



*Mike Rowan  
Head of Legal and  
Democratic Services*

**MEETING** : LICENSING COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : THURSDAY 14 JULY 2016  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

**MEMBERS OF THE COMMITTEE:**

Councillor R Brunton (Chairman).

Councillors D Andrews, P Ballam, Mrs R Cheswright, G Cutting, B Deering, J Jones, M McMullen, T Page, R Standley, N Symonds and J Taylor.

**CONTACT OFFICER: PETER MANNINGS**  
**01279 502174**  
[peter.mannings@eastherts.gov.uk](mailto:peter.mannings@eastherts.gov.uk)

## DISCLOSABLE PECUNIARY INTERESTS

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

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

---

### **Audio/Visual Recording of meetings**

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

## AGENDA:

1. Appointment of Vice–Chairman

2. Apologies

To receive apologies for absence.

3. Chairman's Announcements

4. Declarations of Interest

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

5. Minutes – 17 March 2016

To confirm the Minutes of the meeting of the Committee held on Thursday 17 March 2016 (Previously circulated as part of the Council Minute book for 18 May 2016).

6. Licensing Sub-Committee – 2 and 10 June 2016 (Pages 7 – 18).

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

2 June 2016

10 June 2016

7. Consideration of Feedback on the Draft Statement of Licensing Policy (Pages 19 – 78).

8. Consideration of Feedback on revised Driver Convictions Policy (Pages 79 – 118).

9. Training for Licensed Drivers (Pages 119 – 130).

10. Licensing Activity Q1 January – March 2016 (Pages 131 – 138).

11. Attendance at Licensing Sub-Committee (Pages 139 – 144).
12. Presentation – Features and Benefits of Live ID in East Herts Licensed Premises

---
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.

This page is intentionally left blank

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON THURSDAY 2 JUNE 2016,  
AT 10.00 AM

---

PRESENT: Councillor David Andrews (Chairman).  
Councillors Mrs R Cheswright and  
M McMullen.

ALSO PRESENT:

Councillors J Jones, G McAndrew, T Page,  
N Symonds.

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Oliver Rawlings	- Senior Specialist Licensing Officer

ALSO IN ATTENDANCE:

James Ellis	- Advisory and Litigation Lawyer
-------------	----------------------------------

1 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor Mrs R Cheswright and seconded by Councillor M McMullen that Councillor D Andrews be appointed Chairman of the Licensing Sub-Committee for the meeting.

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

2 MINUTES – 2 MARCH 2016

RESOLVED – that the Minutes of the meeting held

on 2 March 2016 be confirmed as a correct record and signed by the Chairman.

### 3 APPLICATION FOR A TAXI DRIVER'S LICENCE – VEHICLE OUTSIDE OF POLICY

---

The Chairman outlined the procedure to be followed. All those present were introduced. The Senior Specialist Licensing Officer summarised why the matter had been reported to the Licensing Sub-Committee and reminded Members of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 Section 48(1) regarding matters to be borne in mind in relation to the grant of a private hire vehicle license.

The applicant detailed the research he had undertaken in support of his application. Members sought and were provided with clarification on a number of issues, including the applicant's market research, passengers' luggage arrangements, advertising on the rear window, special needs facilities, such as wheelchair arrangements and emergency breakdown cover. At the conclusion of the representations, the Sub-Committee withdrew with the Solicitor and Democratic Services Officer to consider the evidence.

Following this, they returned and the Chairman announced that the Sub-Committee had listened carefully to the merits of providing a taxi service in such a unique vehicle and agreed to grant a licence subject to the inclusion of conditions 1 – 3 as detailed in paragraph 2.11 of the report (and amendment of condition No 3 ii, detailed below). Additionally, the applicant was asked to ensure that the rear window was not obscured and remained free from advertising.

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

Reasons for Decision:



1. The Sub-Committee felt that whilst the vehicle is not of the type normally licenced by the Authority, the applicant had considered and addressed most aspects of how it would operate as a private hire vehicle to the satisfaction of the Sub-Committee.
2. The Sub-Committee were mindful that the vehicle requirements contained within the Licensing Policy were there to ensure passenger safety, and whilst the applicant's vehicle did not meet those requirements, this was due to the size and nature of the vehicle rather than it being unsafe, and so it was considered appropriate to step outside of the current policy on this occasion.
3. Where the Sub-Committee found there to be areas of concern with the vehicle that had not been addressed to their satisfaction, it was felt that these could be adequately addressed by attaching conditions to the licence which they felt to be reasonably necessary, under s48(2) of the Local Government (Miscellaneous Provisions) Act 1976; namely:
  - i. No luggage other than one handbag or similar to be carried in the passenger compartment of the vehicle.
  - ii. Luggage, or other items such as, but not limited to, wheelchairs, placed in the boot to not obscure the driver's view through the rear window of the vehicle.
  - iii. Tyre sealant and a pump must be carried at all times whilst hired.

#### 4 APPLICATION FOR A TAXI DRIVER'S LICENCE FOR ONE YEAR

---

The Chairman outlined the procedure to be followed. All

those present were introduced. The Senior Specialist Licensing Officer summarised why the matter had been submitted to the Licensing Sub-Committee.

The applicant explained that he had applied to renew his driver's licence for a period of one year because he was undertaking the taxi knowledge of London test and on passing, he would give up his licence. The financial implications of a one year licence versus a three year licence were considered. Members adjourned at 11.00am for a short period in order to recheck the revised Policy. On return, the Senior Specialist Licensing Officer confirmed how refunds were calculated.

At the conclusion of the representations, the Sub-Committee withdrew with the Solicitor and Democratic Services Officer to consider the application. Following this, they returned and the Chairman announced that the Sub-committee had considered the merits of the applicant's argument and decided to approve the request for a one year Taxi Driver's Licence.

RESOLVED – that for the reasons now detailed the application for a Taxi Driver's Licence for one year, be agreed.

Reason for Decision:

1. Having questioned the applicant as to his reasons for wanting a one year licence, as opposed to the standard three year licence, it was felt by the Sub-Committee that, on this occasion, it was reasonable to grant the request.
2. The Sub-Committee was sympathetic to the applicant's predicament and was taken by his confidence that he would no longer require the licence at the expiry of one year from its granting.

3. The Sub-Committee felt that the applicant presented his reasoning for wanting a reduced term licence in a well-articulated and cogent manner, and were therefore agreeable to his request on this occasion.

## 5 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 6 on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

## 6 APPLICATION FOR A TAXI DRIVER'S LICENCE – RENEWAL DRIVER WITH DVLA POINTS

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors J Jones, G McAndrew, T Page and N Symonds could remain in the room as observers. The Senior Specialist Licensing Officer summarised why the matter had been reported to the Licensing Sub-Committee.

The applicant explained the background to the speeding offences which had resulted in penalty points on his driving licence. At the conclusion of the representations, the Sub-Committee withdrew with the Solicitor and Democratic Services Officer to consider the application. Following this, they returned and the Chairman announced that the Sub-committee had carefully considered the submissions and, on balance, agreed to take no further action.

RESOLVED – that for the reasons now detailed, no further action be taken.

Reasons for Decision:

1. Whilst the Sub-Committee was keen to stress that speeding was not acceptable, and fell short of what is expected of its licenced private hire and hackney carriage drivers, the facts of the current matter, along with the applicant's long history clear of any enforcement action, meant that no further action was required on this occasion.
2. The Sub-Committee felt that the applicant had learnt a valuable lesson as a result of two speeding convictions and was unlikely to re-offend.
3. Notwithstanding the speeding convictions declared by the applicant, the Sub-Committee felt that he was a fit and proper person to hold a licence.

The Chairman on behalf of the Sub-Committee stated that as a professional driver, the applicant should be aware of the very high standards which the Council as the Licensing Authority expected.

The meeting closed at 11.35 am

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

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN  
THE COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON FRIDAY 10 JUNE 2016, AT  
2.00 PM

---

PRESENT: Councillor Jeff Jones (Chairman).  
Councillors G Cutting and R Standley.

ALSO PRESENT:

Councillors R Brunton, Mrs R Cheswright,  
G McAndrew, P Moore and P Ruffles.

OFFICERS IN ATTENDANCE:

Peter Agbley	- Licensing Officer
Robin Clark	- Licensing Enforcement and Community Safety Manager
Peter Mannings	- Democratic Services Officer
Oliver Rawlings	- Senior Specialist Licensing Officer
Mike Rowan	- Head of Legal and Democratic Services

7 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor G Cutting and seconded by Councillor R Standley that Councillor J Jones be appointed Chairman of the Licensing Sub-Committee for the meeting.

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

8 MINUTES – 2 JUNE 2016

RESOLVED – that the Minutes of the meeting held on 2 June 2016 be confirmed as a correct record and signed by the Chairman.

9 APPLICATION FOR A PERSONAL LICENCE 0874 – APPLICANT WITH A RELEVANT CONVICTION

The Chairman outlined the procedure to be followed. All those present were introduced. The Senior Specialist Licensing Officer advised that the application was for a personal licence where there was a relevant conviction as detailed in paragraph 2.3 of the report submitted.

Members were advised that due to the applicant's imprisonment her conviction would not be spent until March 2017. The Senior Specialist Licensing Officer advised that the application would have been automatically granted after March 2017 as the conviction would have been spent and therefore no longer relevant to the application.

The Sub-Committee was advised that the police objection related to the prevention of crime and disorder and it was for the police to provide evidence that this licensing objective would be undermined if Members approved the application.

The Senior Specialist Licensing Officer advised that refusing the application would mean that the applicant could still work in licensed premises but could not be named as the Designated Premises Supervisor (DPS).

Officers from Hertfordshire Constabulary detailed the full nature of the applicant's offence and subsequent conviction. They referred to a section of the crime report that had been circulated to all parties. Members were advised that there was a well-established link between drug use and licensed premises and such links could quickly escalate and cause further drug use.

The police stated that the applicant had denied any wrong doing and this demonstrated the applicant's lack of responsibility. She had been convicted at court and her involvement should be considered as fact. The Sub-Committee should consider whether the applicant's apparent lack of willingness to take responsibility for her actions would cause Members to question her honesty and integrity.

The police concluded that the applicant appeared to be blind to the risks posed by the presence of controlled drugs. Members were advised that the Metropolitan Police operation in Hertfordshire had resulted in the seizure of 2.54 kg of cocaine with a street value of £114,000.

The applicant referred to her statements in support of her application. She acknowledged her involvement in the events that had resulted in her conviction. She stated that she was employed by Yardley Inns Limited and had 3 children between the ages of 19 and 26. She referred to the unfortunate incident that led to her involvement and subsequent conviction.

The applicant advised that in order to further her career she was seeking promotion beyond her current general management role. She stated that the premises were a quiet village inn in a country lane and she was now more aware of what to look out for as regards suspicious activity.

Councillor G Cutting questioned the applicant as to how her circumstances had changed in terms of how well equipped she was to deal with anyone she suspected of illegal activity. The applicant stated that she was now more wary, aware and vigilant and she would ask anyone she suspected of acting illegally to leave the pub. She had also warned her children.

In response to a further query from Councillor G Cutting,

the applicant explained that Yardley Inn signage was on display stating the type of behaviour that would not be tolerated. She stated that she had been found guilty by association with people who had also been convicted and she had not been involved in their activities.

Councillor R Standley asked the applicant whether she would ring the police if she suspected suspicious activity on the premises. The applicant confirmed that she would and made a final statement in support of her application. The Head of Legal and Democratic Services reminded Members that the applicant's involvement in illegal activity had been proved beyond reasonable doubt and could be considered as fact.

At the conclusion of the representations, the Sub-Committee withdrew with the Head of Legal and Democratic Services and the Democratic Services Officer to consider the application. Following this, they returned and the Chairman announced that the Sub-Committee had listened to the comments of the applicant, the Officers and the police as the responsible authority and had decided to refuse the application for a personal licence in order to promote the prevention of crime and disorder.

After listening to the evidence and the outstanding relevant conviction, Members felt that this undermined one of the licensing objectives. The Sub-Committee was not convinced that the applicant would promote the licensing objective of preventing crime and disorder.

The applicant had also not convinced the Sub-Committee that she had the necessary skills to prevent crime and particularly deal with any drug use taking place on the premises. Members hoped that the applicant continued to build her career with Yardley Inn's.

Finally, the applicant was advised that she should consider reapplying once her conviction was spent in March 2017 and she had the right of appeal to the



magistrate's court within 21 days.

RESOLVED – that the application for a personal licence be refused for the reasons now detailed.

The meeting closed at 2.50 pm

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

This page is intentionally left blank

## EAST HERTS COUNCIL

LICENSING COMMITTEE – 14 JULY 2016

### REPORT BY THE CHIEF EXECUTIVE

#### CONSIDERATION OF FEEDBACK ON THE DRAFT STATEMENT OF LICENSING POLICY

---

WARD(S) AFFECTED: ALL

---

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

- To present responses to consultation to Statement of Licensing Policy.

<b>RECOMMENDATIONS FOR DECISION:</b> that	
<b>(A)</b>	<b>The Committee consider the responses to the consultation; and</b>
<b>(B)</b>	<b>The revised Statement of Licensing Policy be recommended to Council for approval to take effect from 1<sup>st</sup> August 2016.</b>

#### 1.0 Background

- 1.1 Section 5 of the Licensing Act 2003 required the Licensing Authority to determine and publish its Licensing Policy at least every 5 years. The Statement of Licensing Policy sets out the principles that the authority will apply when exercising its functions under the Licensing Act 2003. The Act also requires that the Statement of Licensing Policy is kept under review, and appropriate revisions are made.
- 1.2 The current policy was determined in December 2014. The authority has assessed this current policy and took the decision to review the policy early as it was believed that there are emerging issues that should be addressed. In particular, the links between alcohol misuse and its impact on public health.
- 1.3 A draft Statement of Licensing Policy was prepared and then independent legal advice was sought which approved the draft for public consultation.

- 1.4 Through the implementation of its licensing policy, East Herts Council aims to effectively integrate its aims and the four licensing objectives with other initiatives that will:
- Reduce crime, disorder and anti-social behaviour;
  - Promote public safety;
  - Prevent public nuisance;
  - Protect children from harm;
  - Promote public health;
  - Reduce drug and alcohol misuse;
  - Reduce the burden of unnecessary regulation on business.
- 1.5 The public consultation was open for 3 months and closed on 26<sup>th</sup> June 2016. The list of persons directly consulted can be found at Appendix 1 of the draft Statement of Licensing Policy which is **Essential Reference Paper 'B'**.
- 1.6 This revision is considered a big step forward as it clearly sets out the vision and aspirations that East Herts Council has and how the licensing function will be exercised to support this.
- 1.7 Applicants, licence holders and those selling or supplying alcohol, providing late night refreshment or regulated entertainment will have a clearer understanding of what is expected of them. The policy will encourage responsible businesses and operators whilst giving the authority a strong basis to deal with issues that may arise from activities authorised under the Licensing Act 2003.
- 1.8 The policy will not bind the authority but it must have regard to it when making decisions. The policy cannot foresee every circumstance that may arise and each application must be considered on its own merits. Departure from the policy is allowed where there are valid reasons in the merits of a particular case.
- 1.9 Substantive changes to the draft that was consulted on can only be considered where a response was received during the consultation period. If other substantive changes are proposed after the consultation closes then for these to have effect the 12 week consultation should be started again.

## 2.0 Report

2.1 During the 3 month public consultation, only 4 responses were received. These were all from companies that either own, operate or represent petrol retailers:

- Petrol Retailers Association;
- MRH Retail;
- Rontec Watford Limited; and
- BP Oil UK Limited.

2.2 Each of the above parties submitted separate letters but they all contain the same points regarding the draft Statement of Licensing Policy as they are all represented by the same solicitors, Winckworth Sherwood. The letters are attached as **Essential Reference Paper 'C'**.

2.3 Each letter references written confirmation received from the Home Office on paragraph 5.23 of the section 182 guidance issued by them. None of the letters enclosed this written confirmation so officer's requested it from the respondents and it was subsequently supplied. It is attached at **Essential Reference Paper 'D'**.

2.4 Officers gave the points made in the letters due consideration and agreed with some of them and the draft policy has been amended appropriately. Tracked changes, including the original wording, can be seen in the draft Statement of Licensing Policy on pages 17, 18 and 19 at **Essential Reference Paper 'B'**.

2.5 Officer's response and reasoning for the changes can be found at **Essential Reference Paper 'E'**.

2.6 In addition to the changes detailed in the response to petrol station retailers two other minor amendments have been made:

- On page 4 the date that Full Council is likely to be approving the Statement of Licensing Policy has been added; and
- On page 30 East Herts licensed taxi trade has been added to the list of consultees. It was recognised that taxis are an essential part of the night time economy so every driver and operator was sent details of the consultation.

### 3.0 Implications/Consultations

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

#### Background Papers

East Herts Statement of Licensing Policy 2014-19

<http://www.eastherts.gov.uk/article/10188/Licensing-Policy>

Revised Guidance issued under Section 182 of the Licensing Act 2003  
(March 2015)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418114/182-Guidance2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf)

Contact Member: Councillor Graham McAndrew – Executive Member for Environment and the Public Space.

Contact Officer: Jonathan Geall – Head of Housing and Health, Extn: 1594.

Report Author: Oliver Rawlings – Senior Specialist Licensing Officer, Extn: 1629.

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	<p>Priority 1 – Improve the health and wellbeing of our communities</p> <p>Priority 2 – Enhance the quality of people's lives</p> <p>Priority 3 – Enable a flourishing local economy</p>
Consultation:	<i>A 12 week public consultation was carried out. The statutory consultees and stakeholders were contacted directly at the beginning of the consultation bringing it to their attention and requesting responses.</i>
Legal:	<i>The Statement of Licensing Policy is open to challenge through an appeal against a decision to magistrates court or by Judicial Review.</i>
Financial:	<i>If the policy was challenged then there would be cost implications in defending that challenge.</i>
Human Resource:	<i>None identified.</i>
Risk Management:	<i>None identified.</i>
Health and wellbeing – issues and impacts:	<p><i>By including public health within the Statement of Licensing Policy we can contribute to improving the health and wellbeing of individuals in East Herts. By having a policy that clearly sets out East Herts Councils vision and expectations it can have a positive effect on the protection of children from harm, public safety, lessen the likelihood of public nuisance and crime and disorder from licensable activities.</i></p> <p><i>It will also allow those already suffering from those issues as a result of licensable activities to take positive action to improve the situation.</i></p>

This page is intentionally left blank



**EAST HERTFORDSHIRE DISTRICT COUNCIL  
DRAFT STATEMENT OF LICENSING POLICY 2016**

## Contents

1.0	Foreword	3
	Publication	4
	Who is affected by this policy	4
	About East Herts	4
	Policy approach	6
	The Licensing Act 2003	9
	Fundamental Principles	10
2.0	Pre-application considerations	12
3.0	Cumulative impact	14
4.0	Licensing hours	14
5.0	Petrol filling stations	17
6.0	Creating Family Friendly Town Centres	18
7.0	Prevention of crime and disorder	19
8.0	Public safety	21
9.0	Prevention of nuisance	22
10.0	Protection of children from harm	23
11.0	Inspection of premises	25
12.0	Enforcement policy	25
13.0	Dealing with complaints	26
14.0	Reviews	26
15.0	Appeals	26
16.0	Administration, Exercise and Delegation of functions	26
17.0	Monitoring of licensing function	27
18.0	Miscellaneous and supplementary	28
	Promotion of other strategies	28
	Planning permission	28
	Early morning restriction order and late night levy	29
	Power to exempt premises from the requirement to have a licence for late night refreshment	29
19.0	Contact	29
20.0	APPENDIX 1 - Consultees	30
21.0	APPENDIX 2 - Glossary of terms	31

## 1.0 **FOREWORD**

- 1.1 This policy supports East Herts Council's corporate vision as detailed in the Corporate Strategic Plan 2014/15 – 2017/18:

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

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

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

East Herts is a very low crime and disorder area, frequently featuring in the 'Halifax Quality of Life Survey' as one of the best rural places to live in the whole of the UK. However our crime trends are increasing and East Herts is surrounded by areas which regularly suffer much higher crime levels. This policy takes a safeguarding approach to prevent crime and disorder escalating

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

- 1.2 East Herts enjoys a widespread and diverse selection of licensed premises and venues. More than 500 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late night refreshment. These range from off-licences, shops and supermarkets; restaurants, cafes and take-away establishments; to pubs, bars, members clubs, night clubs, theatres, cinemas and indoor sports facilities. Together they combine to provide a wide-range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.
- 1.3 As long as premises management strive to act responsibly; run safe, well managed venues and facilities; and work together with the local community, they can make a positive contribution toward building community cohesion and cultural development.
- 1.4 Of course, negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. We recognise that the misuse of alcohol particularly, while maintaining an important position in our leisure activity, does negatively impact upon both public health and wellbeing. Whilst outside of the scope of this policy we recognise the impact upon the public purse through the demands made upon A&E; additional policing; additional street cleaning; and the criminal justice system. Examples of local

costs include Night Time Economy enforcement patrols, Taxi marshals in Hertford Town centre and Street pastors.

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

## **Publication**

- 1.7 This version of the Statement of Licensing Policy was approved by the Full Council on 27th July 2016. Together with any published addendum approved by the council, it states the policies that will be used to determine licence applications.

## **Who is affected by this Policy**

This document applies to all places selling or providing

- Alcohol
- Regulated Entertainment
- Late Night Refreshment

Including:

- Pubs and night-clubs,
- Off-licences,
- Restaurants serving alcohol,
- Restaurants and take-aways open between 11.00pm and 5.00am, serving hot food and drink
- Hotels, guest houses
- Private member's clubs and social clubs
- Theatre and amateur dramatic groups,
- Cinema operators,
- Organisers of Temporary Events,
- Some community events and village halls.

It is also recognised that how the policy is applied can have an effect on:

- The lives of East Herts Residents
- Visitor to East Herts
- Businesses not directly involved with the licensed trade
- The local economy and prosperity of East Herts

## **About East Herts**

- 1.8 East Herts is the largest of the 10 districts in Hertfordshire. It covers 47,568.68 hectares, around a third of the county, and offers a blend of rural and town living. The benefits of this mixture are greatly appreciated by the 141,076 people who live in the district. The majority of the people who live in the district live in one of the five towns. Bishop's Stortford has the largest population at 37,800, followed by Hertford (26,800), Ware (18,800), Sawbridgeworth (8,500) and Buntingford (5,400).

- 1.9 Although the district is mainly comprised of farmland, five busy market towns (Bishop's Stortford, Buntingford, Hertford, Sawbridgeworth and Ware) and more than 100 villages and hamlets are scattered across the area.
- 1.10 East Herts is regarded as an attractive rural location for those moving out from (and commuting into) London because of its excellent transport links.
- 1.11 The people of East Herts are predominantly employed and enjoy higher than average earnings (£589.90 gross weekly pay for full-time workers compared to £518.10 for the whole of the country<sup>3</sup>). Unemployment is very low (1.3%<sup>4</sup>).
- 1.12 House prices are among the highest in the country; in 2014 for the period April to June the average property price was £338,000 while the average salary in 2013 was £31,548 compared to £31,949 in Hertfordshire.
- 1.13 A fifth of people are under 16 and a fifth of people are over 60. The average age in the district is 39.5.
- 1.14 Over 89% of people were born in England, 3% were born in other countries in the European Union and 4% in other countries<sup>9</sup>.
- 1.15 East Herts has a low ethnic minority population of just 4.5%. The largest ethnic minority group is Asian/Asian British at 1.9% with Indian being the highest within that group. The second largest minority group is mixed/multiple ethnic groups at 1.6%.
- 1.16 Over a third of people are educated to level 4 or higher e.g. Bachelor's degree (33.5%, 36,867). However, under a fifth of the population have no qualifications (17.2%, 18,959)
- 1.17 East Herts is one of the safest places to live in Hertfordshire with low levels of burglary and vehicle crime. The district has a crime rate that is well below average. The administration of the Licensing Act and the previous policy contributed, as part of the East Herts Community Safety Partnership, to the reduction of recorded crime and anti-social behaviour across the district. Recorded crime in East Herts has fallen by 11% 8,261 in 2012/13 to 7,362 in 2013/14 and anti-social behaviour has reduced by 28% 3,039 in 2012/13 to 2,175 in 2013/14.
- 1.18 Whilst the people of East Herts generally enjoy very good health the Public Health Service Herts warn us that Hospital stays for alcohol related harm affects 1364 people per 100,000 of our population. Alcohol specific hospital stays for our under 18 year olds is 19.1 per 100,000 of our population.
- 1.19 Public Health Herts warn that increasing levels of "Risk drinking" and "Higher risk drinking" are not only above the Hertfordshire average but also above the England average.
- 1.20 According to a presentation to our Licensing Committee (April 2014) by the East of England Ambulance Service (Cliff Austine):-

- Alcohol abuse in East Herts causes a huge cost to the service and A&E departments.
- It takes about a three hour turnaround to have vomit cleaned up after collecting a drunken person from one of our town centres. This deprives others of one of our scarce ambulances
- Our main concerns revolve around binge drinking and 'preloading' -the ability to consume large amounts of alcohol prior to going out for a night on the town"

The Director of Public Health, Herts, Jim McManus, informed the same event that;

- in East Herts, male deaths from chronic liver disease was the highest in Hertfordshire at 25 per 100,000 (Source LAPE all ages)
- 67% of pupils aged 9-11 had tasted alcohol
- 25% of pupils ages 12-15 had an alcoholic drink in the previous week
- 13% of year 10 pupils got drunk on at least on day in the last week

However we do wish to balance the many positive contributions made by the licensing sector to the vibrancy of the local area and the quality of life.

## **Policy approach**

The Council will administer the licensing function to promote the quality of people's lives and preserve all that is best in East Herts consistent with the licensing objectives:

- Promoting the prevention of crime and disorder;
- Promoting public safety;
- Promoting the prevention of public nuisance; and
- Promoting the protection of children from harm.

The Council also recognises that the legislation supports a number of other key aims and purposes and that these too are vitally important and should be principal aims for everyone involved in licensing work:

They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;

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

1.21 It is against the background of warnings from Public Health Herts about the impact of alcohol abuse upon our populations' health and wellbeing that the East Herts Licensing Committee has decided to understand and, where appropriate, incorporate public health and wellbeing concerns within its revised SLP and its decision-making process.

#### Public Health & Well-being through licensing in East Herts

1.22 East Herts Council's Environmental Health services and the Licensing section already work closely together. Further, the service now also incorporates Community Safety alongside its Public Health officers. The alignment of these different service areas has highlighted synergies, which, with appropriate policies and partnership support, could see significant benefits for residents.

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

1.24 The council in considering the potential role of Public Health within licensing and this policy has considered the revised s.182 Guidance at length.

1.25 East Herts council has taken the decision, with the full understanding and knowledge of the section 182 Revised Guidance and relevant legislation, to engage with Public Health as a central consideration in its decision making process. As a result, where a relevant representation is made regarding the undermining of the licensing objectives, and that representation relates to public health and well-being and is supported by evidence, that representation will be considered during the decision making process. This includes considering information about the impact of alcohol abuse upon wider Public Health issues, such as alcohol related illness and harms, and not just immediate impacts such as slips trips and falls from intoxication. The purpose of this is not to attempt to make Public Health the fifth licensing objective, rather using the ordinary definition of the licensing objectives to help address evidence based alcohol related harms within our communities.

1.26 While recognising that evidence based alcohol related harms are a key concern, the Licensing Authority also recognises that alcohol is just one, albeit significant, component of the recreational and in particular late night economy with which the licensing regime is addressed. The Licensing Authority will approach any Public Health representation within the wide framework of the regime and not exclusively on health and wellbeing considerations.

- 1.27 **Each application must and will be considered on its individual merits and must be granted in the absence of any relevant representations; where representations are made regard, as required by law, will be had to our statement of licensing policy. It will be expected that applicants are able to demonstrate that they have read, considered and responded, where relevant, to this statement of licensing policy in their applications. Equally responsible authorities and other persons will also be expected to have read, considered and, where relevant, address this statement of licensing policy in their representations.**
- 1.28 The Council hopes that this policy will help ensure that local people and visitors are able to enjoy their leisure time safely without fear of violence, intimidation or disorder while on, arriving at or leaving licensed premises.
- 1.29 Protecting local residents and avoiding nuisance from disturbance and anti-social behaviour caused by the conduct of inconsiderate people visiting places of entertainment, is central to our Licensing Policy. This focus aims to address concerns about the impact of trading hours on behaviour and disturbance at night.
- 1.30 The Council has to balance protecting the amenity of its local population with the expectations of commercial occupiers to have an environment that is attractive and sustainable for their business.
- 1.31 An effective Licensing Policy, with other initiatives, can help promote improvements (increasing the leisure industry provision for the community and encouraging regeneration of town centres), as well as reducing the negative impacts (noise, nuisance, anti-social behaviour and crime and disorder).
- 1.32 Our aim is to have a lighter touch for the majority of businesses and community activities, which enhance peoples' lives by providing worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises which cause problems within our communities, allow disorder, threaten public safety, cause public nuisance, or threaten the wellbeing of children, will be targeted for enforcement action.
- 1.33 This Policy is designed to build upon the work presently carried out by the Council to maintain a dynamic, innovative and attractive place to live, work and relax. The Council has a number of strategies in place that contain the visions, aims and objectives to promote, improve and protect the area. This Licensing Policy has been prepared to promote the four licensing objectives, and the Council has had regard to the local strategies which have been developed for the district, its residents, businesses, workers and visitors. The Council is working to secure the proper integration with local crime prevention, planning, transport, tourism, cultural strategies, race equality schemes and disability and gender discrimination strategies, by ensuring the Licensing Policy is consistent with the aims and objectives of these strategies.



## **The Licensing Act 2003**

- 1.34 The Act has been in operation since 24 November 2005, and is administered by local authorities.
- 1.35 The Licensing Authority for the East Hertfordshire District Council makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003. It is kept under constant review and an updated version has to be published at no more than 5 year intervals.
- 1.36 The Licensing Authority will have regard to this Policy when carrying out its functions under the Licensing Act 2003 and it will be used as a guide in decision making with regard to licensing matters.
- 1.37 Licensing regulates licensable activities. Conditions attached to licences will address matters on the premises, and near the premises, which are within the control of individual licence holders. The direct impact of the activities at the licensed premises on members of the public living, working or engaged in everyday activity in the area will be considered.
- 1.38 The central purpose of the Licensing Act is to promote the four licensing objectives, and the Licensing Authority will use its powers working with the police and other agencies to protect residents from disturbance.
- 1.39 The Act also aims to provide the entertainment/leisure industry with freedom and flexibility over provision of licensable activities and opening hours.
- 1.40 Every holder of a licence, certificate or permission should accept and be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises by taking appropriate measures and action consistent with that responsibility.
- 1.41 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour caused by people once they are away from the premises, and therefore beyond the direct control of the licence holder. Nonetheless, licensing is one aspect of such control and is part of a holistic approach.
- 1.42 Police powers to deal with any disorder are continually being strengthened and they have a key role in the prevention of crime and disorder on licensed premises. The Council retains its power as local planning authority to control opening times of all new establishments seeking planning permission, where harm would otherwise arise.
- 1.43 The primary responsibility for controlling activities on licensed premises firmly rests on the licence holders and managers of such premises. This Licensing Authority, with support from the other enforcement agencies will keep the activities of these licence holders under review. This means that all concerned

must work closely together in partnership for the community of which both businesses and residents form a part.

- 1.44 Nothing in this Policy will prevent any person from applying for a variety of permissions under the Act. Every application made to the Licensing Authority will be considered on its own merits. This Policy will be used to inform and assist consistent and transparent decisions on licence applications.

### **Fundamental Principles - Expectations of applicants**

- 1.45 Steps to promote the licensing objectives  
(Ref: Revised guidance under s 182 Licensing Act 2003 issued March 2015, 8.33 – 8.37)

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

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

That they understand:

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

Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management

and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

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

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

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

Conditions attached to licences and certificates will;

- be appropriate for the promotion of the licensing objectives;
- be precise and enforceable;
- be unambiguous and clear in what they intend to achieve;
- not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- be tailored to the individual type, location and characteristics of the premises and events concerned;
- not be standardised, as it may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- not replicate offences set out in the 2003 Act or other legislation;
- be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- be written in a prescriptive format.

- 1.47 Licence holders must ensure that they and their premises comply with any conditions attached to a licence while licensable activities are taking place, otherwise they commit an offence.

- 1.48 Where we have discretion because relevant representations have been made about licensing applications, we may also take into account the following factors to fulfil our vision:

- (1) what contribution the application can make to creating a family-friendly town centre, specifically in terms of offer to a wide-range of customers; family-friendly policies and facilities; operating hours; and pricing;

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

## **2.0 PRE-APPLICATION CONSIDERATIONS**

- 2.1 Our experience in administering the licensing regime since 2005 shows us that many disputes start from poor communication. For example, the application form doesn't always allow applicants to fully explain their proposals, leading residents to misunderstand what is being proposed. In that case, formal representations are made and licensing hearings held to simply clarify what is being proposed.
- 2.2 We strongly encourage applicants to hold pre-application discussions with us, other relevant statutory bodies and local residents or businesses before

submitting all but the most straight-forward applications. These discussions at the earliest possible stage will reduce the risk of a dispute arising and avoid the unnecessary time and expense involved in a Licensing Sub-Committee hearing.

- 2.3 Prospective holders of new premises licences, and those seeking variations of existing premises licences, are advised to consult with the Licensing Authority and the various responsible authorities at the earliest opportunity.
- 2.4 Licensing is about the regulation of licensed premises, qualifying members' clubs and temporary events. We may only impose conditions on premises licences and club premises certificates in one of two circumstances:
  - (1) where the applicant volunteers them as part of their operating schedule; or
  - (2) on receipt of relevant representations from potentially affected parties, or from responsible authorities.
- 2.5 We will produce a separate document containing pools of model conditions for premises licences and club premises certificates. Applicants are under no compulsion to use these when preparing their operating schedules, but doing so may reduce the likelihood of representations being made about the application. Should relevant representations be received, we may use conditions from the pool to address the concerns raised before we consider whether to refuse an application.
- 2.6 Conditions attached to premises licences or club premises certificates in these circumstances will be appropriate, reasonable, proportionate, and relevant and will be focused on matters within the control of the individual licence-holders and others granted relevant permissions. Conditions will be tailored to the style and characteristics of the individual premises. These matters will centre on the premises and places being used for licensable activities and have regard to the vicinity of those premises or places.
- 2.7 Our officers will draft appropriate conditions for premises licence and club registration certificates from the information supplied in operating schedules accompanying premises licence and club premises certificate applications.
- 2.8 We recognise that we have no statutory power to place conditions where a temporary event notice has been given and no objections have been received from the police or Environmental Health, but urge premises users to take note of the guidance in this policy in appropriate circumstances. However, if the temporary event notice is given for premises that has a premises licence or club premises certificate, and an objection is received, then existing conditions relevant to the activities requested may be attached.
- 2.9 Where no representations have been received, we must grant the authorisations in the terms sought.

### **3.0 CUMULATIVE IMPACT**

- 3.1 The Licensing Authority will, where appropriate, and having received relevant representations, take into account the cumulative effect that the existence of a concentration of premises in one area may have. A concentration of licensed premises can attract customers to the area to such a degree that it has an adverse impact on the surrounding area beyond the control of individual licence holders.
- 3.2 Where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area the Licensing Authority may consider it inappropriate for any further licensed premises to be established in the area and / or capacities to be increased. In these circumstances, and where suitable and sufficient evidence is provided, the Licensing Authority will consider declaring a cumulative impact area.
- 3.3 If such a policy were adopted it would not override the duty on the Licensing Authority to consider each application on its own merits.
- 3.4 The absence of a special policy does not prevent any responsible authority or other party making representations on an application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 3.5 In coming to any decision about cumulative impact the Licensing Authority will also have regard to other mechanisms outside of the licensing regime which may also be available to address this issue.

### **4.0 LICENSING HOURS**

- 4.1 The Licensing Authority recognises the principle of flexibility and the potential benefits of avoiding concentrations of customers leaving premises simultaneously. The Licensing Authority will consider relevant representations, for example:

#### **Premises definitions**

- 4.2 For the purposes of the policy we define licensed premises as set out below. Upon receiving an application the Licensing Authority will place the premises in one of the categories shown, this category may be referred to at any subsequent Licensing Sub-Committee.

<b>Premises</b>	<b>Use</b>
<b>Restaurants</b>	The sale of food and drink for consumption on the premises with full waiter service and/or full food menu throughout the trading period, and which typically has only incidental background music. Alcohol sales do not predominant over activities. It may occasionally include the provision of other licensable activities such as recorded or amplified music and limited facilities for the

	provision of dancing.
<b>Public houses, wine bars or other drinking establishments</b>	Primarily for the sale of alcohol and food for consumption on the premises, and which may include the provision of other licensable activities. Will include a “drinking up period” between the last sale of alcohol and the closing time of the premises.
<b>Café-bars</b>	The sale of food and or light refreshments, and where alcohol sales are not a predominant feature of the premises
<b>Hotel bars</b>	The sale of alcohol and/or food, either to hotel residents or to non-residents
<b>Night-clubs</b>	Primarily for the provision of licensable activities at night (typically including music and dancing), where alcohol sales are a strong feature
<b>Off-licenses</b>	The sale of alcohol for consumption away from the premises
<b>Qualifying clubs</b>	Qualify for a club premises certificate under the Licensing Act 2003
<b>Take-aways</b>	The provision of late night refreshment (hot food and drink) between 11 pm and 5 am for consumption away from the premises
<b>Other entertainment venues</b>	The sale of alcohol and provision of late night refreshment (hot food and drink) is either absent or only ancillary to other licensable activities

### Location and operation of premises

4.3 The table below sets out our approach to licensing premises when we have received relevant representations to a licensing application, notwithstanding that each application will be considered on its merits:

<b>Premises type</b>	<b>Town centres *</b>	<b>Other areas</b>
<b>Café-bars</b>	Will generally be granted according to the application	
<b>Hotel bars</b>	Will generally be allowed alcohol sales and late night refreshment to residents 24-hours a day and to non-residents on the same basis as restaurants (see below)	
<b>Night-clubs (including lap-dancing clubs)</b>	Will generally be allowed licensable activities to 1 am only and until 10.30 pm on Sunday (other than for special occasions)	Will generally be allowed licensable activities to midnight only (other than for special occasions)

<b>Off-licences</b>	Will generally be allowed alcohol sales to Midnight only	Will generally be allowed alcohol sales in accordance with the normal opening hours of the shop
<b>Other entertainment venues not listed</b>	Will generally be granted for the hours and activities requested	May be limited to midnight
<b>Public houses, wine bars and other drinking establishments</b>	Will generally be allowed alcohol sales to midnight only, and until 10.30 pm on Sunday (other than for special occasions).	
<b>Qualifying clubs</b>	Will generally be granted for the hours and activities requested	
<b>Restaurants</b>	Will generally be allowed licensable activities to 2 am only (other than for special occasions)	Will generally be allowed alcohol sales to midnight only (other than for special occasions)
<b>Take-aways</b>	Will generally be allowed late-night refreshment sales to 1 am only (other than for special occasions)	Will generally be allowed late-night refreshment sales to midnight only (other than for special occasions)
* See section 6 for details of town centres		

- 4.4 Where we have to consider an application that involves alcohol sold for consumption on the premises, our policy will be to generally grant the licence with 30 minutes between the end of any sales of alcohol and the closing time of the premises (which we refer to as the “terminal hour”).
- 4.5 We recognise that flexible licensing hours for alcohol sales can help to reduce concentrations of customers from leaving premises simultaneously, and to reduce conflict at late-night take-aways and taxi ranks. At the same time, we recognise that taxis/private hire vehicles (and private vehicles) are effectively the only form of post-midnight transport in the District.
- 4.6 We are adopting this approach with the Government’s recommendations at paragraph 13.44 of the statutory guidance in mind<sup>1</sup>. This states that the Government acknowledges different licensing approaches may be appropriate for promoting the licensing objectives in different areas, and licensing authorities – in consultation with others – are best placed to make those decisions subject to the over-riding principle that opening hours must be not pre-determined without giving individual consideration to the merits of each application.
- 4.7 This justifies a more restrictive approach in residential areas when relevant representations have been made.

<sup>1</sup> All references to the Revised Guidance issued under section 182 of the Licensing Act 2003 refer to the March 2015 revision.



## 5.0 PETROL FILLING STATIONS

- 5.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:
- the retailing of petrol;
  - the retailing of derv;
  - the sale of motor vehicles; and
  - the maintenance of motor vehicles.
- 5.2 If premises that are primarily used as a garage are granted a licence, that licence is “of no effect” and alcohol may not be lawfully sold.
- 5.3 Although there is no requirement in the legislation for an applicant for a licence to provide proof of primary use it is considered useful for this information to be included so that it is clear to all parties if the licence has affect or not. Applications that do not include this information will still be processed and determined as required by the Licensing Act 2003.
- 5.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. The licensing authority requests that evidence be based on **income** (from retailing petrol and derv and vehicles sales/maintenance versus other items) and **the numbers of individual sales** (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature.
- 5.5 5.6 Where relevant representations have been made and a premises licence is granted in these circumstances, we shall treat it as an off-licence, as defined in this policy, and grant hours accordingly.
- 5.7 Paragraph 5.23 of the statutory guidance issued under the Act makes it clear that, where representations are received, we must decide whether or not any premises is used primarily as a garage. We are aware that different authorities take a number of different approaches to this question. However, we hope that the proceeding paragraphs will guide applicants and licence holders as to the information we would like them to provide if this question arises.

## **6.0 CREATING FAMILY FRIENDLY TOWN CENTRES**

6.1 For the purpose of this policy Town Centres are:

### HERTFORD

The area bounded by and including Bircherley Green, Bull Plain, Fore Street, South Street, Maidenhead Street, Market Street, Railway Street, Old Cross, Parliament Square, Salisbury Square, Market Place, Mill Bridge, Old Cross, St Andrew Street and The Wash.

### BISHOPS STORTFORD

The area bounded by and including North Street, Potter Street, South Street, Water Lane, Bridge Street, High Street, Riverside, Adderley Road, Station Road and Anchor Street.

### WARE

The area bounded by and including Baldock Street, High Street, Star Street, Viaduct Road and Amwell End.

### SAWBRIDGEWORTH

The area bounded by and including Bell Street, Knight Street and London Road.

### BUNTINGFORD

The area bounded by and including High Street and Church Street.

- 6.2 Our starting point is to seek a reduction in crime and disorder, consistent with our statutory duty under the Licensing Act and under section 17 of the Crime and Disorder Act 1998 (as amended), and an improvement in local amenity through the reduction in alcohol-related anti-social behaviour.
- 6.3 We want to encourage more restaurants, cafes, food establishments and venues offering entertainment and would positively encourage applications for those types of premises whilst discouraging alcohol-led premises. Whether there is a need or not for further premises of a particular type, in accordance with the Secretary of State's guidance at paragraph 13.18, will not be a consideration.
- 6.4 Our approach will be:
1. Where relevant representations have been received, we will consider granting applications which limit the hours of operation to those set out in this policy unless the exceptions detailed below can be demonstrated.
  2. Where relevant representations have been received and exceptions can be shown for applications for public houses and night-clubs, we will consider whether to require waiter/table service for alcohol sales between 9 pm and the final time for the sale of alcohol.
  3. Where relevant representations have been received against the sale of alcohol after 10 pm and exceptions can be shown, we will consider whether premises shall be required to demonstrate they have an effective dispersal

management plan in place; to install a closed-circuit television system that meets the reasonable requirements of Hertfordshire Constabulary; installing an electronic identification entry system; and to have use of a Pubwatch radio.

6.5 Exceptions will not be made on the grounds that:

- (1) the building design is of a high standard; we would expect all applicants will want to ensure the highest design standards possible;
- (2) that the applicant is of good character. It is a legal requirement that premises selling alcohol must be under the management of a designated premises supervisor, who must themselves hold a personal licence to sell alcohol;
- (3) the premises are small. Even small premises can contribute to crime, disorder and nuisance.

6.6 Where relevant representations have been received we will take into account if the application:

- (1) contributes to the family-friendly development of the town centres; or
- (2) effects a real reduction in the capacity for alcohol sales in that premises (for example by replacing a vertical drinking establishment with seated consumption and waiter/waitress service).

6.7 Where an applicant wishes an exception to be considered it is their responsibility to evidence this.

## **7.0 PREVENTION OF CRIME AND DISORDER**

7.1 **The Licensing Authority will expect the applicant to detail in their operating schedule the steps proposed to deter and prevent crime and disorder, on and in the vicinity of the premises. The proposals made should have regard to the location, character, and condition of the area, the nature and extent of the proposed use, the types and numbers of persons likely to visit the premises.**

NB - Please refer to section 1.45 Expectations of applicants

7.2 The Licensing Authority will expect the applicant to demonstrate how they will prevent disorderly conduct, prevent sale of alcohol to a person who is drunk, and prevent the obtaining of alcohol for a person who is drunk on the licensed premises, and how the licence holder will exercise these duties so as to prevent or reduce the risk of anti-social behaviour by customers occurring elsewhere after they have left the premises.

7.3 In considering licensing applications, the Licensing Authority will have regard to relevant representations. The following issues, and/or how they are addressed by the operating schedule may be examined:

- (1) the ability and competency of the person in charge of the premises to monitor the premises at all times it is open;

- (2) the training given to staff in how to defuse or manage conflict amongst patrons and crime prevention measures appropriate to those premises;
- (3) the physical security features installed in the premises. This may include matters such as the position of cash registers, and the security of cash boxes in gaming machines on the premises; where alcohol is stored in 'off-licences'; the standard of CCTV that is installed; adequate lighting; metal detection and search facilities; the use of toughened drinking glasses in pubs and clubs; the removal of glasses or glass bottles used or discarded outside of the applicants premises;
- (4) risk assessment of drinks promotions which may contribute to the impact on crime and disorder (e.g. 'happy hours'), and plans for minimising risks;
- (5) measures to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies. On licensed hotel or B&B premises, this should extend to keeping proper registrations of guests, with proofs of identification, and records of car registration numbers. Where applicable, applicants are encouraged to show that they can comply with the Home Office guidance *Safer Clubbing* in relation to the control of illegal drugs on their premises, and they should agree a protocol with the police on the handling of illegal drugs found on their premises.;
- (6) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- (7) the likelihood of any violence, public disorder or policing problem if the licence is granted;
- (8) whether design of the premises has been considered having regard to reducing conflict and minimising opportunities for crime;
- (9) the measures taken to control admission to, and dispersal from, the premises, including the use of registered door supervisors;
- (10) any other such measures as may be appropriate, such as participation in a local pub watch scheme or other body designed to ensure effective liaison with the local community, 'music wind-down policies', restrictions on 'happy hours', and other examples of industry best practice;
- (11) The arrangements for delegating and accounting for responsibility for the supply of alcohol on community premises operated without a DPS.
- (12) This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.

7.4 Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.

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

## **8.0 PUBLIC SAFETY**

8.1 The Licensing Authority will expect the applicant to detail in their operating schedule the steps proposed to ensure the physical safety of people using the relevant premises or place.

8.2 Conditions to promote public safety will be those that are appropriate, in particular circumstances of any individual premises or club premises, and will not duplicate other requirements of the law. Equally, the attachment of conditions to the premises licence or certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work Act 1974, Associated Regulations and especially the requirements under the management of Health and Safety at Work Regulations 1999 and Regulatory Reform (Fire Safety) Order 2004, to undertake risk assessments. Employers should assess the risks, including risks from fire and take measures necessary to avoid and control these risks. Licence conditions enforcing those requirements will therefore not be attached.

8.3 Where legislation does not cover the unique circumstances of licensing and entertainment at specific premises, licence conditions will be used, as appropriate. Maximum occupancy limits in the premises licence will be specified only where necessary for the promotion of public safety or the prevention of disorder. In such a case, the Licensing Authority will set a capacity in consultation with the Hertfordshire Fire & Rescue Service and the Council's Building Control service.

8.4 It will be expected that the operating schedule will specify occupancy limits for the following premises:

- (1) High Volume Vertical Drinking
- (2) Nightclubs
- (3) Cinemas
- (4) Theatres
- (5) Other premises where regulated entertainment is likely to attract large numbers of persons.

8.5 The Council will consider whether any measures or restrictions are placed on alcohol sales to prevent binge drinking and promote 'sensible drinking', including commitments to comply with approved codes of practice.

## **9.0 PREVENTION OF NUISANCE**

9.1 **The Licensing Authority will expect the applicant to detail in their operating schedule the steps proposed to deter and prevent nuisance, on and in the vicinity of the premises. The proposals made should have regard to the location, character, and condition of the area, the nature and extent of the proposed use, the types and numbers of persons likely to visit the premises.**

9.2 In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for nuisance and anti-social behaviour.

9.3 The Licensing Authority will expect applicants to demonstrate they have considered:

- (1) the proximity of residential accommodation;
- (2) the type of use proposed, and the likely numbers of customers;
- (3) proposed hours of operation and the frequency of activity;
- (4) the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. This may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- (5) the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance between 10 p.m. and 7 a.m. than at other times of the day;
- (6) the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- (7) the steps taken or proposed to be taken by the applicant to help ensure patrons and staff leave the premises quietly;
- (8) the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- (9) the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- (10) the level of likely disturbance from associated vehicle movements;
- (11) the use of smoking shelters, gardens and other open-air areas;

- (12) the location of delivery and collection areas and delivery/collection times;
- (13) the appropriate placing of external lighting, including security lighting;
- (14) refuse storage and litter (including fly posters and illegal placards);
- (15) the history of nuisance complaints against the premises, particularly where statutory notices have been served on the present licensees;
- (16) the applicant's past success in controlling anti-social behaviour and preventing nuisance;
- (17) odour nuisance, e.g. cooking smells;
- (18) any other relevant activity likely to give rise to nuisance;
- (19) any representations made by the Police, or other relevant agency or representative.
- (20) This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.

## **10.0 PROTECTION OF CHILDREN FROM HARM**

- 10.1 The Licensing Authority will expect operating schedules to specify the measures and management controls in place to protect children from harm.
- 10.2 The Licensing Authority will consider public health data when exercising this duty and the likely impact of alcohol misuse upon children.
- 10.3 This includes considering information about the impact of alcohol abuse upon wider Public Health issues, such as alcohol related illness and harms, and not just immediate impacts such as slips trips and falls from intoxication.
- 10.4 The legislation recognises the right of licence holders (serving alcohol) to allow accompanied children into their premises at any time. The Licensing Authority will not normally seek to limit their access (above that specified in the Act) to any premises unless it is necessary for the prevention of physical, moral or psychological harm. Where relevant representations are received, and harm is likely, conditions may be imposed that restrict children from entering all or part of licensed premises:
  - (1) at certain times of the day;
  - (2) when certain licensable activities are taking place;
  - (3) under certain ages, e.g. 16 or 18;
  - (4) unless accompanied by an adult.

- 10.5 Examples of premises where these conditions may be considered include premises where:
- (1) there is any entertainment or services of an adult nature provided;
  - (2) there have been convictions for serving alcohol to minors or premises with a reputation for under-age drinking;
  - (3) there is a known association with drug taking or dealing;
  - (4) there is a significant element of gambling on the premises;
  - (5) there is a presumption that children under 18 should not be allowed (e.g. to enter nightclubs, except when under 18 discos are being held);
  - (6) there have been representations from police, the area safeguarding children's board or other relevant agency or representative.
- 10.6 Applicants and licence holders of premises intending to offer public entertainment where it will be lawful and not contrary to this policy for children to be admitted without an accompanying adult, the applicant or licensee will be expected to provide adequate numbers of adult staff to ensure the safety and well-being of the admitted children. Details of such arrangements must be included in the operating schedule.
- 10.7 The Licensing Authority will expect the operating schedule to specify the measures and management controls in place to prevent alcohol being served to children, other than in those limited circumstances permitted by the Act.
- 10.8 The Licensing Authority will expect the operating schedule to state what arrangements will be put in place to ensure that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.
- 10.9 Nothing in this statement prevents a licence holder excluding children from their premises. Conditions requiring the admission of children to premises cannot be attached to licences.
- 10.10 The 'Responsible Authority' in relation to the protection of children from harm is the Hertfordshire Safeguarding Children Board at Hertfordshire County Council. An emerging issue highlighted by the Board is child sexual exploitation.
- 10.11 Child sexual exploitation is a form of child abuse which is complex and can manifest itself in different ways. Essentially it involves children and young people receiving something – for example, accommodation, alcohol, drugs, gifts or affection – in exchange for sexual activity or having others perform sexual activities on them.
- 10.12 East Herts Council recognises that this sort of exploitation could potentially be linked to licensed premises and as such will seek to promote knowledge and understanding of the issue amongst those in the licensed trade. Where



potential instances of child sexual exploitation are identified to the Licensing Authority these will be referred to the appropriate bodies.

- 10.13 “Child sexual exploitation is one of the biggest child protection issues of our time, but together we can make a real difference. By spotting the signs early, we can all take practical steps to protect children.” (Anne Marie Carrie, Chief Executive, Barnardo’s).

## **11.0 INSPECTION OF PREMISES**

- 11.1 Officers will check that statutory notices are correctly displayed in compliance with the requirements of the legislation.
- 11.2 During the course of its inspections, the Licensing Authority may refer to any other agency any circumstance it finds that appears to it to be a contravention of the legislation enforced by that agency. Equally where a premises user appears unaware of a requirement that is outside of the Licensing Authority’s remit officers will do their best to signpost people to the appropriate authority.
- 11.3 The frequency of subsequent inspections will be according to the determined level of risk.

## **12.0 ENFORCEMENT POLICY**

- 12.1 Enforcement action and investigation will be targeted on premises where unauthorised licensable activities or breaches of conditions take place or where complaints from the public are received.
- 12.2 The Council has a 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.
- 12.3 A graduated response will be taken where contraventions of legislation are found or where conditions have been contravened. For instance an isolated administrative offence, such as failing to maintain records, may be dealt with by a written warning whilst more serious offences, which has either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.
- 12.4 The Council will seek to work with the police in enforcing licensing legislation and strive to have a joint enforcement protocol with all the relevant agencies.
- 12.5 While recognising the value of enforcement protocols the Licensing Authority recognises that these are protocols and there will be circumstances where direct or escalated action will be necessary.

- 12.6 Results of enforcement or investigation will be made available to responsible authorities who may wish to include this evidence in a Review of a premises licence or club premises certificate

### **13.0 DEALING WITH COMPLAINTS**

- 13.1 In all instances complaints received about licensed premises, events and activities will be recorded. Where appropriate, contact will be made to the premises to advise the premises licence holder or designated premises supervisor of the complaint
- 13.2 Where appropriate, relevant authorities will be advised of complaints received.
- 13.3 Where complaints relate to a breach of licence conditions, action will be taken to gather evidence in order that, in conjunction with the enforcement policy, the appropriate steps are taken to address the issues.

### **14.0 REVIEWS**

- 14.1 A responsible authority or other person may apply for the review of a premises licence at any stage, or may make a representation about an existing application for review on the grounds that any of the four licensing objectives is being undermined.

### **15.0 APPEALS**

- 15.1 Any party to licensing proceedings (including residents) aggrieved by licensing decisions taken by the Licensing Authority are (in most cases) entitled to appeal to the Magistrates court with 21 days of the receiving the decision notice.
- 15.2 Where a party enters an appeal against a decision notice issued by Licensing Sub-Committee, the Head of Legal Services is authorised to negotiate, in consultation with Chair of Licensing Committee and Director of Neighbourhood Services.

### **16.0 ADMINISTRATION, EXERCISE AND DELEGATIONS OF POWER**

- 16.1 The Licensing Committee will consist of between ten and fifteen Councillors that will sit usually three times per year, but at least annually. The Council will review this Policy at least every 3 years. Any changes to the Policy will include full consultation.
- 16.2 Sub-Committee(s) of at least two and usually three Councillors will determine applications where representations have been received from responsible authorities or other parties. Ward Councillors will not serve on a Sub-Committee involving an application within their own ward.

- 16.3 The Licensing Committee will also deal with other licensing matters not associated with the Licensing Act 2003.
- 16.4 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 licence in question.
- 16.5 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.
- 16.6 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 sent to the applicant and all other parties.
- 16.7 The Council's authorised officers will deal with all other licence applications where either no representations have been received, or where representations have been received and it is agreed by all the parties that a hearing is not necessary.
- 16.8 Council officers will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee(s) and whether representations are frivolous or vexatious. Where representations are rejected, the person making that representation will be given written reasons why that is the case.
- 16.9 Council officers will draft appropriate conditions for premises licences and club registration certificates that are consistent with the operating schedule.
- 16.10 The Council will seek to integrate the Licensing function with its various other strategies and policies to promote the licensing objectives through utilising the collaborative and partnership working arrangements and networks that engage with responsible authorities, other parties and other key stakeholders.

## **17.0 MONITORING OF LICENSING FUNCTION**

- 17.1 The police, fire authority and other responsible authorities will be encouraged to report to the Council annually on the operation of the licensing function.
- 17.2 The Director (Neighbourhood Services) will report annually to the Licensing Committee on the licensing function.

## **18.0 MISCELLANIOUS AND SUPPLEMENTARY**

### Promotion of other strategies

- 18.1 The Council will monitor the impact of licensing in relation to the National Alcohol Harm Reduction Strategy, in particular the effect of alcohol misuse on health, crime and public disorder, productivity at work, family and social networks.
- 18.2 This Statement of Licensing Policy contributes to the Councils Public Health role and supports the Councils Health and Wellbeing strategy 2013 -18.
- 18.3 Briefings may be made available for licensing committees to receive, when appropriate, about information on the needs of the local tourist economy. These briefings will be available from the Licensing section upon request.
- 18.4 The Council will keep the licensing committee apprised of the employment situation in the area and the need for new investment and employment where appropriate.
- 18.5 The Licensing Authority will report to Hertfordshire County Council with regard to the need to disperse people from town centres in order to avoid concentrations of people which can produce nuisance and disorder.
- 18.6 The Race Relations Act 1976 as amended obliges public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The Council has produced a race equality scheme, and will monitor this Policy for any adverse impact on the promotion of race equality.
- 18.7 The Licensing Committee takes seriously its obligations under other legislation for example the Equalities Act 2010 and the Human Rights Act 1998.

### Planning permission

- 18.7 Any premises which needs a licence should preferably also have a permitted or lawful use under planning legislation. If the premises do not have this, then it will need to be obtained separately before the licensed activity can lawfully take place.
- 18.8 The Council Planning Department is a Responsible Authority, and receives copies of premises licence applications. Where there is no planning consent for the use for which the licence is sought, Planning will be responsible for pointing this out to the applicant outside of the remit of this policy, and the paragraphs below are included for information only.
- 18.9 The Council's Planning Policies are set out in its Adopted Local Plan. For further information see [www.eastherts.gov.uk](http://www.eastherts.gov.uk).
- 18.10 In many cases where an application is made for a new licence or variation, the planning use will already be authorised by a previous planning permission or because the premises has a long-standing lawful use. Therefore, a new

application for planning permission is often not required. However, the existing planning permission might, and if recently granted is very likely to have conditions restricting the use of the premises in some way: e.g. the hours of operation. In that case, anybody seeking a licence to operate beyond those hours will need to seek and obtain a revised planning permission or a variation or removal of the relevant planning condition.

#### Early Morning Restriction Orders and Late Night Levy

18.11 The Licensing Authority is aware of its powers to implement Early Morning Restriction Orders and impose a Late Night Levy on licensed premises. Consideration of these two powers has taken place and at the time that this policy was published no such Orders or Levies had been implemented. The Council will review this decision should evidence for the need for either measure come to light.

#### Power to exempt premises from the requirement to have a licence for late night refreshment

18.12 At a meeting of the Full Licensing Committee on the 17<sup>th</sup> March 2016 consideration was given to the power of the Licensing Authority to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. At this meeting it was decided that the Licensing Authority would not exercise this power so all premises will still require an authorisation to provide late night refreshment.

#### **19.0 Contact**

18.13 For further information about this policy, or to discuss any current or future application, please contact:

Licensing Team, Community Safety & Health Services, Wallfields, Pegs Lane, Hertford SG13 8EQ (tel. 01279 655261 or email: [community.protection@eastherts.gov.uk](mailto:community.protection@eastherts.gov.uk))

18.14 Contact details for the responsible authorities can be found at: [www.eastherts.gov.uk](http://www.eastherts.gov.uk)

18.15 Contact details for East Herts Magistrates' Courts (licensing appeals);

The Licensing Clerk, Watford Magistrates' Court, Clarendon Road, Watford, Hertfordshire, WD17 1ST (tel. 01923 297505).

## **20.0 APPENDIX 1**

The consultation on this Licensing Policy was open to the public and has been widely publicised. Anyone who wanted to make comment was welcome to do so during the 12 week consultation. Below is a list of individuals, organisations and / or representatives directly consulted in the preparation of the Licensing Policy. The list is not exhaustive but gives a good indication of the scope of the consultation exercise.

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

## 21.0 APPENDIX 2

### Glossary of Terms

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

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

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

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

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

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

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

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

Representations are objections or comments, against an application and can be made by responsible authorities (e.g. police) or other persons (e.g. residents). They must be made in writing and will only be relevant if they relate to the likely effect of the grant of the licence on the promotion if at least one of the licensing objectives.

Representations by other parties will not be relevant if they are considered by the licensing authority to be frivolous (i.e. not serious) or vexatious (i.e. arising out of unrelated disputes).

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

This page is intentionally left blank





6 May 2016

Dear Sirs

**Licensing Act 2003 Review of Licensing Policy**

The Petrol Retailers Association ("the PRA") represents independent fuel retailers providing evaluation and advice on a range of issues that impact on the fuel retailing industry.

The draft revised licensing policy for East Hertfordshire District Council (the "SLP") has been brought to our attention..

We wish to comment on the following paragraphs:

**Paragraphs 5.1 to 5.7**

*5.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:*

- the retailing of petrol;*
- the retailing of derv;*
- the sale of motor vehicles; and*
- the maintenance of motor vehicles.*

*5.2 If premises that are primarily used as a garage are granted a licence, that licence is "of no effect" and alcohol may not be lawfully sold.*

*5.3 It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it. This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not.*

*5.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. Such evidence must be based on income (from retailing petrol and derv and vehicles sales/maintenance versus other items) and the numbers of individual sales (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature. Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following two years to ensure the premises are not primarily a garage.*

*5.5 Where insufficient evidence exists to establish primary use, we will decide whether or not to grant a licence or allow premises to continue selling alcohol and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.*

*5.6 Where relevant representations have been made and a premises licence is granted in these circumstances, we shall treat it as an off-licence, as defined in this policy, and grant hours accordingly.*

*5.7 Paragraph 5.21 of the statutory guidance issued under the Act makes it clear that we must decide whether or not any premises is used primarily as a garage. We are aware that different licensing authorities take a number of different approaches to this question. Where appropriate, this approach will allow us to obtain the necessary information for us to reach that decision.*

We are advised by our solicitors, Winckworth Sherwood that this part of the SLP is misleading and at least in part, altogether wrong.

The Licensing Act 1964 disqualified a person from receiving a licence if the premises were primarily used as a garage.

The Licensing Act 2003 ("the 2003 Act") provides that no premises licence "has effect" to authorise the sale or supply of alcohol from excluded premises. Premises primarily used as a garage are included in the definition of "excluded premises".

You may be aware that the Home Office published revised guidance ("the Guidance") under section 182 of the 2003 Act in March 2015 and in paragraphs 5.21 to 5.23 it amended previous guidance to clarify the position regarding applications for garages and motorway service areas. This followed meetings and discussions between Winckworth Sherwood and the Home Office.

Paragraph 5.22 of the Guidance provides that the Licensing Authority must determine the application based on the documents and information required to be submitted by an applicant under sections 17(3) and (4) of the 2003 Act. This must be correct and, of course, there is no requirement in section 17 for an applicant to demonstrate that the main activity of the premises is not that of a garage.

Paragraph 5.23 of the Guidance goes on to say that "if a licence is granted... " and the primary use subsequently becomes that of a garage it would no longer be legal to sell alcohol at the premises. Again this is correct. Section 176 of the 2003 Act provides that a licence (this assumes that there is a licence in existence) has no effect if the primary use is that of a garage.

It is therefore contrary to both the 2003 Act and the Guidance to state that "*It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it.*" (SLP paragraph 5.3).

The remainder of SLP paragraph 5.3: *This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not.* is inconsistent with SLP paragraphs 5.4 and 5.5.

SLP paragraph 5.4 seems to supersede the statute by setting out a test to establish primary use both as to the type of data and over what period of time. This test is not supported by the 2003 Act, the Guidance or indeed case law. There is no requirement in law for an applicant or an existing licence holder to demonstrate primary use over a two year period.

SLP paragraph 5.6 is superfluous. It should go without saying that an off licence granted would be treated "as an off-licence".

SLP paragraph 5.7 is wrong as paragraph 21 of Guidance does not state that the Licensing Authority "*must decide whether or not any premises is used primarily as a garage.*"

Winckworth Sherwood sought further clarification from the Home Office on the Guidance paragraph 5.23 and have received written confirmation that it would only be after a licence has been granted that the licensing authority could be tasked with determining the primary use of the premises.

We suggest that the Petrol Filling Station section of the SLP simply state as follows:

*If a licence is granted in respect of premises that sell petrol, and the primary use of the premises is that of a garage (this being the retailing of petrol or derv or the sale and maintenance of motor vehicles) then the licence will no longer have effect.*

#### **Paragraphs 6.6 and 6.7**

*6.6 We will consider whether to grant an application, even when relevant representations have been received, if the application:*  
*(1) contributes to the family-friendly development of the town centre; or*  
*(2) effects a real reduction in capacity of alcohol sales; or*  
*(3) replaces vertical drinking establishments with seated consumption and waiter service.*

This may be a drafting issue but this paragraph is confusing. The Licensing Authority's discretion is only triggered if relevant representations are made. The opening sentence appears to suggest otherwise.

6.6 (1) This should not be seen a test for an application for a premises licence.

6.6 (2) We are unsure what is intended here. The Licensing Authority cannot expect applicants to achieve a reduction in alcohol sales for the area. Perhaps we have not understood this part of the SLP.

We hope that our response is seen as constructive and we trust that the SLP will be amended accordingly before its adoption.

Yours faithfully

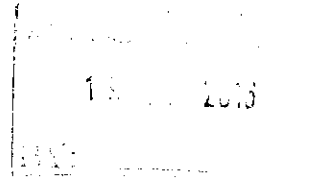
CB Madderson  
Chairman – Petrol Retailers Association

## MRH Retail

MRH, Vincent House, 4 Grove Lane, Epping, Essex, CM16 4LH,



*MRH Retail is a trading name of Malthurst Retail Limited, Malthurst Services Limited, Malthurst Fuels Limited, Malthurst Limited and Pace Petroleum Limited.*



16.05.16

Licensing  
East Herts Council  
Wallfields  
Pegs Lane  
Hertford  
Hertfordshire  
SG13 8EQ

Dear Sirs

### **Licensing Act 2003 Review of Licensing Policy**

MRH (GB) Limited is the UK's largest independent petrol station owner with over 450 company owned sites most of which are branded Esso, BP and Torq. Most of these sites are licensed to sell alcohol, including the following sites in the East Hertfordshire area:

MRH Buntingford, A10 London Road, Buntingford, SG9 9JY  
MRH Howe Green, Baldock Road, Buntingford, SG9 9EG  
MRH Hertford, 133 Hertingfordbury Road, Hertford, Herts, SG14 1NL

The draft revised licensing policy for East Hertfordshire District Council (the "SLP") has been brought to our attention..

We wish to comment on the following paragraphs:

#### **Paragraphs 5.1 to 5.7**

*5.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:*

- the retailing of petrol;*
- the retailing of derv;*
- the sale of motor vehicles; and*
- the maintenance of motor vehicles.*

*5.2 If premises that are primarily used as a garage are granted a licence, that licence is "of no effect" and alcohol may not be lawfully sold.*

*5.3 It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it. This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not.*

*5.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not*

## MRH Retail

MRH, Vincent House, 4 Grove Lane, Epping, Essex, CM16 4LH,



*MRH Retail is a trading name of Malthurst Retail Limited, Malthurst Services Limited, Malthurst Fuels Limited, Malthurst Limited and Pace Petroleum Limited.*

*primarily used as a garage based on intensity of use. Such evidence must be based on income (from retailing petrol and derv and vehicles sales/maintenance versus other items) and the numbers of individual sales (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature. Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following two years to ensure the premises are not primarily a garage.*

*5.5 Where insufficient evidence exists to establish primary use, we will decide whether or not to grant a licence or allow premises to continue selling alcohol and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.*

*5.6 Where relevant representations have been made and a premises licence is granted in these circumstances, we shall treat it as an off-licence, as defined in this policy, and grant hours accordingly.*

*5.7 Paragraph 5.21 of the statutory guidance issued under the Act makes it clear that we must decide whether or not any premises is used primarily as a garage. We are aware that different licensing authorities take a number of different approaches to this question. Where appropriate, this approach will allow us to obtain the necessary information for us to reach that decision.*

We are advised by our solicitors, Winckworth Sherwood that this part of the SLP is misleading and at least in part, altogether wrong.

The Licensing Act 1964 disqualified a person from receiving a licence if the premises were primarily used as a garage.

The Licensing Act 2003 ("the 2003 Act") provides that no premises licence "has effect" to authorise the sale or supply of alcohol from excluded premises. Premises primarily used as a garage are included in the definition of "excluded premises".

You may be aware that the Home Office published revised guidance ("the Guidance") under section 182 of the 2003 Act in March 2015 and in paragraphs 5.21 to 5.23 it amended previous guidance to clarify the position regarding applications for garages and motorway service areas. This followed meetings and discussions between Winckworth Sherwood and the Home Office.

Paragraph 5.22 of the Guidance provides that the Licensing Authority must determine the application based on the documents and information required to be submitted by an applicant under sections 17(3) and (4) of the 2003 Act. This must be correct and, of course, there is no requirement in section 17 for an applicant to demonstrate that the main activity of the premises is not that of a garage.

Paragraph 5.23 of the Guidance goes on to say that "if a licence is granted... " and the primary use subsequently becomes that of a garage it would no longer be legal to sell alcohol at the

## MRH Retail

MRH, Vincent House, 4 Grove Lane, Epping, Essex, CM16 4LH,



*MRH Retail is a trading name of Malthurst Retail Limited, Malthurst Services Limited, Malthurst Fuels Limited, Malthurst Limited and Pace Petroleum Limited.*

premises. Again this is correct. Section 176 of the 2003 Act provides that a licence (this assumes that there is a licence in existence) has no effect if the primary use is that of a garage.

It is therefore contrary to both the 2003 Act and the Guidance to state that *"It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it."* (SLP paragraph 5.3).

The remainder of SLP paragraph 5.3: *This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not.* is inconsistent with SLP paragraphs 5.4 and 5.5.

SLP paragraph 5.4 seems to supersede the statute by setting out a test to establish primary use both as to the type of data and over what period of time. This test is not supported by the 2003 Act, the Guidance or indeed case law. There is no requirement in law for an applicant or an existing licence holder to demonstrate primary use over a two year period.

SLP paragraph 5.6 is superfluous. It should go without saying that an off licence granted would be treated "as an off-licence".

SLP paragraph 5.7 is wrong as paragraph 21 of Guidance does not state that the Licensing Authority *"must decide whether or not any premises is used primarily as a garage."*

Winckworth Sherwood sought further clarification from the Home Office on the Guidance paragraph 5.23 and have received written confirmation that it would only be after a licence has been granted that the licensing authority could be tasked with determining the primary use of the premises.

We suggest that the Petrol Filling Station section of the SLP simply state as follows:

*If a licence is granted in respect of premises that sell petrol, and the primary use of the premises is that of a garage (this being the retailing of petrol or derv or the sale and maintenance of motor vehicles) then the licence will no longer have effect.*

### **Paragraphs 6.6 and 6.7**

*6.6 We will consider whether to grant an application, even when relevant representations have been received, if the application:*  
*(1) contributes to the family-friendly development of the town centre; or*  
*(2) effects a real reduction in capacity of alcohol sales; or*  
*(3) replaces vertical drinking establishments with seated consumption and waiter service.*

This may be a drafting issue but this paragraph is confusing. The Licensing Authority's discretion is only triggered if relevant representations are made. The opening sentence appears to suggest otherwise.

6.6 (1) This should not be seen as a test for an application for a premises licence.

## **MRH Retail**

MRH, Vincent House, 4 Grove Lane, Epping, Essex, CM16 4LH,



*MRH Retail is a trading name of Malthurst Retail Limited, Malthurst Services Limited, Malthurst Fuels Limited, Malthurst Limited and Pace Petroleum Limited.*

6.6 (2) We are unsure what is intended here. The Licensing Authority cannot expect applicants to achieve a reduction in alcohol sales for the area. Perhaps we have not understood this part of the SLP.

We hope that our response is seen as constructive and we trust that the SLP will be amended accordingly before its adoption.

Yours faithfully

**Debbie Walters**

Manager, Merchandising & Shops

**M** 07769 671795

**E** [debbie.walters@mrhretail.co.uk](mailto:debbie.walters@mrhretail.co.uk)

Licensing  
East Herts Council  
Wallfields  
Pegs Lane  
Hertford  
SG13 8EQ

13.05.16

Dear Sirs

### **Licensing Act 2003 Review of Licensing Policy**

Rontec Watford Limited is one of the leading players in the petrol forecourt industry. We own 211 petrol stations in England and Wales of which 209 are licensed to sell alcohol.

One of our sites is the Widbury Hill Service Station, Widbury Hill Ware, SG12 7AS which has a premises licence.

The draft revised licensing policy for East Hertfordshire District Council (the "SLP") has been brought to our attention..

We wish to comment on the following paragraphs:

### **Paragraphs 5.1 to 5.7**

*5.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:*

- *the retailing of petrol;*
- *the retailing of derv;*
- *the sale of motor vehicles; and*
- *the maintenance of motor vehicles.*



*5.2 If premises that are primarily used as a garage are granted a licence, that licence is “of no effect” and alcohol may not be lawfully sold.*

*5.3 It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it. This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not.*

*5.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. Such evidence must be based on income (from retailing petrol and derv and vehicles sales/maintenance versus other items) and the numbers of individual sales (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature. Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following two years to ensure the premises are not primarily a garage.*

*5.5 Where insufficient evidence exists to establish primary use, we will decide whether or not to grant a licence or allow premises to continue selling alcohol and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.*

*5.6 Where relevant representations have been made and a premises licence is granted in these circumstances, we shall treat it as an off-licence, as defined in this policy, and grant hours accordingly.*

*5.7 Paragraph 5.21 of the statutory guidance issued under the Act makes it clear that we must decide whether or not any premises is used primarily as a garage. We are aware that different licensing authorities take a number of different approaches to this question. Where appropriate, this approach will allow us to obtain the necessary information for us to reach that decision.*

We are advised by our solicitors, Winckworth Sherwood that this part of the SLP is misleading and at least in part, altogether wrong.

The Licensing Act 1964 disqualified a person from receiving a licence if the premises were primarily used as a garage.

The Licensing Act 2003 (“the 2003 Act”) provides that no premises licence “has effect” to authorise the sale or supply of alcohol from excluded premises. Premises primarily used as a garage are included in the definition of “excluded premises”.

You may be aware that the Home Office published revised guidance (“the Guidance”) under section 182 of the 2003 Act in March 2015 and in paragraphs 5.21 to 5.23 it amended previous guidance to clarify the position regarding applications for garages and motorway service areas. This followed meetings and discussions between Winckworth Sherwood and the Home Office.

Paragraph 5.22 of the Guidance provides that the Licensing Authority must determine the application based on the documents and information required to be submitted by an applicant under sections 17(3) and (4) of the 2003 Act. This must be correct and, of course, there is no requirement in section 17 for an applicant to demonstrate that the main activity of the premises is not that of a garage.

Paragraph 5.23 of the Guidance goes on to say that “if a licence is granted... ” and the primary use subsequently becomes that of a garage it would no longer be legal to sell alcohol at the premises. Again this is correct. Section 176 of the 2003 Act provides that a licence (this assumes that there is a licence in existence) has no effect if the primary use is that of a garage.

It is therefore contrary to both the 2003 Act and the Guidance to state that “*It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it.*” (SLP paragraph 5.3).

The remainder of SLP paragraph 5.3: *This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not.* is inconsistent with SLP paragraphs 5.4 and 5.5.

SLP paragraph 5.4 seems to supersede the statute by setting out a test to establish primary use both as to the type of data and over what period of time. This test is not supported by the 2003 Act, the Guidance or indeed case law. There is no requirement in law for an applicant or an existing licence holder to demonstrate primary use over a two year period.

SLP paragraph 5.6 is superfluous. It should go without saying that an off licence granted would be treated “as an off-licence”.

SLP paragraph 5.7 is wrong as paragraph 21 of Guidance does not state that the Licensing Authority “*must decide whether or not any premises is used primarily as a garage.*”

Winckworth Sherwood sought further clarification from the Home Office on the Guidance paragraph 5.23 and have received written confirmation that it would only be after a licence has been granted that the licensing authority could be tasked with determining the primary use of the premises.

We suggest that the Petrol Filling Station section of the SLP simply state as follows:

*If a licence is granted in respect of premises that sell petrol, and the primary use of the premises is that of a garage (this being the retailing of petrol or derv or the sale and maintenance of motor vehicles) then the licence will no longer have effect.*

#### **Paragraphs 6.6 and 6.7**

*6.6 We will consider whether to grant an application, even when relevant representations have been received, if the application:*

- (1) contributes to the family-friendly development of the town centre; or*
- (2) effects a real reduction in capacity of alcohol sales; or*
- (3) replaces vertical drinking establishments with seated consumption and waiter service.*

This may be a drafting issue but this paragraph is confusing. The Licensing Authority’s discretion is only triggered if relevant representations are made. The opening sentence appears to suggest otherwise.

6.6 (1) This should not be seen a test for an application for a premises licence.

6.6 (2) We are unsure what is intended here. The Licensing Authority cannot expect applicants to achieve a reduction in alcohol sales for the area. Perhaps we have not understood this part of the SLP.



Rontec Watford Limited  
Meridien House  
69-71 Clarendon Road  
Watford  
Hertfordshire WD17 1DS  
Tel: 01923 694 000  
Fax: 01923 694 400  
[www.rontec.com](http://www.rontec.com)

We hope that our response is seen as constructive and we trust that the SLP will be amended accordingly before its adoption.

**Kupert Ainsworth**  
Property Projects Manager



BP Oil UK Limited  
Witan Gate House  
500-600 Witan Gate  
Milton Keynes  
Buckinghamshire  
MK9 1ES  
UK

Direct Line: 020 3683 9969  
Direct Fax: (01908) 853693  
Email UKRetailLicencing@bp.com

Your Ref:  
Our Ref: NM/DOC

16/05/2016

Licensing  
East Herts Council  
Wallfields  
Pegs Lane  
Hertford  
Hertfordshire  
SG13 8EQ

Dear Sirs

### Licensing Act 2003 Review of Licensing Policy

BP Oil UK Limited owns or supplies over 1,200 petrol stations in the UK. The company owns and manages 270 sites including over 220 sites that trade in partnership with Marks & Spencer.

BP owns the following petrol station in the East Herts area:

- Rush Green Service Station Stanstead Rd, Hertford, SG13 7SH

The draft revised licensing policy for East Hertfordshire District Council (the "SLP") has been brought to our attention..

We wish to comment on the following paragraphs:

### Paragraphs 5.1 to 5.7

5.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:

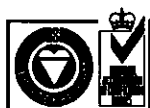
- the retailing of petrol;
- the retailing of derv;
- the sale of motor vehicles; and
- the maintenance of motor vehicles.

5.2 If premises that are primarily used as a garage are granted a licence, that licence is "of no effect" and alcohol may not be lawfully sold.

5.3 It follows that we must be satisfied whether or not any premises are used

On behalf of BP Oil UK Limited

BP Oil UK Limited is regulated by the Securities and Futures Authority



Certificate Nos  
FM 12798  
FM 09653  
FM 2273

Registered in England and Wales: No. 446915

Registered Office: Witan Gate House, 500-600 Witan Gate West, Central Milton Keynes MK9 1ES

primarily as a garage before we grant a licence for it. This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not.

5.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. Such evidence must be based on income (from retailing petrol and derv and vehicles sales/maintenance versus other items) and the numbers of individual sales (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature. Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following two years to ensure the premises are not primarily a garage.

5.5 Where insufficient evidence exists to establish primary use, we will decide whether or not to grant a licence or allow premises to continue selling alcohol and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.

5.6 Where relevant representations have been made and a premises licence is granted in these circumstances, we shall treat it as an off-licence, as defined in this policy, and grant hours accordingly.

5.7 Paragraph 5.21 of the statutory guidance issued under the Act makes it clear that we must decide whether or not any premises is used primarily as a garage. We are aware that different licensing authorities take a number of different approaches to this question. Where appropriate, this approach will allow us to obtain the necessary information for us to reach that decision.

We are advised by our solicitors, Winckworth Sherwood that this part of the SLP is misleading and at least in part, altogether wrong.

The Licensing Act 1964 disqualified a person from receiving a licence if the premises were primarily used as a garage.

The Licensing Act 2003 ("the 2003 Act") provides that no premises licence "has effect" to authorise the sale or supply of alcohol from excluded premises. Premises primarily used as a garage are included in the definition of "excluded premises".

You may be aware that the Home Office published revised guidance ("the Guidance") under section 182 of the 2003 Act in March 2015 and in paragraphs 5.21 to 5.23 it amended previous guidance to clarify the position regarding applications for garages and motorway service areas. This followed meetings and discussions between Winckworth Sherwood and the Home Office.

Paragraph 5.22 of the Guidance provides that the Licensing Authority must determine the application based on the documents and information required to be submitted by an applicant under sections 17(3) and (4) of the 2003 Act. This must be correct and, of course,

there is no requirement in section 17 for an applicant to demonstrate that the main activity of the premises is not that of a garage.

Paragraph 5.23 of the Guidance goes on to say that “if a licence is granted... “ and the primary use subsequently becomes that of a garage it would no longer be legal to sell alcohol at the premises. Again this is correct. Section 176 of the 2003 Act provides that a licence (this assumes that there is a licence in existence) has no effect if the primary use is that of a garage.

It is therefore contrary to both the 2003 Act and the Guidance to state that “It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it.” (SLP paragraph 5.3).

The remainder of SLP paragraph 5.3: This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not. is inconsistent with SLP paragraphs 5.4 and 5.5.

SLP paragraph 5.4 seems to supersede the statute by setting out a test to establish primary use both as to the type of data and over what period of time. This test is not supported by the 2003 Act, the Guidance or indeed case law. There is no requirement in law for an applicant or an existing licence holder to demonstrate primary use over a two year period.

SLP paragraph 5.6 is superfluous. It should go without saying that an off licence granted would be treated “as an off-licence”.

SLP paragraph 5.7 is wrong as paragraph 21 of Guidance does not state that the Licensing Authority “must decide whether or not any premises is used primarily as a garage.”

Winckworth Sherwood sought further clarification from the Home Office on the Guidance paragraph 5.23 and have received written confirmation that it would only be after a licence has been granted that the licensing authority could be tasked with determining the primary use of the premises.

We suggest that the Petrol Filling Station section of the SLP simply state as follows:

If a licence is granted in respect of premises that sell petrol, and the primary use of the premises is that of a garage (this being the retailing of petrol or derv or the sale and maintenance of motor vehicles) then the licence will no longer have effect.

### **Paragraphs 6.6 and 6.7**

6.6 We will consider whether to grant an application, even when relevant representations have been received, if the application:

- (1) contributes to the family-friendly development of the town centre; or
- (2) effects a real reduction in capacity of alcohol sales; or
- (3) replaces vertical drinking establishments with seated consumption and waiter service.

This may be a drafting issue but this paragraph is confusing. The Licensing Authority's discretion is only triggered if relevant representations are made. The opening sentence appears to suggest otherwise.

6.6 (1) This should not be seen a test for an application for a premises licence.

6.6 (2) We are unsure what is intended here. The Licensing Authority cannot expect applicants to achieve a reduction in alcohol sales for the area. Perhaps we have not understood this part of the SLP.

We hope that our response is seen as constructive and we trust that the SLP will be amended accordingly before its adoption.

Yours faithfully

**Carl Davidson**  
**Licensing Coordinator**  
**[UKRetaillicencing@bp.com](mailto:UKRetaillicencing@bp.com)**  
**TEL: 0203 683 9969**



**From:** Robert Botkai  
**Sent:** 19 January 2016 12:52:57  
**To:** [REDACTED]  
**Subject:** FW: Query re s.182 guidance

---

**From:** Dawson Anna [REDACTED]  
**Sent:** 15 April 2015 16:15  
**To:** Robert Botkai  
**Subject:** Query re s.182 guidance

Mr Botkai,

I am writing in response to your query about the guidance issued to licensing authorities under section 182 of the Licensing Act 2003. The guidance was revised and published on 27 March 2015. Changes have been made to paragraphs 5.22 and 5.23 concerning the sale of alcohol at garages and you have asked me to clarify the position described at paragraph 5.23.

At paragraph 5.22 the guidance is now clearer that a decision on whether to grant a premises licence should be based on the documents and information listed in section 17(3) and 17(4) of the Licensing Act 2003; and that in common with all licensing decisions, the statutory licensing objectives form the basis for this decision.

Paragraph 5.23 describes action that may be taken after the licence has been granted. For example, if the primary use of the premises becomes that of a garage rather than a shop then it would no longer be legal to sell alcohol from the premises (prohibited by section 176 of the Licensing Act 2003). This situation may give rise to a review, and paragraph 5.23 states that if a relevant representation is made, the licensing authority must decide whether or not the premises is used primarily as a garage.

You have raised a concern that use of the term 'representation' in this paragraph may cause some confusion as to whether this paragraph relates to representations made *before* the grant of a premises licence, or representations in relation to a review of an *existing* licence. Paragraph 5.23 is concerned with representations made *after* a licence has been granted or in respect of an existing licence. The term 'representation' is also used in this sense in chapter 11 of the guidance which deals with reviews. Chapter 11 refers to representations given in relation to a review, and representations which give rise to a review (also referred to as an application for a review).

I hope this helps to clarify the position.

Regards,  
Anna

Anna Dawson  
Drugs and Alcohol Unit  
Home Office  
5th Floor Fry Building, 2 Marsham Street, London SW1P 4DF

[REDACTED]

\*\*\*\*\*

This page is intentionally left blank

## ESSENTIAL REFERENCE PAPER 'E'

Your contact: Oliver Rawlings  
Ext:  
Fax:  
Your ref:  
Date:

Dear

Thank you for your response to East Herts draft Statement of Licensing Policy (SLP). We appreciate you taking the time to read the document and for your reasoned response. We have considered your points and our response is set out below.

Firstly as you are aware the revised guidance under section 182 of the 2003 Act is just that, guidance. This licensing authority has had regard to the guidance when drafting the revised SLP. We are also aware that departure from the guidance could give rise to an appeal or judicial review and that our reasons for doing so would then be under scrutiny.

### **SLP para 5.3**

Your point is agreed. The Act and guidance do not allow for a premises licence application to be refused simply on the grounds that the primary use of the premises is as a petrol station.

The paragraph has been reworded as follows:

*Although there is no requirement in the legislation for an applicant for a licence to provide proof of primary use it is considered useful for this information to be included so that it is clear to all parties if the licence has affect or not. Applications that do not include this information will still be processed and determined as required by the Licensing Act 2003.*

### **SLP para 5.4**

This section does not supersede the statute but simply states the format of the information that the Licensing Authority would request be provided to establish primary use. This makes it clear to all parties what information they would be requested to provide if we were looking at the primary use of a site. A test for primary use is not defined in the 2003 Act, the Guidance and as yet there has been no case law so for clarity the authority has chosen to define the test that they will seek to apply. We are not imposing a requirement but offering guidance on how we will discharge the licensing function. The two year period was chosen as a longer period of measurement gives a more accurate picture and avoids taking into account any unusual or seasonal fluctuations in trade.

The paragraph has been reworded as follows:

*Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. The licensing authority requests that evidence be based on income (from retailing petrol and derv and vehicles sales/maintenance versus other items) and the numbers of individual sales (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature.*

#### **SLP para 5.5**

We agree that paragraph 5.5 is inconsistent with the other paragraphs of this section. Evidence of primary use or not would not be grounds for refusing a new application for a premises licence. The entire paragraph has been removed.

#### **SLP para 5.6**

We do not consider this paragraph superfluous. The reference is directly linked to Section 4 of the SLP which relates to licensing hours and indicates the hours that are likely to be granted to different types of business, in different locations, when representations have been received and not withdrawn. The paragraph will remain unchanged as the policy is written for all readers and not just those with a good knowledge of licensing.

#### **SLP para 5.7**

This comment is correct; the paragraph of the guidance that should be referenced is 5.23. The reference in the paragraph will be changed and the wording slightly amended:

*Paragraph 5.23 of the statutory guidance issued under the Act makes it clear that, where representations are received, we must decide whether or not any premises is used primarily as a garage. We are aware that different authorities take a number of different approaches to this question. However, we hope that the proceeding paragraphs will guide applicants and licence holders as to the information we would like them to provide if this question arises.*

#### **Suggested wording for the Petrol filling station section of the SLP**

The statement of licensing policy is supposed to detail the approach of the licensing authority to discharging the licensing function. The suggested wording is just a regurgitation of the wording of the Licensing Act 2003 and would not give people reading the policy any indication of how we would approach and deal with such matters.

#### **Paragraph 6.6**

We agree that the wording of paragraph 6.6 could be clearer.

6.6 (1) is not a test by which an application will be granted but an indication that this sort of application, which would promote the licensing objectives, would be welcomed.

6.6 (2) is not expecting applicants to be able to effect a real reduction in capacity of alcohol sales in an area but rather at an individual premises. This appears to be almost identical in intention as point 6.6 (3).

The following changes have been made to Paragraph 6.6:

*Where relevant representations have been received we will take into account if the application:*

- (1) contributes to the family-friendly development of the town centres; or*
- (2) effects a real reduction in the capacity for alcohol sales in that premises (for example by replacing a vertical drinking establishment with seated consumption and waiter/waitress service).*

We hope that these changes satisfy your concerns and that you now have a clearer understanding of what we are seeking to achieve with the SLP.

Yours sincerely,

**Oliver Rawlings**  
**Senior Specialist Licensing Officer**  
**East Herts Council**

This page is intentionally left blank

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 14 JULY 2016

#### REPORT BY THE CHIEF EXECUTIVE

#### CONSIDERATION OF FEEDBACK ON REVISED DRIVER CONVICTIONS POLICY

WARD(S) AFFECTED: ALL

---

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

- To present responses to consultation to the draft revised Driver Convictions Policy.

<b>RECOMMENDATIONS FOR DECISION:</b> that	
<b>(A)</b>	<b>The Committee consider the responses to the consultation;</b>
<b>(B)</b>	<b>The revised Driver Convictions Policy be recommended to Council for approval to take effect from 1<sup>st</sup> August 2016; and</b>
<b>(C)</b>	<b>Authority to make decisions under the new policy be delegated to Officers.</b>

#### 1.0 Background

1.1 East Herts, as an authority that licenses hackney carriage and private hire drivers, vehicle proprietors and operators, can set its own criteria to ensure that applicants are 'fit and proper' to hold a licence. As such the authority requires all applicants to pass a DVSA driving test, a medical and a criminal records check. Additionally dual driver applicants have to undertake and pass a knowledge test.

1.2 Currently if a criminal records check comes back with an offence shown officers consult the convictions policy attached at **Essential Reference Paper 'B'**. If the offence is described within the policy then officers must arrange a licensing sub-committee to consider that conviction as they have no delegated authority to make the decision based on the policy. If a conviction is not

covered by the convictions policy then it automatically goes to a licensing sub-committee for consideration.

- 1.3 Since March 2002, Hackney Carriage and Private Hire drivers have been included within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. The consequence of this is that all convictions, irrespective of age, sentence imposed or offence committed, remain live for an applicant for a Hackney Carriage or Private Hire drivers licence and will be recorded on an enhanced criminal record check.
- 1.4 Following comments from the licensed Hackney Carriage and Private Hire trade the licensing service started with a comprehensive review of the convictions policy. The trade have made it clear that they want high standards to be maintained and every effort to be made to ensure that issues that have arisen elsewhere in the country cannot happen in East Herts.
- 1.5 This revision of the policy is a direct response to Louise Casey's 'Report of Inspection of Rotherham Metropolitan Borough Council' February 2015. It is based upon Rotherham's new licensing convictions policy and the lessons learned there. That report provided guidance about preventing the type of child sexual abuse that arose in Rotherham, Oxford and other places, where those Licensing Committees came under intense scrutiny and attracted much criticism.
- 1.6 There is no inference that this activity is taking place in East Herts but the authority will not be complacent and will uphold its responsibility to ensure that every measure is put in place to ensure it does not occur. The public, especially the most vulnerable, must be protected.
- 1.7 The revised policy sets out our minimum standards. It suggests actions that will normally be taken where a new applicant or existing licence holder have relevant convictions we consider inappropriate for a licensed driver, proprietor or operator. These are usually for dishonesty, violence, substance misuse, sexual offending or poor driver standards.
- 1.8 The effect a conviction has on an application varies and takes into consideration the type of conviction, date of conviction and the disposal imposed.
- 1.9 It is the authority's intention to apply this policy to all licensed drivers whether they are making a new application or an



application to renew an existing driver's licence. As a higher standard is being proposed than has historically been in place drivers whose convictions have already been considered may find those convictions being considered again.

- 1.10 This may result in drivers who have previously been granted licences having their renewals refused under delegated authority where that is what the policy indicates. These applicants will have a right of appeal to magistrate's court and the financial impact of the refusal is not a relevant consideration when applying the 'fit and proper test'.
- 1.11 Each application will be considered on its own individual merits and where an application is refused there is always a route of appeal via magistrate's court.
- 1.12 The revision of the convictions policy is part of a wider review of taxi licensing within East Herts.
- 1.13 The purpose and primary concern in taxi licensing is to ensure the safety of the public. The authority must be satisfied that an applicant is a 'fit and proper' person to hold such a licence. The draft convictions policy has this principle at its core.

## 2.0 Report

- 2.1 The consultation with the East Herts licensed taxi trade was open between 8th January 2016 and 19th February 2016. Every member of the trade was contacted directly with details of the consultation and links to the draft policy and a quick reference table listing offences. The table quickly showed how we propose that convictions will affect an application (whether for a new driver or renewal application).
- 2.2 The draft revised policy was also sent to all the other authorities that license taxis in Hertfordshire. Many of the authorities have recognised the same emerging issues as East Herts and are now in the process of reviewing their own policies. This step was taken in the hope that it would help to promote similar standards county wide.
- 2.3 As a result of the consultation 6 responses were received, 3 from the licensed trade and 3 from other local authorities. The responses from the trade represent 79 drivers and two private hire operators all of whom are regularly required to provide criminal

record checks. The responses can be found at **Essential Reference Paper 'C'** and includes the authority's replies.

- 2.4 The final draft of the new convictions policy is attached at **Essential Reference Paper 'D'** and shows the amendments to the consultation draft, as tracked changes, made following consideration of the responses received.
- 2.5 The quick reference table circulated as part of the consultation is attached as **Essential Reference Paper 'E'**. Minor modifications have been made to this to reflect the changes made to the draft policy and one drafting error. The error was in relation to licensing offences where the penalty upon conviction is a fine so would not result in a prison sentence or a period 'on licence'. This table will be used on the website to quickly add new applicants in knowing how a previous conviction will affect any application.
- 2.6 Following discussions with Hertfordshire Constabulary a protocol has been set up where by the Police will do a check on the Police National Computer (PNC check) on all new and renewing applicants. This will ensure that the criminal record checks we have received are accurate but will also give us access to any appropriate police intelligence or items that may not otherwise have been disclosed. This matter has been added into the convictions policy under the section on 'Non-conviction information' so that applicants will be aware that this will take place.
- 2.7 It should be noted that none of the consultation responses from East Herts licensed taxi trade raised any objections or queries relating to applying the new policy to drivers at renewal.

### 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 Graham McAndrew – Executive Member for Environment and the Public Space.

Contact Officer: Jonathan Geall – Head of Housing and Health, Extn: 1594.

Report Author: Oliver Rawlings – Senior Specialist Licensing  
Officer, Extn: 1629.

This page is intentionally left blank

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS:

<p>Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i></p>	<p>Priority 1 – Improve the health and wellbeing of our communities</p> <p>Priority 2 – Enhance the quality of people's lives</p> <p>Priority 3 – Enable a flourishing local economy</p>
<p>Consultation:</p>	<p><i>A 6 week consultation was carried out with every individual and business in the East Herts licensed taxi trade being contacted directly. DFT guidance recommends that a 12 week consultation should be undertaken but given the serious safeguarding implications it was felt that a shorter consultation period was justified. As the experts on crime and disorder Hertfordshire Constabulary were consulted. Independent advice of a nationally recognised licensing expert was sought at every stage.</i></p>
<p>Legal:</p>	<p><i>The Convictions Policy is open to challenge through an appeal against a decision to magistrates court or by Judicial Review.</i></p>
<p>Financial:</p>	<p><i>If the policy was challenged then there would be cost implications in defending that challenge. The new policy may slow the number of applications received for driver's licences but this will be of little impact given the numbers involved and that taxi licensing is run at cost recovery. If authority is delegated to officers there will be fewer licensing sub-committee hearings which would be a cost saving. This would have to be taken into consideration when setting the 2017-18 fees.</i></p>
<p>Human Resource:</p>	<p><i>None identified</i></p>
<p>Risk Management:</p>	<p><i>There is a risk that if we do not approve a comprehensive convictions policy an incident could happen that may have otherwise been prevented. Were this to happen then the Authority could be open to criticism similar to that aimed at Rotherham in the Casey report. Applying the new convictions policy to renewing applicants appears not to have been previously done by any other licensing authority. Although independent</i></p>

	<i>opinion was sought on the matter there is still a possibility that an appeal to magistrate's court could overturn this.</i>
Health and wellbeing – issues and impacts:	<i>By ensuring that those people licensed by East Herts are 'fit and proper' to hold a licence we can improve the health and wellbeing of individuals in East Herts. It is particularly relevant for those most vulnerable sections of the community who place their trust in the licensed taxi trade, and by default, East Herts Council.</i>

**Convictions Policy**

When submitting an application for a licence to drive a hackney carriage or private hire vehicle an applicant is required to declare any convictions or cautions on the application form and undertake an enhanced Disclosure & Barring Service check. The information given will be treated in confidence and will only be taken into account in relation to the application.

**General points**

- Each case is considered on its own merits.
- A person with a conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain conviction free for a period of time before an application will be entertained. This period will vary according to the conviction and the disposal given by the Court.
- Since March 2002, Hackney Carriage and Private Hire drivers have been included within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. The consequence of this is that all convictions, irrespective of age, sentence imposed or offence committed, remain live for an applicant for a Hackney Carriage or Private Hire drivers licence.
- The over-riding consideration with regards to taxi licensing is the protection of the public.

**Always refuse:**

- Inclusion on the Sexual Offences Register
- Information included at discretion of Chief Police Officer indicating a propensity to commit sexual offences.
- Violence: Murder; terrorist offences/causing explosions; conspiracy or incitement to commit any of the above.
- Drugs/Alcohol: Treatment order not completed.

**Very high risk**

- Violence; Manslaughter; Grievous bodily harm; causing death by dangerous driving;
- Dishonesty: Burglary, theft or similar resulting in a custodial sentence.
- Driving offences: Driving while disqualified by a court order.
- Drugs/Alcohol: Any sentence including drug or alcohol treatment order.

<b>Time since conviction spent under Rehabilitation of Offenders Act 1974</b>	
Not spent	Refuse
0 – 10 years	Refuse
11 years or more	Committee with starting point to refuse

**Serious risk**

- Offences involving drugs or alcohol: Drink drive; importation, possession, use or supply of Class A or Class B drugs; importation or supply of Class C drugs.
- Dishonesty: Burglary (non-custodial sentence); theft, fraud, deception, perverting the course of justice or similar sentenced with a fine; any theft of a vehicle or vehicle fuel; dishonesty with vehicle or driver licence documentation.

- Violence/Public order: Actual bodily harm; any assault on a passenger; any assault in breach of a position of care or trust; riot; banning order.
- Driving offences: Driving with no insurance or while unlicensed to drive (including driving a taxi while unlicensed as a taxi driver); illegal plying for hire; failing to stop after an accident.

<b>Time since conviction spent under Rehabilitation of Offenders Act 1974</b>	
Not spent	Refuse
0 – 3 years	Refuse
4 - 7 years	Committee with starting point to refuse
8 – 11 years	Committee with starting point to grant
12 years or more	Grant

### **Significant risk**

- Drugs/Alcohol: Possession of Class C drugs; drunk and disorderly.
- Dishonesty: Theft or similar sentenced with a conditional discharge; failing to give information about the driver of a vehicle; giving false or withholding relevant information from the Licensing Authority.
- Violence: Common assault; any offence not involving physical assault resulting in a hospital treatment order for the offender; affray; criminal damage; possession of an offensive weapon; resisting arrest; obstruction of a Police Officer.
- Driving offences: 9 DVLA driving licence points or more; failing to report an accident; parking on a pedestrian crossing.

<b>Time since conviction spent under Rehabilitation of Offenders Act 1974</b>	
Not spent	Refuse
0 – 3 years	Committee with starting point to refuse
4 - 7 years	Committee with starting point to grant
8 years or more	Grant

### **Identifiable risk**

- Violence: Threatening behaviour, causing harassment, alarm or distress; disorderly conduct.
- Dishonesty: Theft or similar dealt with by fixed penalty notice (FPN) or Police caution.
- Driving offences: 4-8 DVLA points.

<b>Time since conviction spent under Rehabilitation of Offenders Act 1974</b>	
Not spent	Refuse
0 – 3 years	Committee with no starting point
4 - 7 years	Grant

### **Low risk** – Always granted under delegated authority

- Driving offences: 3 DVLA points or less.



## ESSENTIAL REFERENCE PAPER 'C'

Good morning Oliver/Robin.

Further to our e-mail 13/01/16 commenting on the proposed convictions policy we revise our comments as follows:-

We do not believe that any existing EHC licensed driver should have his EHC licence automatically suspended or revoked for minor traffic offences ("minor" being defined and we can provide the accepted definitions if required) if under the totting up procedures the total number of current (non-lapsed) minor points is 11 or less. If under the totting up procedures the total of current (non-lapsed) minor points is 12 and above but a disqualification (driving ban) is not incurred then The Council MAY suspend the EHC licence for not more than 30 days AND MAY require the driver to re-sit the DVSA Test. If under the totting up procedures the total number of (non-lapsed) minor points is 12 and above AND the driver incurs a driving disqualification of his/her driving licence the Council WILL suspend the EHC licence for the duration of that disqualification AND MAY require the driver to re-sit the DVSA Test.

Two separate parallel forms of words would need to be included to take account of totting up where intermediate driving offences and/or serious driving offences are concerned.

**NOTE: the above is broadly consistent with the major metropolises of London, Manchester and Birmingham and very many small and large authorities including for eg Watford, Luton and North Lincs. We believe and anticipate that there will be a convergence with a 12 point threshold across the country as there will be legal challenges at every level where there is inconsistency with National Legislation and EU Legislation.**

Please note that the above comments are made on a Corporate basis on behalf of our Companies trading as Associated Taxis, Kwik Cars and Sawbridgeworth Cars as well as the 6 (six) EHC drivers whose names were supplied earlier. Please also note we have and are encouraging our circuit drivers to review the consultation document. **A number of those drivers have already authorised us in writing to represent them in presenting their views consistent with ours.** Before the close of the consultation we will provide a list of names and DD numbers of those drivers and their views and we will make available for inspection their individual written authorities.

We'll be in touch again shortly, kind regards, John Doherty and also representing:

Insofar as we have been able to contact in writing drivers currently operating on our circuit, we have asked and encouraged them all to review the consultation document and to make their own comments, if any, directly to you by using the link provided.

With particular and specific regard to "OTHER TRAFFIC OFFENCES" (i.e. those not involving loss of life) we hold written authority from the **31 (thirty one)** drivers listed below to present to you the collective view which follows. By separate e-mail we will forward to you three sample authorities from drivers and you may on request examine all of the original authorities which are held at our offices:-

Proposed suggested amendments to the Policy as it relates to "Other Traffic Offences"

- i. Points Totting Up Policy to be restricted to **MINOR** traffic offences defined as those that incur not more than three points (plus any mandatory fine)
- ii. Points will be considered only if remaining on the Drivers Licence

- iii. **NEW** drivers will not be considered if they have 7 (seven) or more current points on their licence.
- iv. **EXISTING** drivers (to include drivers at licence renewal) will be required to retake and pass a DSA Test within 90 days of reaching 9 Points. This condition will carry over in the event that a licence is renewed (all other conditions being met) during the 90 day period. The licence will be suspended for a period of 60 days if the DSA is not passed within the initial 90 day period and will be revoked if the DSA Test is not passed during the period of suspension.
- v. **EXISTING** drivers who reach 10 points or more will be suspended until they have a) passed a new DSA Test and b) the total number of current points falls to 9 or below. If licence renewal falls before BOTH of these conditions are met then the licence will not be renewed.
- vi. Any **EXISTING** driver who is unable to renew his licence or has his licence revoked under iv) or v) above but is able to complete those conditions with the 6 month period of the revocation or (failed) renewal may reapply and in which case the application will be considered as a Renewal Application.

Points Considered when proposing these suggested amendments include:-

- a) HM Government set the threshold for who should/shouldn't hold a driving licence and the Council already requires a DSA Test
- b) The circumstances surrounding Minor Traffic Offences are more often than not different in nature and circumstance which is why HM Govt provides for Totting up of Minors as distinct from more serious penalties for individual majors.
- c) The major taxi licencing authorities including TFL, Manchester and Birmingham as well as very many other large and small authorities work to (and beyond) the 12 point principal
- d) There is a hidden inequity in the current position where drivers are offered speeding awareness courses in lieu of points by certain authorities but not by others.
- e) Taxi Drivers complete a significant number of miles more than the average driver so it is illogical to impose a higher threshold than HM Govt. particularly where livelihoods are at stake.
- f) There is a recognised shortage of Taxi Capacity at peak periods, commuter times, school times and weekends and this Policy may serve to discourage potential new applicants.
- g) Existing Drivers may seek alternative and or contingency work as a precaution against losing their livelihoods, working under such tight constraints introduces additional unnecessary pressures on Drivers.
- h) There are often backlogs for DSA test dates which need to be considered, also drivers retaking DSA tests may fail on a non-speed related matter which was not the primary reason for retest so some practical latitude needs to be built into the timings.

With regard to other areas of the proposed convictions policy we have already provided you with our corporate view which is supported by the individual employee drivers, to summarise:-

1. There needs to be an express "grandfather provision" so existing driver renewal application decisions are not revisited unless additional relevant information comes to light
2. Cautions should not be viewed in the same way as Convictions, also Formal and Informal cautions need to distinguished
3. Wholly Exceptional Circumstances requires an outline definition
4. Provision needs to be made for Private Hire Operators (and possibly circuit operators!) to be notified if Driver Licences are Granted (by exercise of discretion) outside of The Convictions Policy

5. A supporting Guideline needs to be produced as regards acceptable social interaction between drivers and passengers with particular regard to sexual contact. This is vital with the changing ethnic mix of the driver pool and the differing social/moral/cultural attitudes.

Self Employed Drivers (25 in total):-

DD088 Dawid Blaszczyk  
DD114 Tim Kenny  
DD100 Paul Attfield  
DD247 Piotr Warachewicz  
DD188 Lee Woods  
DD007 Kris Gyls  
DD067 Colin Williams  
DD110 Steve Davies  
DD174 Chris Barnes  
DD208 Nigel Stock  
DD033 Juhel Hamid  
DD182 Chris Heiden  
PD032 Andy Wilson  
DD036 Adam Emery  
DD109 Regimentas Mika  
PD054 Colin Hardy  
DD221 Sarunas Mika  
DD282 Jason Cox  
DD199 Edwin Miller  
DD341 Nicky Forbes  
DD122 Nigel O'Shea  
DD107 Dean Lloyd  
DD216 Dave Shorrocks  
DD187 Damian Blaszczyk  
DD322 Lloyd Oakley

Employee Drivers (6 in total):-

DD238 John Doherty  
DD280 Ryan Doherty  
DD140 Jack Doherty  
DD051 Carmel Doherty  
DD348 Chris Knaggs  
DD027 Colin Knaggs

The following three additional drivers have also provided their written authority and are added to the list below:-

DD057 Gary Austin  
DD124 Mike Harding  
DD013 John Knight

Bringing the overall total now to **34 (thirty four)**, thanks and regards, John

## **AUTHORITY'S RESPONSE:**

The final version of the policy has been revised to state in paragraph 12.1: For existing drivers who have accumulated 9 or more points on their DVLA driving licence, they are required to pass a driving test to DVSA standards. If this is not done within 6 calendar weeks then their drivers licence will normally be suspended until the driver has successfully undertaken the test. Such a test will be at the licence holder's expense.

East Herts considers that the accumulation of 12 penalty points indicates that a professional driver is not maintaining the standards expected and might be putting themselves, passengers and the public at risk and as such should not hold a licence. Suspension for 12 or more DVLA points does not seem appropriate and if someone is disqualified then they will not be considered fit and proper. Following the revocation of their licence they can apply for a new licence once the number of current DVLA points allows under the policy.

In regards to speeding and minor driving offences it is not appropriate to apply a lesser standard because of the hours spent on the road or distractions that may happen. As professional drivers it is reasonable to expect that a higher standard be maintained. When a court of law disqualifies a person from driving they do not take into account the number of miles that person has driven when considering what penalty should be imposed.

Point i) We are happy with the definition of minor offences in the policy. Point ii) Agreed. Point iii) The threshold for new drivers has been moved to 7 points as suggested. Point iv) Revised to 6 weeks to pass test before licence suspended. The option to revoke has not been taken. Point v) With the 9 point threshold this is not necessary. Point vi) If the licence expires we cannot give 6 weeks grace as there would be nothing to renew, we will happily use any documents that are still valid.

Response to a-h: The Council's main consideration is the safety of the public so it can impose the threshold that it sees fit. What other authorities choose to do is their decision and all are open to challenge in court. We have no way of being notified of speed awareness courses so even if we required people to notify us we would not know if they didn't. The courts do not take into account mileage when considering motoring offences and as professional high mileage drivers we would expect them to exhibit higher standards than others. Case law means that we are not allowed to consider the impact on a driver or his dependants of having or not having a drivers licence as it is not relevant to the 'fit and proper' test. The need for more taxis does not over rule the consideration of public safety). If a driver considers that they are likely to get caught speeding and possibly lose their livelihood the policy will hopefully encourage them to take more care and avoid the situation. This would promote public safety and is the point of the taxi licensing regime. We have decided to give 6 weeks to pass the DVSA test and if a driver fails on a non-speed related matter then they should not be driving a licensed vehicle until they pass.

Response to 1-5: It is our specific intention to not provide any "grandfather provision", this new, higher standard will be applied to all applicants as defined in paragraph 1.12. Cautions are an admission of guilt so should be treated the same. Wholly exceptional circumstances cannot be defined as each case is considered on its own merits, to define it would fetter discretion. We have said how this will be decided in paragraph 2.2. Due to the nature of the matters being considered we are unable to notify operators of the grant of a licence outside of the policy. As a driver needs to notify us regarding which operators they will/do work for it is likely they will know if such matters are being considered. We will be reviewing all our taxi policies in the near future and a code of conduct will be included but will not form part of this policy.

I accept that you have sought advice on paragraph 1.12 but it causes me concern.

*Darlington BC v Kaye [2005] RTR 14* established that changes to policies in respect of licensing requirements can be applied to existing drivers as well as new applicants although that applied to the DVSA driving test. The ruling basically states that a local authority is entitled to change its policy in relation to its interpretation of 'fit and proper' and apply it to all applicants whether new or renewals which I can understand – I'm actually relying on it to introduce safeguarding training for all drivers.

My concern is that if an existing driver was previously found to be 'fit and proper' despite a conviction(s) that were not deemed sufficiently serious to refuse a licence at the time and that driver has been driving for a number of years without any further issues (who knows he/she may even be a model driver!), how can an authority suddenly change their mind on his/her suitability without further evidence – indeed the only further evidence available would be that there were no issues whilst driving? I know it's probably unlikely, but say a convicted one-off time kerb-crawler was licensed many years ago, is now happily married with kids and has driven for 10 years without any further issues, your policy now says his application will be refused.

Just my initial thoughts!

Regards,

Steve Cobb  
**Licensing Manager**

**AUTHORITY'S RESPONSE:**

Thanks for the response regarding the draft convictions policy. Having gone out to consultation and got Jim Button's thoughts I can respond to those that took the time to comment.

With regards to your email this is a point we looked into from an early stage of drafting. The advice we have received is that the legislation and case law allows for the higher standard to be imposed both for new applicants and at renewal. As you will appreciate the safety of the public is the principle focus of taxi licensing and the new policy has this at its core.

Overall, I think you have pretty much nailed it. My only suggestion would be that you might like to add a paragraph about the Human Rights Act:

- Article 6 (Right to a fair trial):
- Article 8 (the right to respect for private and family life: and
- Protocol 1, Article 1 (Protection of Property)

Pick whichever you think are appropriate.

*Regards,*

*Robert Cox  
Licensing Officer  
Stevenage Borough Council*

**AUTHORITY'S RESPONSE:**

The taxi convictions policy I drafted has been finalised after finally receiving Mr Button's opinion so I can respond to all the comments on the draft. Thank you for yours and it resulted in the policy being amended to say:

1.13 In drafting this policy and considering responses to the consultation consideration has been given to the Human Rights Act 1998, particularly in relation to:

- Article 6 (right to a fair trial);
- Article 8 (the right to respect for private and family life); and
- Protocol 1, Article 1 (protection of property)

1.14 All decisions taken under this policy will be taken in accordance with the Human Rights Act.

Sirs

Whilst I applaud anything that will keep on raising standards within the taxi trade, in my short time of being a driver I have only been left with the feeling that the Council is dumbing down the requirements as and when the main Companies, in the main towns, claim to have a shortage of Drivers and this feeling is common amongst taxi drivers.

In the last two years, the Bishop's Stortford Companies have used a plethora of 'P' plate driver/vehicles and many of these drivers have been hardly able to speak English, have picked up off the street and are curt/rude to customers. This I have seen and heard first hand and evidenced the Council with photographic proof.

With specific regard to the consultation document, I would only take issue with traffic offences. It should be paramount to investigate all NEW applications for traffic offences, frequency of such and if duplicated offences. As this quite strongly reflects their approach to safety etc. However, once given a taxi licence then penalties issued onto someones licence are inflicted by the Court or Police. Therefore to jeopardize ones sole income for 9 points is excessive. It is possible to accumulate 12 points for minor infringements not necessarily related to driving and therefore is nonsensical. The suggestion could inflict total loss of earnings from minor factors and non of which could be attributal to actual driving thus doing another driving test achieves nothing.

Whilst writing, I would suggest that if a new recruit to taxiing wishes to drive under a 'P' plate, then they should be kept on this for a minimum of a year and thereafter, after completion of the tests for Hackney Carriage Licence only then obtain the standard licence.

To knowingly omit from the Council any data that could affect the ability to hold a licence should prevent a new driver from holding a taxi licence for a minimum of 2 years not until 'resolved'.

In closing the Council could review metre rates as it has been 5 years since the last change although fuel prices may have dropped recently, the running costs of servicing, tyres etc is continuing to increase year by year.

Look forward to receiving your comments.

Regards  
Adrian Andrews

**AUTHORITY'S RESPONSE:**

Firstly let me apologise for the delay in responding to your email but we have considered all the responses, amended the policy where it is necessary and then sought independent legal opinion. I will address your points regarding traffic offences

We appreciate that you feel you cannot agree with some of the proposed changes but the point of taxi licensing is to protect the public, not just the customers but pedestrians, other road users etc. The steps proposed are viewed as necessary to ensure high standards are maintained. The authority considers that it is important that the standard of both new and existing drivers is the same; it would be unfair to apply a different standard to each group.

As professional drivers it is reasonable to expect that a higher standard be maintained so accumulating points for speeding may indicate that a person is not 'fit and proper' to hold a licence. Case law has shown that the financial impact on a driver or his dependants of having or not having a

licence is not relevant when considering an individual's fitness and propriety. Although the authority can empathise with drivers this is not a matter that we are legally allowed to consider.

You point about 'p' plates is not relevant in the context of the convictions policy consultation but I will still answer it. The legislation does not allow us to limit which licences individuals can apply for so your suggestion of a minimum of time as private hire is not possible.

With regards to knowingly omitting information the final policy states: 4.8 It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence. Where an Applicant has made a false statement or a false declaration or omission on their application for the grant or renewal of a licence, the licence will normally be refused. Further applications for licences will be refused for a period of five years from the date that the lie or omission came to light. This goes beyond what you have suggested in your email.

We are currently working on implementing the new convictions policy and will keep you updated with regard the time line. Thank you for taking the time to respond to the consultation.





14 Station Road  
Bishops Stortford  
Herts  
CM233BL  
Telephone 01279 655444

17<sup>th</sup> February 2016

To the Members of the East Herts Licencing Committee

Having reviewed the proposed changes to Licencing legislation, as a company owner and licenced driver's leaves us with grave concerns. We have reviewed Taxi licencing convictions policy dated 8<sup>th</sup> January 2016 and to a point we agree with the points on public safety.

- 1 Violence
- 2 Sexual Offences
- 3 Substance Abuse
- 4 General Public safety

Where we cannot agree with proposed changes to the licencing procedure, we feel that your licencing policy already covers a drivers driving standard, as any new applicant has to pass a driving proficiency test set by and tested with the DVLA. Having sat in on a few driving proficiency tests over the last few years passing is not easy as it considered by any and all who have passed it to be nothing but a full DVLA driving test.

Changes to existing licenced drivers on renewal are unfair and ill conceived, we ask for a longer period of consultation with the trade on this issue, as there has to be a better solution to this proposal.

Whilst we are not condoning speeding or other minor driving offences we believe that due to the amount of hours a hackney carriage driver spends on the road on a day to day basis in unfamiliar surroundings with other distractions other drivers are not subjected to e.g. (customers chatting, questioning routes and price of fair, giving bad directions and telling you to turn right at the last moment) these a but a few of the daily problems a taxi driver has to contend with.

Whilst we are considered professional drivers we are also human beings and will make mistakes and errors from time to time six points can easily be accumulated over a three-year period for what is considered to be minor offences.

Your proposed changes will put drivers under more pressure within their daily working environment, this will make their jobs more stressful than they already are, whilst we understand that you as a licencing body must make amendments towards licencing policy, we believe that these should be for major driving offences and complaints made against the driver, we feel that this will benefit public safety more.

Suspending or revoking a licence due to two minor offences which would accumulate to six points could be seen as restriction of trade to both Taxi companies and individual licenced drivers, if a driver losses his or her licence what are the consequences for that individual with their loss of income, it's a very hard and difficult trade to be in at the moment where for some the loss of a few days unable to work because their car has broken down or have been involved in an accident has very serious financial consequences for that individual, these are some of the problems that this proposed change to licencing legislation will cause if a driver has his licenced revoked what are they to do become? Another national statistic!

We at Omega and its 44 licenced drivers feel very strongly about the legislation changes, this letter has been written for and on behalf of both parties, after talking extensively with them over the last month, we felt that

high lighting a few of the problems and consequences of this proposed change would be beneficial to your selves at this time.

Yours Sincerely

Company Director  
Jason Sanders

Company Director  
Julian Sanders

**AUTHORITY'S RESPONSE:**

We appreciate that you feel you cannot agree with some of the proposed changes but the point of taxi licensing is to protect the public, not just the customers but pedestrians, other road users etc. The steps proposed are viewed as necessary to ensure high standards are maintained. The authority considers that it is important that the standard of both new and existing drivers is the same; it would unfair to apply a different standard to each group. Every member of the licensed trade was written to or emailed at the start of the consultation and a six week consultation is deemed as appropriate as we are dealing with matters of public safety.

In regards to speeding and minor driving offences it is not appropriate to apply a lesser standard because of the hours spent on the road or distractions that may happen. As professional drivers it is reasonable to expect that a higher standard be maintained. When a court of law disqualifies a person from driving they do not take into account the number of miles that person has driven when considering what penalty should be imposed.

In the final version of the policy the accumulation of 6 points on a DVLA drivers licence has been raised to 7 avoiding the issue you describe where a driver has two 'minor' traffic offences. Case law has shown that the financial impact on a driver or his dependants of having or not having a licence is not relevant when considering an individual's fitness and propriety. Although the authority can empathise with drivers this is not a matter that we are legally allowed to consider.

We are currently working on implementing the new convictions policy and will keep you updated with regard the time line. Thank you for taking the time to respond to the consultation.

Oliver

Have you got conditional discharge mentioned in your draft policy? We have just had an issue arise around this. I am interested to see that you will not allow an individual to hold an operator's licence in they have 12 DVLA points. If the operator is also a driver then the 12 points will apply to that licence but an operator does not have to hold a driver's licence so may never get points?

Regards

Jamie Mackenzie  
Business Compliance Officer  
Watford Borough Council

**AUTHORITY'S RESPONSE:**

Thank you for taking the time to respond to the consultation and for bringing this point to my attention. Conditional discharges were not included but I will add a section to the final draft as shown below:

18 Conditional discharge

18.1 Applicants are required to notify the Council of any conditional discharge or absolute discharge and these will be considered on a case by case basis. As the court can use these options in a variety of cases it is not possible to give any guidelines regarding the likely outcome of their consideration by the Council.

18.2 If an offence is committed during the period of a conditional discharge the courts may re-sentence an offender for the offence for which the conditional discharge was given. At this point the Council may consider that offence under this policy.

With regards to DVLA points and operator's licence holders and I agree that it is not a requirement for an operator to hold a DVLA licence so it is not appropriate to prohibit them from holding a licence on this basis. Paragraph 12.4 of the policy has been modified as shown below:

12.4 No driver will be allowed to hold a Hackney Carriage and / or Private Hire Driver Licence if they have 12 or more current points on their DVLA licence.

This page is intentionally left blank

# **East Herts Council**

## **Taxi Licensing**

### **Convictions Policy**

## Introduction

1.1 This policy provides guidance to all parties on the criteria that will be taken into account when determining whether or not an Applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire Driver or Operator Licence. Whilst criminal convictions play a significant part in the Licensing Authority's determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and police information etc.

1.2 It is the responsibility of East Herts Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976. In exercising this duty the Council will consider its duty to ensure the safety of the public as its primary consideration. Licences will not be issued unless the person is considered to be 'fit and proper'.

1.3 In seeking to safeguard the safety of the public. The Council will be concerned to ensure:

- That a person is a fit and proper person in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safety of children, young persons and vulnerable adults

1.4 The term "Fit and Proper" for the purposes of taxi and private hire licensing is not legally defined but it has also been described as "safe and suitable" in a number of court cases.

1.5 In determining whether a person is fit and proper to hold a **driver's** licence, those tasked with determining licences / applications are effectively asking the following question of themselves:

**"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"**

1.6 In determining whether a person is fit and proper to hold an **operator's** licence, those tasked with determining licences / applications are effectively asking the following question of themselves:

**"Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"**

1.7 If the answer to the question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.

1.8 In order to assess the suitability of an Applicant (and to inform decision makers when answering the question above), the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an Applicant or licence holder, the Council will take into consideration the following factors:

- Criminality
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work in the UK
- Medical fitness
- Standard of driving / driving ability
- The conduct of the Applicant in making the application (e.g. whether they have acted with integrity during the application process, made a misleading statement or omission)
- The previous licensing history of existing / former licence holders

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies where appropriate.

1.9 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for a driver's licence
- Existing licensed drivers whose licences are being reviewed
- Licensing officers
- Members of the licensing committee/sub-committee
- Magistrates and Judges hearing appeals against local authority decisions

1.10 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the decision makers may depart from the guidelines.

1.11 In this policy the word "Conviction" is to be defined as including **convictions, formal or informal cautions or warnings, reprimands and other relevant information**. In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the Applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the Applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.

1.12 In this policy the word "Applicant" refers to **either new Applicants, existing licence holders who are seeking renewal and existing licence holders** that are the subject of periodic auditing or having their licence reviewed by the Council. It also includes existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.

The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered or new information has come to light.

1.13 In drafting this policy and considering responses to the consultation consideration has been given to the Human Rights Act 1998, particularly in relation to:

- Article 6 (right to a fair trial);
- Article 8 (the right to respect for private and family life); and
- Protocol 1, Article 1 (protection of property)

1.14 All decisions taken under this policy will be taken in accordance with the Human Rights Act.

1.15 Similarly the impact of this policy on the local community of East Herts, both positive and negative, has been considered.

## **2. General Policy**

2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the Applicant would be required to:

- a) Remain free of conviction for an appropriate period as detailed below; and
- b) Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the Applicant to produce such evidence).

Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.2 The standards and criteria set out in paragraphs 6 to 16 below are those that would normally be applied to applications and licences. The Council may depart from these criteria; however it must only do so in wholly exceptional circumstances<sup>1</sup>. The otherwise good character and driving record of the Applicant or licence holder will not ordinarily be considered as exceptional circumstances.

## **3. Appeals**

3.1 Any Applicant refused a driver's licence, or who has their licence suspended or revoked on the grounds that the Council is not satisfied they are a fit and proper person to hold such a licence has a right to appeal to the Magistrate's Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s 77 (1)].

3.2 Any applicant who is granted a driver's licence and who feels aggrieved by any of the conditions attached to that licence can similarly appeal to magistrates' court

---

<sup>1</sup> Wholly exceptional circumstances will be decided by discussion between the officer dealing with the matter, the Head of Service and the Chair of the Licensing Committee.



## 4. Powers

4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or **any other reasonable cause**.

4.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the Council to take into account all convictions recorded against an Applicant or the holder of a Private Hire Vehicle or Hackney Carriage driver's licence, whether spent or not. Therefore the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

4.3 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an Applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Vehicle driver's licence and/or Private Hire Vehicle Operator's licence is a "fit and proper" person to hold such a licence. However, if an Applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of the conviction, warning, caution etc.
- The number of offences i.e. lots of minor offences
- Circumstances of the individual concerned
- Any sentence imposed by the court
- Any comments made by the court or other information laid before the court
- The Applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant, for example:
  - The previous conduct of an existing or former licence holder,
  - Whether the Applicant has intentionally misled the Council or lied as part of the application process,
  - Information provided by other agencies / Council departments.

4.4 Existing holders of driver's licences are required to notify the Council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council in writing, or by email within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.

4.5 Applicants can discuss further what effect a caution / conviction may have on any application by contacting the Licensing Section for advice. It is in the Applicant's best interest to bring any relevant detail to the attention of the authority at an early stage. The costs involved in applying for a licence may be wasted if details come to light later which mean the application should be refused.

4.6 The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any Applicant for a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense.

4.7 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities, and information disclosed by the police. Examples of such information sources that may be used include social care information, benefits payments etc.

4.8 It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence. Where an Applicant has made a false statement or a false declaration or omission on their application for the grant or renewal of a licence, the licence will normally be refused. Further applications for licences will be refused for a period of five years from the date that the lie or omission came to light.

4.9 The lists of offences within this Policy are not exhaustive. The Council can consider any offences not detailed in this Policy when examining the fitness and propriety of an Applicant.

## **5 Options when determining an application/licence**

5.1 When determining an application or considering an existing licence the Council have the following options:

- approve the application or take no further action
- approve the application with a shorter expiry date
- refuse the application/revoke the licence/suspend the licence
- issue a warning which may include the use of Licensing Record Points

For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driver licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards. Such a test will be at the licence holder's expense.

5.2 The Authority recognises the different roles of drivers and operators and its responsibility to ensure that they are 'fit and proper' to hold such licences. For Applicants for driver's licences all of the following sections apply but sections 11 and 12 do not apply to Applicants for private hire operators licences.

## 6. Serious offences involving violence

6.1 Licensed drivers, and potentially private hire operators, have close regular contact with the public. A firm line is to be taken with those who have any convictions for offences involving violence. An application will be refused if the Applicant has a conviction for an offence that involved the loss of life.

6.2 A licence will not be granted where the Applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Grievous bodily harm
- Violent disorder
- Riot
- Malicious wounding or grievous bodily harm which is racially aggravated
- Aggravated burglary
- Terrorism offences
- Any related offences (including attempted or conspiracy to commit offences) that are similar in gravity to those above.

6.3 Consideration may only be given to the granting / issuing of a licence if at least 10 years have passed since (the longest period will apply):

- Conviction; or
- The end of any prison sentence; and/or
- period released 'on licence'<sup>2</sup>

For an offence shown below:

- Arson
- Actual bodily harm
- Robbery
- Possession of firearm
- Assault Police
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Affray
- Any offence that may be categorised as domestic violence
- Any other Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
- Any related offences (including aiding abetting, attempting or conspiring to commit offences) that are similar in gravity to those above.

6.4 Consideration may only be given to the granting / issuing of a licence if at least 5 years have passed since (the longest period will apply):

- Conviction; or

---

<sup>2</sup> Most prison sentences are for a fixed period and prisoners will generally be released at the half way point of the sentence and will spend the remaining period of their sentence 'on licence'. Time spent 'on licence' in the community is supervised by probation.

- The end of any prison sentence; and/or
- period released 'on licence'

For an offence shown below:

- Obstruction
- Criminal damage
- Common assault
- Any related offences (including attempted or conspiracy to commit offences) that are similar in gravity to those above.

6.5 A licence will not be granted if an Applicant has two or more (separate) convictions for an offence of a violent nature.

## **7. Possession of a weapon**

7.1 If an Applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.2 Depending on the circumstances of the offence, at least 3 years must have passed since conviction, if the disposal is not custodial, or the completion of the sentence, before a licence is granted.

7.3 A licence will not be granted if an Applicant has two or more separate convictions for weapon related offences.

## **8. Sexual and indecency offences**

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to Applicants or existing licence holders with convictions for sexual offences. Similarly licensed private hire operators will have access to information regarding the location and movements of these groups of people. All sexual and indecency offences should be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will be refused a licence. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Making obscene / indecent telephone calls
- Indecent exposure

- Any similar in gravity or related offences (including aiding abetting, attempting or conspiring to commit) offences which replace the above

8.2 In addition to the above the Council will not grant a licence to any Applicant who is currently on the Sex Offenders Register or any other similar register.

## **9. Dishonesty**

9.1 A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Both drivers and operators may be privy to information regarding empty homes as taxis are often used as transport to airports etc. For these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 A minimum period of 5 years free of conviction will be required before an application for the grant / issue of a licence will be considered. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- any similar in gravity or related offences (including aiding abetting attempting or conspiring to commit) offences which replace the above

9.3 Applicants or existing licence holders that are found to have intentionally misled the Council, by way of omission or lie as part of the application process, will not be issued with a licence or will be revoked if the matter comes to light after the grant of a licence.

## **10. Alcohol and Drugs**

10.1 A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst Applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered carefully.

10.2 It is recognised nationally that taxis can travel to any location at any time without raising suspicion so they are the ideal mode of transport for moving illegal

items. An Applicant for an operator's licence with any conviction relating to the supply of illegal substances will be refused.

10.3 As licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while exceeding the legal limit or under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the Applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence, following a drink drive conviction, should elapse before an application will be considered. If there is any suggestion that the Applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. Such a report will be at the Applicant's expense.

10.4 Because of the nature of a driver's involvement with the public, a licence will not be granted where the Applicant has a conviction for an offence related to the supply of drugs regardless of the disposal.

10.5 A licence will not be granted where the Applicant has a conviction for an offence or offences related to the possession of illegal / controlled drugs until at least 10 years have passed since conviction if the disposal is non-custodial or the completion of any sentence and / or licence period, and only then after full consideration of the nature of the offence/s and the quantity / type of drugs involved.

10.6 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the Applicant was an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.

## **11 Driving offences involving the loss of life**

11.1 A very serious view is to be taken of any Applicant for a driver's licence who has been convicted of a driving offence that resulted in the loss of life. A licence will not be granted if an Applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar in gravity offences (including aiding abetting, attempting or conspiring to commit) offences which replace the above

## **12 Other traffic offences**

12.1 Minor traffic offences come under the following categories: Construction and use offences, Miscellaneous offences, Motorway offences, Pedestrian crossings, Speed limits and Traffic direction and signs. These offences may not ordinarily merit refusal. However, they will be subject to consideration as part of the Licensing Records Points Scheme. For existing drivers who have accumulated 9 or more points on their DVLA driving licence, they are required to pass a driving test to DVSA standards. If this is not done within 6 calendar weeks then their drivers licence will

~~normally be suspended until the driver has successfully undertaken the test. For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driver licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards.~~ Such a test will be at the licence holder's expense.

12.2 Major traffic offences such, which are all offences not covered under the headings in the paragraph above, will give rise to serious doubts about the Applicant's suitability to be a driving professional. An Applicant with any such convictions will be required to show a period of at least one year free of such convictions. For Applicants with more than one offence this should normally be increased to two years.

12.3 In cases where the courts have imposed a disqualification in respect of the ordinary driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

12.4 No driver will be allowed to hold a Hackney Carriage and / or Private Hire Driver ~~or Operator~~ Licence if they have 12 or more current points on their DVLA licence.

12.5 New Applicants with ~~7~~6 or more points on their DVLA drivers licence will be refused until endorsement(s) expire and the number of penalty points drops below this threshold.

### **13 Outstanding Charges or Summonses**

13.1 If the individual is the subject of an outstanding charge or summons their application should be suspended until the matter is resolved.

### **14 Non-conviction information**

14.1 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of the witness / complainant and the licence holder will be taken into account.

14.2 If an Applicant has been arrested for, or is on bail for or is charged with, but not convicted, with a serious offence in circumstances which suggest they could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent and / or sexual offences.

14.3 Hertfordshire Constabulary will be consulted on all new and renewal Driver Licence applications. Applicants should be aware that any information that the Police provide regarding their fitness and propriety to hold a licence will be properly considered.

14.4 In assessing the action to take, the safety of the travelling public must be the paramount concern.

## **15 Licensing Offences**

15.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

## **16 Insurance Offences**

16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years. However, strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.

16.2 At least three years should elapse (after the restoration of the DVLA driving licence following disqualification), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.

16.3 An operator found guilty of aiding and abetting, or otherwise assisting the driving of passengers ~~for hire and reward~~ whilst without insurance will have his Operator's Licence revoked immediately and will not be permitted to hold a licence for a period of at least three years.

## **17 Applicants with periods of residency outside the UK**

17.1 If at any time an Applicant has spent six continuous months or more overseas the Council will expect to see evidence of a criminal record check from the country/countries visited covering the whole period spent overseas.

17.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those Applicants who have lived overseas. For EU nationals suitable checks should be available, for those countries for which checks are not available, one option is to require a certificate of good conduct authenticated by the relevant embassy. Where an applicant cannot demonstrate that they were conviction free during periods abroad they will be unable to meet the 'fit and proper' criteria. The onus is on the applicant to provide proof of their fitness and propriety and where they cannot the application will be refused.

## **18 Conditional discharge**

18.1 Applicants are required to notify the Council of any conditional discharge or absolute discharge and these will be considered on a case by case basis. As the court can use these options in a variety of cases it is not possible to give any guidelines regarding the likely outcome of their consideration by the Council.



18.2 If an offence is committed during the period of a conditional discharge the courts may re-sentence an offender for the offence for which the conditional discharge was given. At this point the Council may consider that offence under this policy.

## **19 Summary**

19.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an Applicant permanently from becoming licensed, in most cases, an Applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. If there is doubt about the suitability of an individual to be licensed, the Licensing Sub-Committee needs to be mindful of the need to protect the public and caution should be exercised.

19.2 While it is possible that an Applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an Applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

19.3 Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

19.4 A suspension or revocation of the licence of a driver normally takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that this is so and an explanation of why, the suspension or revocation takes effect when the notice is given to the driver. [s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.]

This page is intentionally left blank

## ESSENTIAL REFERENCE PAPER 'E'

Each application will be considered on its individual merits. Where an application is refused in line with the convictions policy an applicant may appeal that decision to magistrate's court.

### **VIOLENCE AND WEAPON OFFENCES**

Murder	Applications will be <b>refused</b>
Manslaughter	
Manslaughter or culpable homicide while driving	
Grievous bodily harm	
Violent disorder	
Riot	
Malicious wounding or grievous bodily harm which is racially aggravated	
Aggravated burglary	
Terrorism offences	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	
Arson	Applications will only be considered if a period of at least <b>10 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)
Actual bodily harm	
Robbery	
Possession of firearm	
Assault Police	
Resisting arrest	
Any racially aggravated offence against a person or property	
Affray	
Any offence that may be categorised as domestic violence	
Any other Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	
Obstruction	Applications will only be considered if a period of at least <b>5 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)
Criminal damage	
Common assault	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	

### VIOLENCE AND WEAPON OFFENCES

Conviction for possession of an offensive weapon or other weapon related offence	Applications will only be considered if a period of at least <b>3 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)
A history of two or more (separate) convictions for offences of a violent nature or weapon related offences	Applications will be <b>refused</b>

### SEXUAL OR INDECENCY OFFENCES

Rape	Applications will be <b>refused</b>
Assault by penetration	
Offences involving children or vulnerable adults	
Trafficking, sexual abuse against children and/or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003)	
Making or distributing obscene material	
Possession of indecent photographs depicting child pornography	
Sexual assault	
Indecent assault	
Exploitation of prostitution	
Soliciting (kerb crawling)	
Making obscene/indecent telephone calls	
Indecent exposure	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	
Applicant is currently on the Sex Offenders Register or any other similar register	

**DISHONESTY**

Theft	Applications will only be considered if a period of at least <b>5 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)
Burglary	
Fraud	
Benefit fraud	
Handling or receiving stolen goods	
Forgery	
Conspiracy to defraud	
Obtaining money or property by deception	
Other deception	
Taking a vehicle without consent	
Fare overcharging	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	

If an applicant is found to have intentionally misled the council, by way of omission or lie as part of the application process.	Application <b>refused</b> or issued licence <b>revoked</b>
--	---

**ALCOHOL AND DRUGS**

Conviction for an offence relating to the supply of illegal/controlled drugs	Applications will be <b>refused</b>
Conviction for possession of illegal/controlled drugs	Applications will only be considered if a period of at least <b>10 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)

**DRIVING OFFENCES INVOLVING THE LOSS OF LIFE (Do not apply to operators)**

Causing death by dangerous driving	Applications will be <b>refused</b>
Causing death by careless driving whilst under the influence of drink or drugs	
Causing death by dangerous driving	
Causing death by driving: unlicensed, disqualified or uninsured driver	
Any related offences (including aiding, abetting, attempting or conspiring to commit offences) that are similar in gravity to those above or which replace those above	

**OTHER TRAFFIC OFFENCES (Do not apply to operators)**

Minor traffic offences	Will be considered but will not normally result in an application being <b>refused</b> .
Major traffic offences (one)	At least <b>1 year</b> free of any other driving conviction (either major or minor)
Major traffic offences (two or more)	At least <b>2 years</b> free of any other driving conviction (either major or minor)
Disqualification	At least <b>2 years</b> free of any other driving conviction (either major or minor) starting from the date the drivers licence is restored
New applicant with 7 or more points on their DVLA licence	Application <b>refused</b>
Existing licensed driver who accumulates 9 or more points on their DVLA licence	6 weeks to pass DVSA driving test or licence <b>suspended</b> until successfully completed.
12 or more points on the DVLA licence	Application <b>refused</b> or driver licence <b>revoked</b> .

**OUTSTANDING CHARGES AND SUMMONSES**

New applicant is subject to an outstanding charge or summons	Application <b>suspended</b> until the matter is resolved.
--	--

**LICENSING OFFENCES**

Illegal Plying for hire	Applications will only be considered if a period of at least <b>3 years</b> has passed since conviction
Overcharging	
Refusing to carry a person with a disability or assistance dog	

**INSURANCE OFFENCES**

Any insurance offence	Applications will only be considered if a period of at least <b>3 years</b> has passed since conviction, the end of any prison sentence or period 'on licence' (whichever is longest)
-----------------------	---

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 14 JULY 2016

#### REPORT BY THE CHIEF EXECUTIVE

#### TRAINING FOR LICENSED DRIVERS

WARD(S) AFFECTED: ALL

---

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

- The council is responsible for licensing hackney carriage and private hire drivers. Current policy requires new applicants for Dual Drivers licences (combining both Hackney Carriage and Private Hire drivers licences) to pass a 2 hour knowledge test. The test comprises of two parts, routes and numeracy/legal requirements/handbook.
- The Committee is asked to consider amendments to the scope, style, delivery and cost of the test and application criteria.

<b><u>RECOMMENDATIONS FOR DECISION:</u> That</b>	
<b>(A)</b>	<b>From 1<sup>st</sup> August 2016 all new driver applicants be subject to the new requirements;</b>
<b>(B)</b>	<b>From 1<sup>st</sup> January 2017 all renewing drivers be subject to the new requirements; and</b>
<b>(C)</b>	<b>Officers have delegated authority to make minor modifications to the scheme, in consultation with the Chairman of the Licensing Committee.</b>

#### 1.0 Background

1.1 East Herts, as an Authority that licenses hackney carriage and private hire drivers, can set its own criteria to ensure that applicants are 'fit and proper' to hold a licence. As such the authority requires all applicants to pass a DVSA driving test, a medical and a criminal records check. Additionally dual driver applicants have to undertake and pass a knowledge test.

1.2 The current policy and application criteria were last revised in January 2014. The authority has taken the decision to review the

policy, and in particular the application criteria, as there are issues that should be addressed which we were not aware of at that time. In particular, the issues with child sexual exploitation and safeguarding that have occurred in other parts of the country.

- 1.3 Outside of the application criteria no training is offered to, or required of, either new or renewing applicants.
- 1.4 To address the current issues, ensure that drivers are 'fit and proper' and protect the public it is proposed that:
  - new applicants for driver's licences attend a full day's course which includes training in relevant legislation and other key information required to be a competent and safe driver. This will include a test of that knowledge for both dual driver and private hire driver applicants (although the route tests will differ).
  - renewing applicants for driver's licences attend a five and a half hour course which includes training in relevant legislation and other key information required to remain a competent and safe driver. There would not be a test as part of this course.

Both training events would include disability awareness training.

- 1.5 The overriding consideration in taxi licensing is public safety and the proposals in this report have this principle at their core.

## 2.0 Report

- 2.1 Current policy requires that an applicant for a new dual drivers licence must undertake, at their own expense, a written knowledge test. The test comprises of two parts, routes and numeracy/legal requirements/handbook. The routes section comprises of 25 questions and gives start and finish locations. The applicant must describe the shortest route between those two points and must achieve 20/25 to pass. Applicants can choose to be tested on routes in Hertford/Ware or Bishops Stortford/Sawbridgeworth. The second section is 5 multiple choice questions and an applicant must achieve 4/5.
- 2.2 New applicants for private hire driver licences are not required to sit any sort of test under the current policy. This has historically been the case at East Herts but other Hertfordshire authorities have taken different approaches.



- 2.3 The knowledge test changed from a test conducted verbally by Officers on a 1-2-1 basis to a group written test in November 2014. At that time the section on numeracy/legal requirements/handbook was added. The cost of this written test is £91.00 for both parts and the cost of resitting the individual parts is £75.00 for routes and £16.00 for the numeracy/legal requirements/handbook section. Taxi licensing is operated on a cost recovery basis so no profit is made from these fees.
- 2.4 The tests are scheduled for every two months as it was calculated that this would be sufficient to meet demand. In the last 12 months 63 applicants have taken the test, this includes 27 individuals taking retests. The current pass rate is 23%.
- 2.5 Officers verbally and via the website advise drivers of how to prepare for the test, including having example questions on the website. However, this does not appear to be effective and brings into question what the test is currently achieving. This proposal is to modernise the test to improve driver standards, but also to support candidates to achieve success and reduce the need to retake the test if candidates are suitable. The main reason for the failures can be lack of local knowledge of routes, which is not something that is proposed as a training topic, but it is just as likely that applicants will fail on their knowledge of rules and regulations. Almost all applicants pass the mental arithmetic questions of the test.
- 2.6 Candidates are currently tested on their knowledge of the rules and regulations governing hackney carriage drivers and vehicles. These rules are taken from national legislation, local bylaws and conditions attached to licences. On application applicants are directed to online information containing the details that they need to learn.
- 2.7 Training prior to a competency test is common place in many spheres of work, a notable example being training for holders of personal licences. It is a requirement of the Licensing Act 2003 that holders of a personal licence will have a formal qualification. Likewise, the Security Industry Authority requires new security staff to have formal, accredited training. There is no intention to accredit driver training yet but this could be a possibility in the future.
- 2.8 It is anticipated that a period of focused training prior to the examination will instil in new applicants a genuine understanding

of the principles behind the regulations leading them to be able to make informed decisions from the very start of their careers.

2.9 In addition to training about rules and regulations it is proposed to deliver segments on driver safety, customer service and safeguarding. Whilst there would not be a test for this part of the training it is felt that the opportunity to deliver this additional information should not be missed.

2.10 It is important that new entrants to the trade are able to provide a safe and effective service to people with disabilities, who often rely on licensed vehicles as their primary form of transport. This was recognised by the Law Commission in its report on Taxi and Private Hire Services which said:

*One of our key provisional proposals to promote equality and accessibility was that private hire and taxi drivers should be required to undergo recognised disability awareness training. This received unanimous support, and statistics published by the Department for Transport show that it is far from a universal requirement in current local licensing conditions. Lack of such training means that some drivers may be less likely to be aware of the needs and rights of disabled passengers; this can contribute to unacceptable practices, for example ignoring their attempts to hail a vehicle, carrying them in an unsafe manner, refusing to carry them at all or charging extra for the service.<sup>1</sup>*

2.11 Many other local authorities in Hertfordshire already require applicants to arrange, at their own cost, training in disability awareness. The average cost to the driver of that training would be £30.00 and there is currently a lengthy waiting time of between 2-3 months for most local providers. This could delay applications being granted even where all other checks were complete.

2.12 The proposal is that Watford Borough Council, who already operates an identical course, are contracted to supply training for East Herts driver applicants. As part of this training they have already procured Hertfordshire Fire and Rescue Service to provide the Disability Awareness training. They have followed the appropriate tendering process so East Herts would not need to repeat this process saving both time and money.

---

<sup>1</sup> Taxi and Private Hire Services, Law Com LC437 (2014), para 1.41  
([http://lawcommission.justice.gov.uk/docs/lc347\\_taxi-and-private-hire-services.pdf](http://lawcommission.justice.gov.uk/docs/lc347_taxi-and-private-hire-services.pdf))

- 2.13 By delivering disability training in house as part of the improved and extended driver training/knowledge test we can ensure it is delivered to an acceptable standard.
- 2.14 Along with providing the disability awareness training Hertfordshire Fire and Rescue Service are also willing to provide the venue for the training day at their purpose built training centre at Longfield in Stevenage. An added benefit to using this venue is that drivers would get practical experience of using wheelchair restraints rather than just hearing the theory.
- 2.15 The current cost of the two part knowledge test is £91.00. This is paid at the time of booking and is transferable but non-refundable. Given that the average applicant takes the test 2-3 times before passing, the average cost is currently £166.00-£241.00. The average time taken by an applicant to pass these tests is 4-6 hours; not including any time spent studying. The average officer time spent per candidate per test is 2 hours.
- 2.16 Officers aim to get results to applicants within 5 working days but due to the pressures of work this is not always possible.
- 2.17 As a result of the current test all the authority can be confident of is a certain level of geographical knowledge amongst drivers of hackney carriage vehicles.
- 2.18 Current charges for tests across Hertfordshire and Bedfordshire vary between £15.00 and £105.00. However, only Watford Borough Council includes the cost of disability awareness training within the test fee.
- 2.19 It is understood that the cheapest council, Three Rivers District Council, is about to review their test and fee, Stevenage Borough Council charges £75.00 for an hour-long test and Luton Borough Council charges £74.00 for a computerised test. None of the councils offer training as part of the test, and all report high failure rates similar to Watford that indicate most applicants will pay repeatedly before passing.
- 2.20 It is proposed to charge £97.50 per new applicant for the new test and training. This charge is comprised of the following costs per driver based on 12 drivers per course (calculated from the average number of new dual driver and private hire driver applicants per annum):

Trainer	£33.40
Disability Awareness Training	£30.00
Printing	£1.30
Administration	£22.80
Facilities	£10.00

Costs are calculated from council charges and are cost recovery only; the legislation does not allow licensing authorities to profit from taxi licensing.

2.21 The proposed syllabus would be:

*09:00 – 11:00*

Rules and regulations

Driver safety

Customer service

How to report safeguarding concerns (Adult and Children)

*11:00 – 11:15*

Tea/Coffee break

*11:15 – 12:15*

Test of route knowledge

*12:15 -13:00*

Rules and regulation test

*13:00 – 13:45*

Lunch

*14:00 – 17:00*

Disability awareness training

2.22 When an applicant books on to the driver training course they will be provided with a comprehensive handbook covering all aspects of the taxi trade. Amongst the information contained in the handbook will be the answers to all the questions in the rules and regulations test. Studying of the booklet will be the only way to ensure passing this part of the test which will ensure that new starters will have at least a basic knowledge of what the trade involves before they obtain a licence. The handbook will be referred to throughout the training.

2.23 It is proposed to change the route tests for dual driver applicants to include 40 topographical questions with a pass mark of 35 out

of 40. The style of questions will change from solely the shortest route between A and B so that papers also include multiple choice questions such as 'What road is X (a hospital for example) on?' and 'Which road leads off X Street?'

- 2.24 This high pass mark is a reflection of the fact that hackney carriages can be hailed in the street without prior knowledge of where the passenger may wish to go. There is an expectation amongst the travelling public that if they get into a hackney carriage the driver will know how to get to their chosen destination.
- 2.25 The division between tests for Hertford/Ware and Bishops Stortford/Sawbridgeworth will remain for dual drivers.
- 2.26 As private hire drivers are in a position to pre-plan a route, the topographical test will be significantly different and focus on using a map and planning ahead for local delays and traffic conditions. The test will include some major routes such as to or from the hospital and other landmarks. It is the experience of the licensing team that a test on routes, however basic, shows a candidates' willingness to approach the examination and the job of a driver in a more serious and professional manner. There should be a requirement for some degree of learning outside of the training course to ensure high standards.
- 2.27 The test for private hire driver applicants will be limited to 12 questions. When the test is paid for the applicant will be given a handbook and a list of 30 landmarks and locations across East Herts which they should memorise. These locations will not be divided between Hertford/Ware and Bishops Stortford/Sawbridgeworth but will cover the whole district. At the examination each candidate will be provided with a map of East Herts but with the index removed. The 12 questions they then have to answer will be based on some of the 30 locations and landmarks from the list provided. The format of the questions will be similar to the dual driver questions and the pass mark will be set at 9 out of 12.
- 2.28 All applicants will be required to sit the 45 minute rules and regulations test which will comprise of 25 multiple choice questions, 15 on rules and regulations (pass mark 12 out of 15), 5 on the highway code (pass mark 4 out of 5) and 5 maths questions (pass mark 5 out of 5).

- 2.29 Further benefits to this approach are anticipated through early contact with prospective new drivers and the opportunity to prevent bad habits from forming when drivers are without guidance at the beginning of their careers.
- 2.30 It is proposed that the new training day and tests will be implemented for new applicants from 1<sup>st</sup> August 2016. There will be a transitional period for those applicants that have taken and failed the current test before that date. They will be given the opportunity to take an old style retest on a maximum of two more occasions, on 30<sup>th</sup> September 2016 and 25<sup>th</sup> November 2016. This allows applicants 2 or 3 attempts which, on average, is the number of attempts it takes to pass the current test. Applicants will be given the option of switching to the new style training and test instead but after the November date the current test will no longer be offered.
- 2.31 Applicants who fail both the routes and rules/regulations tests would be able to re-sit the tests, and would be required to attend the morning training session again, for a fee of £67.50. Applicants who only fail the route test would be able to retake the routes test at a cost of £35.00. The venue for retests will be East Herts Council offices in Hertford. The fees have been calculated on a cost recovery basis.
- 2.32 The proposal for applicants seeking to renew their driver's licences is that they would attend a separate update training day before their renewal date which would contain all of the above information and training but would not include the tests. Without the cost of the tests and associated administration the cost per applicant for the update training would be £58.75. This figure is based on 20 drivers attending each course allowing all licensed drivers to have received the training before the next round of renewals in three years. A breakdown of the fee is shown below:

Trainer	£8.35
Disability Awareness Training	£30.00
Printing	£1.30
Administration	£13.65
Facilities	£10.00

- 2.33 The proposed syllabus would be:

10:00 – 12:00  
Rules and regulations

Driver safety  
Customer service  
How to report safeguarding concerns (Adult and Children)

12:00 – 12:30

Lunch

12:30 – 15:30

Disability awareness training

- 2.34 The update training is proposed to start from 1<sup>st</sup> January 2017 meaning that drivers renewing a licence after that date will be required to attend the course. This will allow for two training events for new applicants to have been held and the final update program to be fine-tuned. At that date the majority of driver's licensed by East Herts will have been issued with 3 year licences so will have to attend training every three years.
- 2.35 Where there are high numbers of renewals within a period it may not be possible for all drivers to attend the update training before their renewal date. Appointments will be sent to drivers well in advance and proof of attending the update course will be required before any subsequent renewal is granted.
- 2.36 For the few driver's that may still hold 1 year licence they will be required to attend the update training at renewal and then 3 years after that. After all licensed drivers have been through the training the content will be reviewed before the next series of renewals so that the content is as relevant and useful at that date as it is now.
- 2.37 During consultations and interactions with the taxi trade over the last couple of years it is clear that the trade want to maintain and improve standards. Once the new training days are in place feedback will be sought from the trade to ensure the content not only meets the council's requirements but the needs of the licensed trade.
- 2.38 Equally demand for the courses and tests will be constantly monitored and the frequency will be adjusted as appropriate.
- 2.39 All of the authorities across the country apply different tests and standards to their licensed taxi trade leading to inconsistency between districts. By taking on the same driver test and training as Watford Borough Council we will be taking the first steps towards a consistent standard across Hertfordshire. This is a

move that has been welcomed by Hertfordshire County Council who were consulted on the proposed content of course. As a transport provider, including school journey's, they have contracts with drivers from different districts, where different standards are applied. They welcome the prospect of standards being raised and a move to Hertfordshire wide consistency. Hertfordshire Constabulary have also been consulted and are supportive of the proposal of raising standards amongst the licensed taxi trade. Officers are aware that a number of other Councils within Hertfordshire are looking at adopting the same training and testing which would further contribute to a Hertfordshire wide standard being achieved in the future. The same training is also being offered to authorities in Bedfordshire and Buckinghamshire so that standards can be homogenised with our nearest neighbours.

### 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 Graham McAndrew – Executive Member for Environment and the Public Space.

Contact Officer: Jonathan Geall – Head of Housing and Health, Extn: 1594.

Report Author: Oliver Rawlings – Senior Specialist Licensing Officer, Extn: 1629.



## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS:

<p>Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i></p>	<p>Priority 1 – Improve the health and wellbeing of our communities</p> <p>Priority 2 – Enhance the quality of people's lives</p> <p>Priority 3 – Enable a flourishing local economy</p>
<p>Consultation:</p>	<p><i>Informal consultation has taken place with East Herts licensed taxi trade since November 2016 regarding the content of the test, application criteria and training needs. Hertfordshire County Council, Hertfordshire Constabulary and CVS for Broxbourne and East Herts were consulted regarding the content of the proposed training and any support they may have been able to provide.</i></p>
<p>Legal:</p>	<p><i>Applicants can appeal against the refusal to grant or revocation of a licence or any condition attached to that licence.</i></p>
<p>Financial:</p>	<p><i>Currently the authority runs its own knowledge tests and charges applicants a fee covering cost recovery. This income will be lost but the fee was originally set to only recover costs and those costs will no longer be incurred. In the last 12 months the income from knowledge tests is estimated to be £5300 and this will cease from January 2017.</i></p> <p><i>The contractor providing the training has offered to develop the associated handbook etc at a cost of £50.00 per hour but the decision has been made to keep this in house. It is estimated that it will take 11 hours of officer time to create this locally specific paperwork. This work will be produced by a Senior officer.</i></p> <p><i>There will be a need for a separate account code to be set up so that the money paid to East Herts for the tests can be accurately allocated to the provider's invoices.</i></p>
<p>Human Resource:</p>	<p><i>None identified.</i></p>
<p>Risk Management:</p>	<p><i>None identified.</i></p>

Health and wellbeing – issues and impacts:	<i>By improving the knowledge and standard of the licensed taxi trade we can improve the health and wellbeing of individuals in East Herts. It is particularly relevant for those sections of the community with disabilities as drivers will have a better understanding of people’s needs, which may in turn encourage these individuals to travel confidently enhancing the quality of their lives. The incidents of people being carried in an unsafe manner, being overcharged or even being refused a journey should diminish.</i>
--	--

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 14 JULY 2016

#### REPORT BY THE CHIEF EXECUTIVE

#### REPORT ON LICENSING ACTIVITY QUARTER 1 OF 2016

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

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

#### 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 1 of 2016: 1 January – 31 March 2016. This contains the numbers of applications or notices received, and totals of current licences.

2.2 During this quarter the enforcement team have undertaken 112 actions which are divided between visits, inspections and investigations. These have been analysed further and are recorded as:



All complaints regarding taxis and premises have been fully investigated or awaiting the outcome of Police investigations.

2.3 Under the licensing points system a total of 76 points have been issued to 25 licence holders. This is continuing to contribute to improvements in drivers and proprietors behaviour.

### 3.0 Implications/Consultations

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

### Background Papers

None.

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

Contact Officer: Jonathan Geall – Head of Housing and Health Services, Extn: 1594.  
[jonathan.geall@eastherts.gov.uk](mailto:jonathan.geall@eastherts.gov.uk)

Report Author: Robin Clark – Licensing Enforcement Manager, Extn: 1644.  
[robin.clark@eastherts.gov.uk](mailto:robin.clark@eastherts.gov.uk)

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	Priority 1 – Improve the health and wellbeing of our communities  Priority 2 – Enhance the quality of people's lives  Priority 3 – Enable a flourishing local economy
Consultation:	For information only, and no partner or external consultation has taken place.
Legal:	No issues identified by report author or contact officer
Financial:	No issues identified by report author or contact officer
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer
Health and wellbeing – issues and impacts:	No issues identified by report author or contact officer

This page is intentionally left blank

## ESSENTIAL REFERENCE PAPER 'B'

Q1 2016 – 01 January 2016 to 31 March 2016

### Licensing Act 2003

<b>Premises Licence</b>	<b>Totals</b>
New	4
Variation	17
Minor Variation	3
Transfer of premises licence	0
Change of designated premises supervisor	43
Change of name and/or address	0
Cancelled/surrendered	0
Suspended	1
Other (Amendments, renewals etc)	0

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

<b>Personal Alcohol Licences</b>	<b>Totals</b>
New	22
Amendments (change of address etc)	16

<b>Temporary Event Notices</b>	<b>Totals</b>
TENs received	160
TENs withdrawn by premises user	2
Amended by premises user	0
Objections (Police or Environmental Health)	0
Refused	0

## GAMBLING ACT 2005

Club Machine Permits	16
Small Society Lotteries – New and Renewal	22
Other (fast track, amendment to permit etc)	0
Betting Premises Licence	15
Licensed Premises Gaming Machine Permit	14
Notification of Gaming Machines	112

## TAXIS

<b>New Dual Drivers</b>	4
Renewed Dual Drivers	86
Other (amendment to existing driver records etc)	11

<b>New Private Hire Drivers</b>	4
Renewed Private Hire Drivers	8
Cancelled/Surrendered/Lapsed	1

<b>New Private Hire Operators</b>	4
Renewed Private Hire Operators	2
Cancelled/Surrendered/Lapsed	0
Other (amendment, reissue of documents etc)	0

<b>New Hackney Carriage Vehicles</b>	5
Renewed Hackney Carriage Vehicles	66
Cancelled/Surrendered	1
Change of vehicle	31

<b>New Private Hire Vehicles</b>	1
Renewed Private Hire Vehicles	2
Cancelled/Surrendered/Lapsed	0
Change of vehicle	5



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

Licensing Act 2003 - 1 new premises licence.	3
Gambling Act 2005 –	0

<b>TOTAL NUMBERS OF LICENCES</b>	<b>31 Dec 2015</b>	<b>31 Mar 2016</b>	
Premises Licences	457	418	
Club Premises Certificates	38	38	
Personal Licences	1641	1694	
Dual Driver	286	304	
Hackney Carriage Vehicles	252	257	
Private Hire Drivers	60	58	
Private Hire Vehicles	54	56	
Private Hire Operators	34	33	

This page is intentionally left blank

## EAST HERTS COUNCIL

### LICENSING COMMITTEE – 14 JULY 2016

#### EXECUTIVE MEMBER FOR ENVIRONMENT AND THE PUBLIC SPACE

---

#### ATTENDANCE AT LICENSING SUB-COMMITTEE

WARD(S) AFFECTED: All.

---

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

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

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

#### 1.0 Background

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

#### 2.0 Report

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

#### 3.0 Implications/Consultations

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

#### Background Papers

Licensing Sub-Committee minutes.

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

Contact Officer: Mike Rowan, Head of Legal and Democratic Services, Extn: 2170. [mike.rowan@eastherts.gov.uk](mailto:mike.rowan@eastherts.gov.uk)

Report Author: Peter Mannings, Democratic Services Officer, Extn: 2174. [peter.mannings@eastherts.gov.uk](mailto:peter.mannings@eastherts.gov.uk)

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS:

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

This page is intentionally left blank

## ESSENTIAL REFERENCE PAPER 'B'

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

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

<b>Licensing Committee Members attending as Members of Sub–Committee</b>									
<b>Members</b>	<b>Total</b>	<b>From 18 May 2016</b>							
D Andrews	1	02/06/16							
P Ballam									
R Brunton									
R Cheswright	1	02/06/16							
G Cutting	1	10/06/16							
B Deering									
J Jones	1	10/06/16							
M McMullen	1	02/06/16							
T Page									
R Standley	1	10/06/16							
N Symonds									
J Taylor									

**Licensing Committee Members attending as Observer**

Members	Total	From 18 May 2016							
D Andrews									
P Ballam									
R Brunton	1	10/06/16							
R Cheswright	1	10/06/16							
G Cutting									
B Deering									
J Jones	1	02/06/16							
M McMullen									
T Page	1	02/06/16							
N Symonds	1	02/06/16							
R Standley									
J Taylor									