises Licence, a Club Premises Certificate, or a Temporary Event Notice, except as provided by the Live Music Act 2012.

1.2 Conditions on a Premises Licence relating to provision of live music and dancing have no effect where the premises permitted capacity is under 200, and at times when the premises is licensed for the supply of alcohol, unless imposed on Review.

1.3 The Live Music Act 2012 (a Private Members Bill with Government support) received Royal Assent on 23 March 2012, and has now been implemented on 1 October 2012.

2.0 Report

2.1 The Live Music Act removes the licensing requirements for:

- amplified live music between 8 am and 11 pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;

- amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and
 - unamplified live music between 8am and 11pm in all venues.
- 2.2 Where a premises continues to operate licensable activities (such as the sale of alcohol), any conditions relating to the activities above will be suspended unless they have been added following a licence review. It would also be possible to reinstate or impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.
- 2.3 The Live Music Act also removes licensing requirements for the provision of entertainment facilities. It also widens the licensing exemption for live music integral to a performance of morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

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 Malcolm Alexander – Executive Member for Community Safety and Environment
malcolm.alexander@eastherts.gov.uk

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

Report Author: Paul Newman – Interim Licensing Manager, Extn: 1521. paul.newman@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives	<i>People</i> This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	This report is for information on the implementation of the Act, and no further consultation has taken place.
Legal:	<i>See report.</i>
Financial:	<i>None</i>
Human Resource:	None
Risk Management:	None

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 1 NOVEMBER 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

9. PROPOSED INCREASE TO TAXI FEES AND CHARGES

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- This report details the corporate request to increase all discretionary fees and charges by 2.5%, and the impact this will have on taxi fees and charges.

<u>RECOMMENDATIONS FOR LICENSING COMMITTEE: That:</u>	
(A)	The proposed fees and charges increases be recommended to the Executive for approval.

1.0 Background

1.1 The Licensing Authority (East Herts Council) is empowered to set fees and charges for performing its taxi licensing functions, subject to not recovering more in fees and charges than it spends on providing the service (the 'cost recovery principle').

1.2 The East Herts Accountancy service have produced a Medium Term Financial Plan for the council, and have advised that this year, the budget strategy requires a minimum of a 2.5% increase (excluding VAT) for all discretionary fees and charges.

1.3 In September 2008 the Council adopted a set of principles to inform the process of setting of fees and charges;

- Any subsidy from council tax payers to service users would be a deliberate choice
- Discretionary fees and charges should generate income to help deliver improvements in priority services
- Discretionary fees and charges should support the MTFP
- There should be a measure of consistency in the setting of charges for similar services

- Fees and charges should be set at a level to avoid unnecessary subsidies from the council taxpayer to commercial operations
- If the impact of the fees and charges policy is going to be high, consideration should be given to changes being phased in.

1.4 After setting the fees and charges at Executive, the council must advertise the increase in the newspaper, and give at least 28 days for interested parties to make representations. The representations must be considered by Director of Neighbourhood Services, before the proposed increases are implemented.

2.0 Report

2.1 The cost recovery principle means that it would be unlawful for the council to apply the principle that 'Discretionary fees and charges should generate income to help deliver improvements in priority services' to setting taxi fees and charges, as this revenue may only be applied to providing the taxi licensing service.

2.2 The current fees and the fees and charges that would apply after applying a 2.5% increase are set out in **Essential Reference Paper B**.

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 Malcolm Alexander – Executive Member for Community Safety and Environment
malcolm.alexander@eastherts.gov.uk

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

Report Author: Paul Newman – Interim Licensing Manager
paul.newman@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives	<i>People</i> This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	Consultation with the taxi trade will be required for 28 days from any decision by Executive on 5 th February 2013 to implement the proposed increase, and any representations must be taken into account by Director Neighbourhood Services before the increases are implemented.
Legal:	<i>See report</i>
Financial:	<i>Increase is required to comply with budget strategy under the Medium Term Financial Plan</i>
Human Resource:	None
Risk Management:	None

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Essential Reference Paper 'B'- taxi fees and charges

	current	proposed
Hackney Carriage vehicle/proprietor (renewal)	£267.00	£274.00
Hackney Carriage vehicle/proprietor (new vehicle)	£300.00	£308.00
Private Hire drivers licence (renewal)	£103.00	£106.00
Private Hire drivers licence (grant)	£206.00	£211.00
Private Hire vehicle/proprietor licence (renewal)	£267.00	£274.00
Private Hire vehicle/proprietor licence (grant)	£300.00	£308.00
Private Hire business operator licence (subject to maximum of 6 vehicles per licence)	£213.00	£218.00
Private Hire business operator licence - each additional vehicles in excess of 6	£29.00	£30.00
Dual Driver - (Hackney/Private Hire) (Renewal)	£103.00	£106.00
Dual Driver - (Hackney/Private Hire) (Grant)	£206.00	£211.00
Change of Vehicle	£76.00	£78.00
CHANGE OF LICENCE DETAILS		
Change of Vehicle DVLA registration number	£44.00	£45.00
(Change of Vehicle licence designation) - Hackney to Private Hire	£44.00	£45.00
(Change of Vehicle licence designation) - Private Hire to Hackney	£44.00	£45.00
Change of address (or similar)	£0.00	£0.00
Change of vehicle proprietor with un-expired licence	£44.00	£45.00
Convert drivers licence to dual driver	£44.00	£45.00
ANCILLARY CHARGES		
(Knowledge Test (per test) - Hackney Carriage -	£89.00	£91.00

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 1 NOVEMBER 2012

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES:

10. REVENUE FORECAST IF THE LATE NIGHT LEVY WERE TO BE INTRODUCED IN EAST HERTS

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To inform Members about possible additional revenue that might be raised from implementing the Late Night Levy.

<u>RECOMMENDATION FOR LICENSING COMMITTEE:</u> That:	
(A)	Subject to the comments of the Licensing Committee, the draft response to consultation in respect of the Late Night Levy be approved.

1.0 Background

1.1 The Late Night Levy allows Licensing Authorities to raise additional revenue by imposing a Late Night Levy on alcohol licensed premises that are open for the supply of alcohol after midnight. Licensing Authorities may retain up to 30% of the revenue to be spent on:

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

1.2 The other 70% of the revenue must be remitted to the Police Service, and there is no limitations on the uses to which the Police Authority may apply the revenue.

1.3 An assessment has been conducted of the number of premises that currently open after midnight, by Band, ignoring those that are only open later than midnight on New Years Eve.

2.0 Report

2.1 Data has been analysed to ascertain the potential revenue from premises opening after midnight, after 1 a.m., and after 2 a.m.

2.2 Data is set out on the table in Essential Reference Paper B.

2.3 It should be noted that if the Late Night Levy is introduced, every premises affected will have the opportunity to make an application at nil cost to vary their licensed hours, so as to take them outside the liability to pay the Levy.

2.4 There may be a number of premises included in the assessment of potential revenue that rarely open after midnight, even though licensed to do so, and it is therefore possible that the reported available revenue will be significantly smaller if the Late Night Levy is implemented.

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:

The Late Night Levy (Application and Administration) Regulations may be read online; <http://www.legislation.gov.uk/ukdsi/2012/9780111526309>

Contact Member: Councillor Malcolm Alexander – Executive Member for Community Safety and Environment.
malcolm.alexander@eastherts.gov.uk

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

Report Author: Paul Newman – Interim Licensing Manager, Extn: 1521. paul.newman@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives:	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:	See report
Legal:	No issues have been identified by Contact Officer or Report Author that require approval.
Financial:	The Late Night Levy may provide an income stream to pay for Community Safety measures relevant to the Late Night Economy, e.g. taxi marshals, cctv, and other measures. The maximum available revenue, subject to the caveat in 2.4 – 2.5 above, is set out in Essential Reference Paper B.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

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ESSENTIAL REFERENCE PAPER 'B'

The Levy payable by each premises in each Band is as follows:

A	B	C	D	E
299	768	1259	1365	1493

Latest sale of alcohol	<u>After 12, and before 1 am</u>	<u>After 1, and before 2 am</u>	<u>After 2 a.m</u>
Number of premises	102	59	11
Potential Revenue (see caveat at 2.4 – 2.5)	£44,290	£18,906	£2,931

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 1 NOVEMBER 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

11. REPORT ON LICENSING ACTIVITY QUARTER 2 OF 2012

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.

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

1.0 Background

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

2.0 Report

2.1 See **Essential Reference Paper B** for performance data for quarter 2 of 2012: 1 April – 30 June 2012. This contains the numbers of applications or notices received, and totals of current licences.

2.2 During this quarter the enforcement team have undertaken 61 visits or inspections. These have been analysed further and are recorded as:

• Taxi Inspections and Investigations	11
• Premises Complaints and Visits	47
• Gambling Premises visits	0
• Blue Notice visits	3
• Invoice Visits/chase ups	0
• House to House Collection complaints	0
• Taxi Camera Investigations	0
• TENS Complaints and Investigations	0

All complaints regarding taxis and premises have been fully investigated.

2.3 In respect of premises, the breaches of the licences have been addressed in accordance with our Licensing Enforcement Policy. 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. Currently at the time of reporting there are 12 outstanding invoices.

2.4 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 57 letters were produced.

2.5 Under the penalty points system a total of 104 points have been imposed against 36 licence holders. It is hoped that this will contribute to improving 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

None.

Contact Member: Councillor Malcolm Alexander – Executive Member for Community Safety and Environment.
malcolm.alexander@eastherts.gov.uk

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

Report Author: Jenny Mills – Licensing Enforcement Officer, Extn: 1674.

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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

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Essential Reference Paper B

Q2 2012 – 1 April 2012 to 30 June 2012

Licensing Act 2003			
Premises Licences			
Variation;		3	
Dominos Pizza			
Three Tuns			
Rigsby Piano Cafe			
Reviews;		0	
		0	
Minor Variation;			
		0	
Other Processes;			
Transfer		2	
Change DPS		2	
Admendment		5	
Total number of premises licences re-issued			12
New;			
The Grandison		1	
			1
Club Certificates			
		0	
Other licences and notices			
Personal Alcohol Licence			
New applications		35	
Other processes		11	
			46
Temporary Event Notices			
Served		260	
Amended		1	
Withdrawn		2	

			263
Gambling Act 2005			
	Club Machine Permit	1	
	Licensed Premises Gaming Machine	1	
	Notification of Intent to have Gaming Machines	4	
	Small Society Lotteries – New and renew	7	
			13
Taxis			
	New Dual Drivers	0	
	Renewed Dual Drivers	65	
	Other	3	
	New Private Hire Drivers	9	
	Renewed Private Hire Drivers	3	
	Total driver applications processed this quarter		80
	New Operators	0	
	Renewed Operators	6	
	Total Operator applications processed this quarter		6
	New Hackney Carriage	2	
	Renewed Hackney Carriage	43	
	Cancelled	0	
	Change of Vehicles	13	
	New Private hire Vehicles	9	
	Renewed Private hire Vehicles	5	
	Total vehicle applications processed this quarter		75
	All applications this quarter		496

1 Sub Committee hearing arranged this quarter;

Co-op Flemming Crescent

EAST HERTS COUNCIL

LICENSING COMMITTEE – 1 NOVEMBER 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

12. REPORT ON LICENSING ACTIVITY QUARTER 3 OF 2012

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.

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

1.0 Background

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

2.0 Report

2.1 See **Essential Reference Paper B** for performance data for quarter 3 of 2012: 1 July – 30 September 2012. This contains the numbers of applications or notices received, and totals of current licences.

2.2 During this quarter the enforcement team have undertaken 70 visits or inspections. These have been analysed further and are recorded as:

- Taxi Inspections and Investigations 4
- Premises Complaints and Visits 20
- Gambling Premises visits 0
- Blue Notice visits 3
- Invoice Visits/chase ups 2
- House to House Collection complaints 0
- Taxi Camera Investigations 1
- TENS Complaints and Investigations 0

All complaints regarding taxis and premises have been fully investigated.

2.3 In respect of premises, the breaches of the licences have been addressed in accordance with our Licensing Enforcement Policy. 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. Currently at the time of reporting there are 18 outstanding invoices.

2.4 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 66 letters were produced.

2.5 Under the penalty points system a total of 122 points have been imposed against 53 licence holders. It is hoped that this will contribute to improving 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

None.

Contact Member: Councillor Malcolm Alexander – Executive Member for Community Safety and Environment.
malcolm.alexander@eastherts.gov.uk

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

Report Author: Maria Williams – Licensing Enforcement Officer,
Extn: 1674.

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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

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Essential Reference Paper B

Q3 2012 – 1 July 2012 to 30 September 2012

Licensing Act 2003			
Premises Licences			
Variation;		3	
Prezzo			
Polonia Deli			
Wilkestock			
Reviews;			
Wilkestock		1	
Minor Variation;			
		0	
Other Processes;			
Disapply DPS		0	
Transfer		1	
Change DPS		1	
Admendment		2	
cancel		2	
Total number of premises licences re-issued			9
New;			
Martins – Ware			
The Little Theatre			
Savers			
Zaffarino			
J D Wetherspoon			
			5
Club Certificates			
		0	
Other licences and notices			
Personal Alcohol Licence			
New applications		19	
Other processes		8	
			27
Temporary Event Notices			

	Served	180	
	Police Objections	0	
	Withdrawn	4	
	Amendments	0	
	Objections upheld	0	
			184
Gambling Act 2005			
	New and varied premises;	1	
	Gaming Machine Notices	5	
	Small Society Lotteries – New and renew	6	
			12
Taxis			
	New Dual Drivers	4	
	Renewed Dual Drivers	76	
	Other	0	
	New Private Hire Drivers	4	
	Renewed Private Hire Drivers	6	
	Total driver applications processed this quarter		90
	New Operators	0	
	Renewed Operators	3	
	Total Operator applications processed this quarter		3
	New Hackney Carriage	5	
	Renewed Hackney Carriage	52	
	Cancelled	0	
	Change of Vehicles	17	
	New Private hire Vehicles	4	
	Renewed Private hire Vehicles	6	
	Total vehicle applications processed this quarter		84
	All applications this quarter		415

2 Sub Committee hearings arranged this quarter;

Dominos Pizza
Tescos Bishop's Stortford