



*Alison Stuart
Head of Legal and
Democratic Services*

MEETING : LICENSING COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 30 OCTOBER 2019
TIME : 7.00 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE COMMITTEE

Councillor D Andrews (Chairman)

Councillors S Bell, R Bolton (Vice-Chairman), B Crystall, A Hall, J Jones,
M McMullen, T Page, S Reed, M Stevenson, N Symonds and C Wilson

CONTACT OFFICER: PETER MANNINGS

01279 502174

peter.mannings@eastherts.gov.uk

DISCLOSABLE PECUNIARY INTERESTS

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

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

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

Public Attendance

East Herts Council welcomes public attendance at its meetings and will provide a reasonable number of agendas for viewing at the meeting. Please note that there is seating for 27 members of the public and space for a further 30 standing in the Council Chamber on a “first come first served” basis. When the Council anticipates a large attendance, an additional 30 members of the public can be accommodated in Room 27 (standing room only), again on a “first come, first served” basis, to view the meeting via webcast.

If you think a meeting you plan to attend could be very busy, you can check if the extra space will be available by emailing democraticservices@eastherts.gov.uk or calling the Council on 01279 655261 and asking to speak to Democratic Services.

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.

Implementing paperless meetings will save East Herts Council approximately £50,000 each year in printing and distribution costs of agenda packs for councillors and officers.

You can use the mod.gov app to access, annotate and keep all committee paperwork on your mobile device.

Visit <https://www.eastherts.gov.uk/article/35542/Political-Structure> for details.

The Council is moving to a paperless policy in respect of Agendas at Committee meetings. From 1 September 2019, the Council will no longer be providing spare copies of Agendas for the Public at Committee Meetings. The mod.gov app is available to download for free from app stores for electronic devices.

AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

To receive any Members' declarations of interest.

4. Minutes - 21 August 2019 (Pages 7 - 14)

To approve the Minutes of the meeting of the Committee held on Wednesday 21 August 2019.

5. Licensing Sub-Committee - 28 August, 4 and 19 September 2019 (Pages 15 - 38)

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

28 August 2019

4 September 2019

19 September 2019

6. Consideration of Responses to the Proposal to Limit Hackney Carriage Vehicle Licences to Two Hundred (Pages 39 - 52)

7. Consideration of Mandating Subscription to the DBS Update Service for Hackney Carriage and Private Hire Drivers (Pages 53 - 68)

8. Urgent Business

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

MINUTES OF A MEETING OF THE
LICENSING COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON WEDNESDAY 21 AUGUST
2019, AT 7.00 PM

PRESENT: Councillor D Andrews (Chairman)
Councillors S Bell, R Bolton, B Crystall,
A Hall, T Page, M Stevenson, N Symonds
and C Wilson

ALSO PRESENT:

Councillors P Ruffles, A Ward-Booth and
McDonald

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Oliver Rawlings	- Service Manager (Licensing and Enforcement)
Brad Wheeler	- Senior Licensing and Enforcement Officer

110 APPOINTMENT OF VICE-CHAIRMAN

It was moved by Councillor D Andrews and seconded by Councillor T Page that Councillor R Bolton be appointed Vice Chairman of Licensing Committee for the civic year 2019/20. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Councillor R Bolton be appointed Vice Chairman of Licensing Committee for the civic year 2019/20.

111 APOLOGIES

Apologies for absence were received from Councillors J Jones and M McMullen.

112 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed all Members to the meeting. He explained that Mr Ian McDonald (Licensed Vehicles Survey Assessment) would be providing Members with a presentation on the results of the Hackney Carriage Unmet Demand Survey in relation to Agenda item 7.

113 MINUTES - 19 MARCH 2019

Councillor T Page proposed and Councillor M Stevenson seconded a motion that the Minutes of the meeting held on 19 March 2019 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 19 March 2019 be confirmed as a correct record and signed by the Chairman.

114 LICENSING SUB-COMMITTEE - 3 APRIL, 20 MAY, 21 JUNE
AND 23 JULY 2019

Councillor T Page proposed and Councillor R Bolton seconded a motion that the Minutes of the Licensing Sub Committees held on 3 April, 20 May, 21 June, and 23 July 2019 be received.

RESOLVED – that the Minutes of the Licensing Sub Committees held on 3 April, 20 May, 21 June and 23 July 2019 be received.

115 CONSIDERATION OF THE RESULTS OF THE HACKNEY
CARRIAGE UNMET DEMAND SURVEY

The Chairman drew Members' attention to a study which had been undertaken by LVSA (Licensed Vehicle Surveys and Assessment) which sought to identify unmet demand in relation to the licensed Hackney Carriage trade and whether there were any particular sectors whose needs were not being met. He referred to what action the Council might take if there was no "significant" unmet demand.

The Service Manager (Licensing and Enforcement) explained that there had been some concerns about over supply and that standards had fallen; of concerns about vehicles being wheelchair accessible and support of green initiatives such as electric cars. Members were reminded that if a decision were to be taken to limit the number of Hackney Carriage licences to figure below the current level, then the policy would have to go back out to consultation with the trade. Responses would be brought back to Members for

consideration and then to Council for determination.

Mr McDonald (LVSA) provided the context of the survey in terms of the consultations carried out and highlighted the key points. The survey concluded that there was no significant unmet demand. Mr McDonald referred to the demand profiles in relation to Hertford and Bishop's Stortford, adding that the majority of hirers were pre-bookings and that migration of drivers between the towns did not appear to be an issue.

Councillor S Bell sought and was provided with clarification regarding the possible impact of UBER on the Hackney Carriage trade. It was noted that in this District, private hire operators primarily worked on the basis of the loyalty of customers and that UBER hires were more effective in cities.

In response to a query from Councillor C Wilson, Mr McDonald explained the parameters of the survey adding that all of the trade, including sole traders, had been included in the survey. The Chairman commented that the survey had revealed that private hire work represented the bulk of Hackney Carriage trade. He further commented that East Herts might have approximately 47 too many Hackney carriage vehicles and that to limit numbers to 200 might be an aspiration going forward, with a reduction in numbers occurring by natural wastage and policies being applied flexibly.

Councillor C Wilson commented that new applicants might have newer vehicles. The Service Manager (Licensing and Enforcement) agreed that there was a

need to be flexible and to apply licensing policies in an open minded manner but that existing policies such as the vehicle age and emissions policy were already driving up standards

It was moved by Councillor D Andrews and seconded by Councillor N Symonds that the Hackney Carriage trade be limited to 200 with a flexible approach being taken in terms of the application of policy in relation to wheelchair accessible vehicles and electric vehicles. The overall number to be reduced by natural wastage and that this approach be adopted as a basis for further consultation. After being put to the meeting and a vote taken, the motion was declared carried.

RESOLVED – that the number of Hackney Carriage vehicle licences issued by this authority should be capped. The Hackney Carriage trade to be consulted on the proposed limit of 200 licences with the results of that consultation to be brought back to Licensing Committee for consideration.

116 CONSIDERATION OF THE RESPONSES TO THE DRAFT REVISED TAXI LICENSING SUITABILITY POLICY

The Head of Housing and Health submitted a report setting out the responses received during the consultation on the revised “Suitability Policy” to be applied to the licensed Hackney Carriage and Private Hire Trade. The Service Manager (Licensing and Enforcement) provided a summary of the report.

Councillor R Bolton sought and was provided with

clarification that enhanced DBS checks were carried out every three years on every driver. Councillor Bolton suggested that paragraph 3.2 should be amended by the inclusion of a further category "assault to emergency services officers". The Service Manager (Licensing and Enforcement) explained that an assault on such an officer would be treated with the same seriousness as an assault on a Police Officer.

Councillor C Wilson was concerned that the policy was too draconian and might put off applicants who had committed minor offences many years before. The Service Manager (Licensing and Enforcement) explained that rarely did people interested in becoming a licensed driver read the authority's policies even though they were freely available. When Officers were contacted by potential applicants, any past convictions were discussed and individuals were told that they were not a bar to applying but that the policy was a guide to how certain convictions might be viewed.

Councillor C Wilson acknowledged that licensed drivers were exempt from the Rehabilitation of Offenders Act but would still like to have seen a policy that was closer to the time scales within that Act with regards to when convictions were considered "spent". People could reform and should sometimes be given a chance.

The Chairman explained that he and the Head of Housing and Health regularly reviewed Hackney Carriage and Private Hire driver applications from those with convictions and that some had been allowed to be licensed when the individual

circumstances and evidence had been explained.

The Service Manager (Licensing and Enforcement) explained the advice provided by his service to applicants generally and in relation to fees being returned if the applicant was unsuccessful. He added that it was the applicant's responsibility to ensure that they provided evidence that they were "fit and proper" to hold an appropriate licence.

Members supported the endorsement of the "Suitability Policy" as amended and that the revised policy be submitted to Council on 23 October 2019 for adoption to take effect from 1 November 2019.

It was moved by Councillor R Bolton and seconded by Councillor N Symonds that the revised "Suitability Policy" as amended be endorsed and submitted to Council on 23 October 2019 for adoption for the policy to be effective from 1 November 2019. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that (A) the "Suitability Policy" as amended be endorsed;

(B) the revised policy be submitted to Council for adoption on 23 October 2019 to take effect from 1 November 2019.

117 REPORT ON LICENSING ACTIVITY 2018-19

The Head of Housing and Health submitted a report on the activity of the licensing department in relation to

processing licences, enforcement activity and other issues in relation to the implementation of the Service Plan. The Service Manager (Licensing and Enforcement) explained that going forward, Members could let him know if they would like other information to be highlighted and included within future reports.

Councillor T Page was advised that there had been no complaints in relation to gambling. Members suggested that trends in complaints might be identified within further reports on licensing activities. This was supported.

It was moved by Councillor A Hall and seconded by Councillor C Wilson that the report, as amended, be received. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the report be received.

The meeting closed at 8.00 pm

Chairman
Date

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON WEDNESDAY 28 AUGUST
2019, AT 2.00 PM

PRESENT: Councillor M McMullen (Chairman)
Councillors N Symonds and C Wilson

ALSO PRESENT:

Councillors D Andrews, L Haysey and
A Ward-Booth

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
James Ellis	- Solicitor
Brad Wheeler	- Senior Licensing and Enforcement Officer

14 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor N Symonds and seconded by Councillor C Wilson that Councillor M McMullen be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

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

15 MINUTES - 23 JULY 2019

It was proposed by Councillor N Symonds and seconded by Councillor C Wilson that the Minutes of the meeting held on 23 July 2019 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 23 July 2019 be confirmed as a correct record and signed by the Chairman.

16 CHAIRMAN'S ANNOUNCEMENTS

The Chairman explained that under Section 100(A) (4) of the Local Government Act 1972 that it might be necessary to exclude the press and public from the meeting should Members wish to discuss issues contained within the exempt papers. The Solicitor confirmed that the press and public should remain unless confidential matters needed to be discussed.

At the request of Councillor D Andrews, the Chairman confirmed that Members of the Licensing Committee would be allowed to remain in the meeting, with the consent of the applicants, if the exclusion motion was necessary.

17 APPLICATION FOR A NEW PREMISES LICENCE: ENOTECA ZERO, RANKIN HOUSE, 8 WEST STREET, WARE SG12 9EE

The Chairman outlined the procedure to be followed.

All those present were introduced. The Senior Licensing and Enforcement Officer summarised the application that was received by the Licensing Authority on 2 July 2019.

The applicant, Ms Tania Cioffi, explained that she had been operating a local restaurant for 8 years and that the wine bar was a new enterprise. She explained why she had submitted the request to modify the times for the supply of alcohol, recorded music and late night refreshments at the wine bar. Ms Cioffi explained that many of the conditions requested had been accepted in an effort to work together.

Councillor C Wilson referred to the Council's Licensing Policy in relation to sales after midnight and asked why the applicant felt it necessary to request an extension of those hours. Ms Cioffi commented that it was important to the business to capture after dinner trade, serving premium wines and cocktails and that the music would be background music only. She referred to other businesses in the area which had opening hours beyond that stated in the Licensing Policy. Ms Cioffi referred to security (door staff) and dispersal arrangements following the conclusion of sales of alcohol.

Councillor N Symonds expressed concern about residents in the flats opposite in Tudor Square and nuisance which might be caused to them should the hours applied for be granted. She asked for and was provided with a summary of what arrangements would be put in place to mitigate any possible nuisance, these included door staff, staggered dispersals and staff

helping customers with taxis.

Ms Cioffi explained that the market the Wine Bar was aimed at those who were happy to pay between £18 - £700 for a bottle of wine and that staff would be trained to watch out for, for example, . groups of patrons who might over order or who might order too quickly. She confirmed that the business would be happy to participate in "Pub Watch". Ms Cioffi explained how their current premises differed from Enoteca Zero (Wine Bar).

The applicant provided a summary of her current submissions to the Sub Committee. At the conclusion of the closing submissions, the Sub Committee, the Local Authority's Legal Advisor and the Democratic Services Officer withdrew to allow Members to consider the evidence.

Following this, Members, the Local Authority's Legal Advisor and the Chairman announced that the Sub Committee had listened to the comments of Officers and the applicant and had read all relevant representations. Having considered the views of all parties, the decision of this Sub-Committee was to grant the licence with reduced hours, in line with the Council's Licensing Policy 2016 as follows:

Supply of alcohol:

Monday – Thursday	10am to midnight
Friday – Saturday	10am to midnight
Sunday	10am to 22:30
Christmas Eve	10am to midnight

Boxing day	10am to 2am
New Year's Eve	10am to 2am

These same hours applied to the use of recorded music and to late night refreshment. In line with the policy, drinking-up time will be 30 minutes at the cessation of the sale of alcohol.

RESOLVED - that the licence be granted with reduced hours (as detailed above) in line with the Council's Statement of Licensing Policy 2016.

Reasons:

1. Notwithstanding the conditions contained in the application and the reassurances provided by the Applicants at the hearing, the Sub-Committee was mindful that the Applicants were nevertheless relatively inexperienced in operating this type of establishment.
2. Further, the Sub-Committee was alert to the representations received by residents with regards their concerns around the late finishing times applied for.

18 APPLICATION FOR A NEW PREMISES LICENCE: SUNSET CINEMAS, SWORDS FIELD, THE CAUSEWAY, BISHOP'S STORTFORD, HERTS

The Chairman outlined the procedure to be followed. All those present were introduced. The Senior Licensing and Enforcement Officer summarised the application that was received by the Licensing

Authority on 5 July 2019. He explained that the Council had just received a Noise Management Plan and that one representation had been received.

The applicant (Ms Collyer) provided a summary of the application and outlined her experience of arranging outdoor cinema events. The applicant explained that there would be a children's show of "Frozen" in the afternoon and a later one at 8 pm for adults. She recognised the objector's concerns but did not envisage a problem with the alleged noise levels. The applicant outlined dispersal arrangements onto The Causeway and that she would be using stewards to ensure that patrons left quietly.

A resident explained how close the venue was in relation to his home and said that his life had been disturbed by all the events being held in Sworders Field and the impact this had on his family. He expressed concerns about patrons taking alcohol into the event and of possible nuisance as a result. It was explained that the Police as a responsible authority had asked for a condition limiting what alcohol could be taken into the event. The applicant explained that next year, she would only plan one event instead of three if Members were minded to limit the number per year.

The applicant provided a summary of her final submissions to the Sub-Committee. At the conclusion of the closing submissions, the Sub Committee, Local Authority's Legal Adviser and the Democratic Services Officer withdrew to allow Members to consider the evidence.

Following this, Members, the Local Authority's Legal Adviser and the Democratic Services Officer returned and the Chairman announced that the Sub Committee had listened to the comments of Officers, the applicant and the objector and had read all relevant representations. Having considered the views of all the parties, the decision of the Sub Committee was to grant the premises licence as applied for.

RESOLVED – that the application for a premises licence be granted.

Reasons:

1. Whilst the Sub-Committee had sympathy with the concerns put forward by the resident, it was also mindful of the fact that many of the events referenced by him were completely separate events which were not subject to this application.

2. The Sub-Committee was also mindful that, at 3 events a year between June and September, the frequency was relatively low and did not pose a risk to the promotion of the four licensing objectives.

The meeting closed at 4.10 pm

Chairman Date

This page is intentionally left blank

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON WEDNESDAY 4 SEPTEMBER
2019, AT 10.00 AM

PRESENT: Councillor D Andrews (Chairman)
Councillors B Crystall and S Reed

ALSO PRESENT:

Councillors R Bolton, B Deering, J Goodeve,
G McAndrew and P Ruffles

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
James Ellis	- Solicitor
Brad Wheeler	- Senior Licensing and Enforcement Officer

19 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor B Crystall and seconded by Councillor S Reed that Councillor D Andrews be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Councillor D Andrews be

appointed Chairman for the meeting.

20 CHAIRMAN'S ANNOUNCEMENTS

The Chairman apologised to those in attendance regarding the problems with the Council Chamber door. He asked that if the Fire Alarm went off to follow Officers who would escort them from the building. He asked all those present to turn off their personal devices. The Chairman introduced Members of the Sub-Committee and explained the decision making process.

21 APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR DECO LOUNGE, 16-20 PARLIAMENT SQUARE, HERTFORD

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

The Chairman explained that with Members' consent he would like to adjourn the meeting in order to visit the site. He confirmed that there would be no discussion on the visit and that any questions would be discussed when the meeting was reconvened.

The meeting was adjourned at 10.15am for the purpose of the site visit and reconvened at 10.45am.

The Senior Licensing and Enforcement Officer summarised the application that was received by the Licensing Authority on 17 July 2019.

The Chairman stated that during the site visit there

were no discussions with the applicant. The Senior Licensing and Enforcement Officer who had accompanied confirmed this.

The Solicitor presented the application on behalf of the applicant and summarised the business case behind the request to vary the licensing hours. He acknowledged the objections from local residents and business owners and explained how their Security Industry Authority SIA door staff had worked closely with police to provide assistance on more than one occasion. The Solicitor summarised their security arrangements, their involvement with Pub Watch and commented on issues in the past with bottle drops and the changes with regard to the hours for collection. The Solicitor explained that the issue of precedent was not a relevant consideration but that the issue around disorder around closing time was relevant. The Solicitor explained the additional condition relating to dispersal arrangements which supported the Council's Licensing Policy.

Councillor S Reed sought and was provided with clarification regarding security arrangements, the shared arrangements with other businesses regarding the back yard and the role of SIA staff.

Councillor B Crystall sought and was provided with clarification on the arrangements regarding those patrons using the bar and the capacity of the basement which was limited to a maximum of 200 persons. The applicant provided a summary supporting the application for a variation, addressing issues such as the supervision of the smoking area,

help provided by SIA staff, requests for private events, the request for late night refreshments, dispersal and ownership arrangements.

Residents were invited to comment on the application and their concerns referred to noise and disturbance, a person being taken out of the rear of the premises, damage to property (including broken windows), inappropriate behaviour of patrons under the influence at dispersal times and the cumulative effects of a number of premises with late night opening and the effect this had on residents' lives. A resident explained that she had rung 999 twice because of incidents and there was a need to protect children from harm. Residents explained the arrangements regarding the gate at the front which could not be locked.

An event on the early morning of 25 August 2019 was cited when there had been a lot of noise and inappropriate behaviour. The applicant explained that DECO had closed at 2am.

The Environmental Health dispersal policy was explained. Councillor J Goodeve said that the staggered dispersal protracted noise nuisance in the town, issues concerning the availability of taxis in the early hours were of concern, plus the fact that the trains did not run that early. The applicant explained the help provided by DECO staff including the SIA door security. Councillor J Goodeve suggested that there should be a holistic review of all licences in Hertford.

The representative from the Responsible Authority of

Hertfordshire Constabulary provided background information in relation to the night time economy, increasing levels of violence and the demands on the Police responding to disorder in other areas of Hertfordshire. The Police Sergeant explained that disorder currently in Hertford could not be attributable to DECO and highlighted the help that their SIA door staff had provided to the Police on a number of occasions. The Officer explained that it was reasonable to predict that an extension of DECO's hours would bring with it changes. He felt that generally there would be increasing levels of violence and that this would impact on Police resources.

Councillor J Goodeve questioned the Police and asked whether they felt a review of all licenced premises with a late night licence was required, the Chairman interjected that question did not need to be answered, however the Police Sergeant agreed to this statement.

The Solicitor for the applicant responded to a number of queries including noise, crime and disorder, security arrangements and the need for the variation.

The applicant and all interested parties were invited to summarise their views on the application. At the conclusion of the closing submissions, the Sub-Committee the Local Authority's Legal Advisor and the Democratic Services Officer withdrew to allow Members to consider the evidence.

Following this Members, the Local Authority's Legal Advisor and the Chairman announced that the Sub-Committee had listened to the comments of Officers,

the applicant and all relevant representations. Having considered the views of all parties, the decision of this Sub-Committee was to refused the variation of the premises licence for the following reasons:

RESOLVED – that the variation of the premises licence be refused.

Reasons:

1. Having carefully considered all of the representations made by those present at the hearing, the Sub-Committee were concerned by a number of issues which, in their assessment, put at risk the promotion of two of the four licensing objectives.
2. Notwithstanding the town centre location, and the inevitable disruption living in such urban areas will bring, the Sub-Committee were concerned by the likely Public Nuisance that would be caused by the close proximity of residential properties to the premises coupled with such late licensable hours.
3. During its site visit to the premises the Sub-Committee were concerned by the emergency exit route, that is to say the route through the back yard and into Miller's Court, which would be used in event of an emergency such as a fire. The external area was cluttered, strewn with trip hazards and other obstacles that, in the Sub-

Committee's assessment, represented a risk to the Promotion of Public Safety licensing objective.

4. The Sub-Committee contemplated the representations put forward by Hertfordshire Constabulary, however did not consider that the issues referenced in those representations were sufficiently tied to the applicant that would allow it to draw a definitive inference that the Prevention of Crime and Disorder licencing objective would be put at risk.
5. Further, whilst it considered the application on its own merits, the Sub-Committee had due regard to the Council's Statement of Licensing Policy, in particular paragraphs 4.3 concerning the opening hours of town centre night-clubs, and paragraphs 6.4 and 6.6 concerning the promotion of family-friendly town centres, which the Sub-Committee felt this variation would be contrary to.

The meeting closed at 12.50 pm

Chairman

Date

This page is intentionally left blank

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON THURSDAY 19 SEPTEMBER
2019, AT 2.00 PM

PRESENT: Councillor J Jones (Chairman)
Councillors N Symonds and C Wilson

OFFICERS IN ATTENDANCE:

Peter Mannings	- Democratic Services Officer
Brad Wheeler	- Senior Licensing and Enforcement Officer
Victoria Wilders	- Legal Services Manager

22 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor C Wilson and seconded by Councillor N Symonds that Councillor J Jones be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Councillor J Jones be appointed Chairman for the meeting.

23 MINUTES - 28 AUGUST 2019

It was proposed by Councillor N Symonds and seconded by Councillor C Wilson that the Minutes of

the meeting held on 28 August 2019 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 28 August 2019 be confirmed as a correct record and signed by the Chairman.

24 APPLICATION FOR A NEW PREMISES LICENCE FOR THE BURGER BOX, 23 PARLIAMENT SQUARE, HERTFORD, HERTS, SG14 1EX

The Chairman outlined the procedure to be followed. All those present were introduced. The Senior Licensing and Enforcement Officer summarised the application for a new premises licence that had been submitted to the Licensing Authority by TRS Bars and Restaurants LTD on 27 July 2019.

The Sub-Committee was advised that the premises was called The Burger Box, 23 Parliament Square, Hertford and the application was for the supply of alcohol on and off the premises between the hours of 10:30 am and 9 pm. The opening hours of the premises would be 8 am to 10 pm.

The Senior Licensing and Enforcement Officer summarised the additional steps the applicant intended to take to promote the four licensing objectives. This included the Challenge 25/Think 25 proof of age scheme as well as training for staff regarding the responsible sale of alcohol. Non-alcoholic drinks would be available during the hours

applied for the supply of alcohol on and off the premises.

The Sub-Committee was advised that CCTV would cover all entry and exit points enabling front identification of every person entering in any light condition. The applicant had committed to making recordings available immediately upon reasonable enquiries by the police or authorised Officer for the following 31 day period.

The Officer said that a condition could be applied that alcohol would only be served to customers in the premises. The applicant had indicated that alcohol would only be served to customers sitting in the premises or those seated at tables within a designated seating area in Parliament Square.

The Senior Licensing and Enforcement Officer summarised the conditions detailed in Essential Reference Paper 'C' and detailed the 3 representations included in the Agenda at Essential Reference Paper 'D'. Members of the Sub-Committee had conducted a site visit under a strict protocol whereby the applicant remained outside the premises whilst the Members and an Officer had entered the premises.

The Sub-Committee was reminded that the application should be granted if the four licensing objectives would not be undermined. Members could restrict the hours applied or apply conditions and the Sub-Committee could also refuse the application. The decision of the Sub-Committee had to be justified and evidence based.

Councillor J Goodeve raised a number of points on behalf of one of the three objectors. She referred in particular to sight lines and toilet provision as well as staff being at the premises. She also commented on the use of the Town Council CCTV system. The applicant stated that he would be happy to reinforce CCTV coverage by paying for the crowning of trees in Parliament Square.

The applicant confirmed the location of the toilets and also where the bins would be stored. He also referred to commercial viability and stated that The Burger Box would be unlikely to be operational during the winter.

The applicant said that the business would be a Mediterranean-style Bistro and would not be commercially viable without off trade. He stated that it would be coffee led and not alcohol led and he anticipated that the business would not be commercially viable without the outside seating. The Burger Box would be closed by early evening and would not contribute to the night time economy.

The applicant concluded that he would have very well trained staff and the business would bring good value to the area and would be a very well thought through operation. He reiterated that Challenge 25 procedures would be employed at The Burger Box.

Councillor J Jones questioned the applicant on whether The Burger Box was separate to the Hertford House Hotel. The applicant confirmed that the staff for this premises would be very experienced staff from the

Hertford House Hotel.

Councillor N Symonds referred to the Disability Discrimination Act and questioned the lack of provision of toilet facilities for the disabled. The applicant stated that he had taken health and safety advice but could not change the fabric of the building.

The applicant responded to concerns from Councillor Symonds by stating that the bins would be stored inside and there would be a weekly bin collection from the Hertford House Hotel. The applicant confirmed to Councillor C Wilson that the food and drinks would be transported to customers in specialised caddies so there would no noisy movement of bottles or other products.

In response to comments from Councillor N Symonds regarding the promotion of the four licensing objectives, the applicant referred to the important opinions of the responsible authorities. He said that Hertfordshire Constabulary, Hertfordshire Fire and Rescue and Environmental Health were satisfied that the application promoted the areas covered by those objectives.

At the conclusion of the closing submissions, the Sub Committee, the Legal Services Manager and the Democratic Services Officer withdrew to allow Members to consider the evidence.

Following this, Members, the Legal Services Manager and the Chairman announced that the Sub Committee had listened to the comments of the Licensing Officer,

the applicants and the residents and the Sub-Committee had decided to approve the application, subject to the conditions detailed on pages 81 – 83 of the Agenda and the following additional condition:

- Bottles/glass collections will be permitted by the same external company that services the Hertford House Hotel, on the same day and time.

RESOLVED – that the application for a new premises be approved, subject to the conditions detailed on pages 81 – 83 of the Agenda and the following additional condition:

- Bottles/glass collections will be permitted by the same external company that services the Hertford House Hotel, on the same day and time.

Reasons:

1. Members were satisfied that the concerns of residents will be met by the conditions the Sub-Committee have imposed.
2. Members were also satisfied that the hours for Licensable Activity would not undermine the 4 licensing objectives.

The meeting closed at 3.20 pm

Chairman
Date

This page is intentionally left blank

EAST HERTS COUNCIL

LICENSING COMMITTEE – 30 OCTOBER 2019

REPORT BY HEAD OF HOUSING AND HEALTH

CONSIDERATION OF RESPONSES TO THE PROPOSAL TO LIMIT HACKNEY CARRIAGE VEHICLE LICENCES TO TWO HUNDRED

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- In March 2019 East Herts Council contracted LVSA (Licensed Vehicle Surveys and Assessment) to carry out an Unmet Demand Survey of East Herts licensed Hackney Carriage trade.
- The survey concluded that there is no “significant” unmet demand for Hackney Carriage services within the District.
- At a meeting of the Licensing Committee on 21st August 2019 the findings of the unmet demand survey were considered and members recommended placing a limit on the number of Hackney Carriage vehicles licences issued.
- As the suggested limit of 200 licences was below the number of vehicles East Herts had currently issued the decision was made to further consult the trade to get their views on the proposed figure.

<u>RECOMMENDATION FOR DECISION: That</u>	
(A)	The Committee consider the consultation responses and decide whether or not the proposed limit of 200 Hackney Carriage Vehicle Licences is the correct level;
	and
(B)	The Committee recommend to Council that a limit be imposed on the number of Hackney Carriage Vehicle Licences that are issued, including the level of that limit, from 1st January 2020.

1.0 Background

1.1 East Herts is an authority that grants licenses for Hackney Carriage and Private Hire drivers, vehicle proprietors and operators.

1.2 For a number of years the East Herts Hackney Carriage Trade has raised concerns that there are too many Hackney Carriage vehicles licensed within the District. Parts of the Hackney Carriage trade have advocated that the authority limits the numbers of Hackney Carriages.

1.3 Some concerns had been raised regarding the availability of wheelchair accessible vehicles (WAV) within the District.

1.4 As a result of the above factors an Unmet Demand Survey was commissioned which evidenced that there is no significant unmet demand allowing the authority to limit the numbers of Hackney carriage vehicle licences it issues.

2.0 Report

2.1 The consultation with the Hackney Carriage Trade regarding the number at which the proposed limit would be set ran from 26th August 2019 and closes at midnight on 19th September 2019. Every member of the trade received this either via email or post. The contents of the consultation letter can be found at **Essential Reference Paper 'B'**.

2.2 During this consultation three responses were received and these included the views of 11 Dual Driver licences holders licensed by East Herts. Each response is dealt with individually below.

2.3 Response 1 (received on 27th August 2019): The first paragraph of this response endorses the approach of limiting the number of licences issued for Hackney Carriage Vehicles. This respondent suggests that the limit should be set lower than

the proposed limit of 200 licences and that the limit should be 180-190. The response does not contain any reasoning to explain the view that this limit would be more suitable than the suggested limit of 200.

- 2.4 The second paragraph deals with a number of issues unrelated to the consultation however these were still addressed in the response from the Licensing Team. Response 1 can be viewed at **Essential Reference Paper 'C'**.
- 2.5 Response 2 (received on 29th August 2019): This response did not directly address the question of the level at which the limit on Hackney Carriage Vehicle Licences should be set but gave the opinion that this was too little too late. The Licensing Team replied seeking clarification regarding the consultation response but the consultee responded only to reiterate that it was "too little too late". Response 2 can be viewed at **Essential Reference Paper 'D'**.
- 2.6 Response 3 (received on 30th August 2019): This response agrees that the limit should be set at 200 licences and is from 9 licensed dual drivers. Response 1 can be viewed at **Essential Reference Paper 'E'**.

2.7 **OPTIONS**

1. Recommend to Council that the number of Hackney Carriage Vehicle Licences issued by this authority be limited to the figure of **200** detailed in the consultation.

Or

2. Recommend to Council that the number of Hackney Carriage Vehicle Licences be limited to another figure between **180-190**, as detailed in the first consultation response.

2.8 Officers would suggest that the limit be set at 200 vehicle licences as proposed in 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

Not applicable.

Contact Member: Councillor Peter Boylan – Executive Member for Neighbourhoods

Contact Officer: Jonathan Geall – Head of Housing and Health, Tel: 01992 531594.

Report Author: Oliver Rawlings – Service Manager, Licensing and Enforcement, Tel: 01992 531629.

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	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:	<p>The Unmet Demand Survey was carried out between 14th March 2019 and 14th April 2019. During this period identified stakeholders were contacted by the commissioned consultant.</p> <p>Webpages were created for both the public and licensed trade to respond to the survey.</p> <p>Officers contacted the licensed trade directly in writing to notify them of the survey and request their involvement.</p> <p>As a result of the Unmet Demand Survey the Licensing Committee decided on 21st August 2019 that a limit on the number of Hackney Carriage Vehicle licences would be appropriate. The suggested level was 200 licences which is lower than the number of Hackney Carriage Vehicles currently licensed so a further consultation was held with the trade in relation to level at which the limit should be set.</p>
Legal:	If a policy of limiting the number of Hackney Carriage licences is adopted then the refusal of a licence application can be appealed to court.
Financial:	If a policy of limiting the number of Hackney Carriage licences is adopted: <ul style="list-style-type: none">• If a refusal were appealed then there would be a cost to defending such an appeal.

	<ul style="list-style-type: none"> To continue to maintain the policy a new Unmet Demand Survey would need to be conducted at least every 3 years. The majority of the associated costs can be recovered through licence fees.
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:	<p>The survey was commissioned to identify any unmet demand for the services of East Herts licensed Hackney Carriages.</p> <p>By identifying any unmet demand, particularly in relation to persons mainly or wholly reliant on this service, the authority can consider measures to address this need.</p>
Equality, diversity and human rights considerations, and whether Equality Impact Assessment required:	<p>One of the reasons for commissioning the unmet demand survey was to identify any groups that may have issues with using the Hackney Carriage trade within East Herts, including wheelchair users.</p> <p>The survey did not identify any unmet needs that need to be addressed.</p>
Environmental Sustainability	If a diminishing limit is placed on the number of Hackney Carriages this could gradually lower the number of vehicles waiting in our Town Centres for the limited amount of work available. This could help to improve air quality.

Dear Licence Holder,

PROPOSAL TO LIMIT THE NUMBER OF HACKNEY CARRIAGE VEHICLES

At the request of the Hackney Carriage trade we undertook an unmet demand survey of East Herts District to see if there was any significant unmet demand for Hackney Carriages. The conclusion of the report was put before the Licensing Committee last night for their consideration.

The report concluded that there was no significant unmet demand for Hackney Carriages within the District and that there is an oversupply of vehicles. The report can be viewed at:

<http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=120&MId=3649&J=1>

Based on the evidence put before them the Licensing Committee took the decision that the number of Hackney Carriage vehicle licences issued by this authority should be limited. Following further consideration Members proposed that the figure at which licence numbers should be capped is 200.

This figure is below the number of Hackney Carriage vehicle licences that are currently issued.

When the cap comes into force please do not worry that we will be immediately revoking vehicle licences to bring the numbers down as this is not the case. The number of Hackney Carriage vehicle licences will be allowed to gradually diminish over time as a result of not issuing any new licences and vehicle licences lapsing, being surrendered or being revoked.

During the unmet demand survey a number of you responded suggesting figures for limiting the number of Hackney Carriage vehicle licences that should be issued. We would like to hear your

ESSENTIAL REFERENCE PAPER 'B'

thoughts regarding the proposed figure for the limit of 200 vehicles so we are opening a 4 week consultation during which you can share your views and reasoning. Responses will be put before the Licensing Committee for consideration before a final decision regarding the level of the limit is made.

The consultation opens on 26th August 2019 and closes at midnight on 19th September 2019.

Responses should be made in writing to:

licensing.taxis@eastherts.gov.uk or by writing to: Licensing, East Herts Council, Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ.

Yours sincerely

LICENSING TEAM

Housing and Health Services

Email: licensing.taxis@eastherts.gov.uk

Response 1 (received on 27th August 2019):

Dear Sir/Madam,

Thank you for the welcome news regarding capping vehicle and driver licences. I must say I have been asking about this for years to no avail. At last, a sensible outcome has been reached for all concerned. I think the number of licences should be allowed to drop to 180-190. This in itself would take a number of years to achieve at the rate licences are currently surrendered or lapsed.

I did read through some of the related agendas to this meeting, and was particularly drawn to one part regarding public safety, and EHDC being ultimately responsible for the safety of passengers. If this is the case, how come drivers and vehicles from other areas (ie TFL, Broxbourne, Dacorum, Welwyn Hatfield) are freely allowed to convey passengers within East Herts? Surely there is scope to deal with this if that original statement has any truth in it. Not to mention the effect this has on EHDC drivers' earnings.

But congratulations for the former.

REDACTED Dual driver **REDACTED**

Response from the Licensing Team:

Dear **REDACTED**

Thank you for your email and your response regarding the number at which Hackney Carriage vehicle licences should be capped will be put before the Licensing Committee for consideration.

With regards to vehicles licensed elsewhere carrying out work in East Herts as you will be aware Hackney Carriages can carry out private hire work anywhere in the country, private hire operators can

subcontract work and the way Uber operates is considered legal by the courts. If a vehicle is operating illegally then we can take action but there are lots of different circumstances which allow out of area vehicles to operate in the District to a greater or lesser extent.

Our responsibility regarding public safety relates to the licences we issue and investigating and stopping those that operate illegally. If a vehicle is not working illegally then the statutory responsibilities in relation to that licence fall to the issuing authority.

We, like the trade, have pushed for a change in the primary legislation that controls the taxi trade but this has not happened which leaves us trying to operate using laws that are not fit for the modern age. If you wish to affect change I would suggest writing to your MP detailing your concerns and asking when new legislation will be made. I am afraid that it will be some considerable period of time as Government will be embroiled in Brexit and its aftermath for some time to come.

Regards

Oliver Rawlings

Service Manager – Licensing and Enforcement

ESSENTIAL REFERENCE PAPER 'D'

Response 2 (received on 29th August 2019):

THIS IS TO LITTLE TO LATE. THE DAMAGE IS DONE. Go back to the old rules you want to work east herts .you have to live in east herts .that is when the ehdc taxi office did know what they were doing .not like today.

42 years in the job never seen such a cock up .not one of you in the office know the job as a driver .and your office is making it harder to do this job

Why don't you all wake up and listen to the drivers. Bring back some of the old officers that had the drivers interest in hand many thanks

REDACTED

Response from the Licensing Team:

REDACTED

Thank you for your comments. Do you have an opinion regarding the level at which a limit should be set as it's not clear from your email?

Regards

Oliver Rawlings

Service Manager – Licensing and Enforcement

Further response from consultee (received on 9th September 2019):

Please look again at my comment in my email TO LITTLE TO LATE this is down to YOU!?!☐

Response from the Licensing Team:

REDACTED

I am sorry that you feel that way. If you think there is something that needs doing and we are not doing it then I would be happy to arrange a meeting to discuss it? The trade have for a period of time suggested that there is a limit on the number of Hackney carriage vehicles and we have taken that on board, gathered the evidence to support a limit and consulted the trade widely.

Regards

Oliver Rawlings

Service Manager – Licensing and Enforcement

Response 3 (received on 30th August 2019):

Dear Sir/Madam,

We would like to make our suggestion/opinion regarding limiting the number of Licence Plates in East Herts. The drivers mentioned below would like to limit the cap to 200 Maximum as per council criteria with their updated requirements mentioned in the letter by the council.

The Driver details are as follows:

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

Please let us know, if you want us to write individually but we confirm the above mentioned drivers giving their consent to limit the cap to 200 and do not issue taxi plates further.

Regards

ESSENTIAL REFERENCE PAPER 'D'

Response from the Licensing Team:

Dear Sirs

Thank you for your response. Your email will be put before the Licensing Committee when they make a final decision about the level at which the limit should be set.

Regards

Oliver Rawlings

Service Manager – Licensing and Enforcement

EAST HERTS COUNCIL

LICENSING COMMITTEE – 30 OCTOBER 2019

REPORT BY HEAD OF HOUSING AND HEALTH

CONSIDERATION OF MANDATING SUBSCRIPTION TO THE DBS
UPDATE SERVICE FOR HACKNEY CARRIAGE AND PRIVATE HIRE
DRIVERS

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- East Herts Council uses a combination of Enhanced DBS (Disclosure and Barring Service) checks and Basic criminal record checks to ensure all drivers are “fit and Proper” to hold such licences.
- Since June 2013 the DBS Update Service has been available for and this authority has encouraged licensed drivers to sign up to it as it has benefits for both licence holders and the authority.
- It is proposed that subscription to the DBS Update Service becomes mandatory for all licensed drivers.

RECOMMENDATION FOR DECISION: That	
(A)	The Committee approve a 6 week public and trade consultation regarding the mandatory requirement for Licensed drivers to maintain a subscription to the DBS Update Service whilst they remain licensed.

1.0 Background

- 1.1 East Herts is an authority that grants licenses for Hackney Carriage and Private Hire drivers, vehicle proprietors and operators.
- 1.2 The legislation places an obligation on this authority to only licence persons who are considered “fit and proper”. There is no definition of this term within the legislation and neither is there a fixed legislative mechanism for determining this.
- 1.3 East Herts Council considers a range of documentary evidence, practical criteria and testing mechanisms in order to be satisfied of an individual’s fitness and propriety. Part of this evidence is a criminal record check.
- 1.4 Since 2001 all driver applicants to the licensed trade have undertaken CRB (Criminal Records Bureau) or (as is known now) DBS (Disclosure and Barring Service) checks. Prior to that, the responsibility for disclosure rested with the Police and all drivers prior to 2001 were subject to a Police check.
- 1.5 Applicants are required to have an Enhanced DBS check before a 3 year drivers licence is granted to them and then a Basic criminal record check is required annually for the next two years. When the drivers licence is renewed a new Enhanced DBS check is carried out and the three year cycle starts again.
- 1.6 The Enhanced DBS Disclosure Certificate includes details of spent convictions, Police cautions and other relevant information for an individual undertaking the role of a licensed driver. A Basic criminal record check only shows unspent convictions.
- 1.7 This authority is able to provide both the Enhanced DBS check and Basic criminal record checks online through an umbrella

company. The current costs of these checks to the applicant/licence holder are:

- Enhanced DBS – £62.00
- Basic Disclosure – £43.00

1.8 A DBS check is undertaken, face to face, at an appointment with an Officer of the Council. Following an application being made, the DBS certificate is issued directly to the applicant. It is then the applicant's responsibility upon receipt of the certificate to present it to the Council as part of their renewal application, before their licence application can be fully processed.

1.9 Upon receipt of a disclosure certificate from the DBS, via the applicant, the information (if there is any) will be risk assessed by an Authorised Officer who will consider whether the information disclosed is capable of having real relevance as to whether or not the individual is a fit and proper person to hold a licence in line with the Hackney Carriage and Private Hire Licensing Policy and the guidance.

2.0 Report

2.1 To date the Council has been strongly encouraging all licensed drivers to subscribe to the DBS Update Service. In doing so the Update Service allows individuals to keep their DBS Certificate up to date online, subject to an annual fee which is currently set at £13. This represents a reduction in the costs year on year associated with undertaking annual Basic checks and the Enhanced DBS Check at renewal. The total saving to the licence holder would be £60.00 over the life of a licence.

2.2 Some licensed drivers are subscribed to the Update Service and this works well for them and for the Council in undertaking relevant checks and in processing their licence application.

2.3 In addition to other benefits, the DBS Update Service allows Officers to carry out a quick online status check to see if an individual's certificate is up to date. It enables the Council to see if any relevant information has been identified about the individual since their DBS Certificate was issued.

2.4 Further benefits are detailed in the table below:

<i>Benefits for Licence Holders</i>	<i>Benefits for the Authority</i>
Saves time	Saves Time
Saves Money	Reduces risk
No more appointments to complete applications	Strengthens application and renewal processes
DBS Certificate can be taken from role to role within the same workforce	Supports safeguarding and the protection of the public
Individual in control of their DBS certificate	Allows an instant update of any information

2.5 The outcome of a check being undertaken via the DBS Update Service could be one of four:

- i. *This DBS certificate did not reveal any information and remains current as no further information has been identified since its issue* - This means that the initial certificate was blank and there is no new information.
- ii. *This DBS certificate remains current as no further information has been identified since its issue* - This means that the initial certificate revealed information but there is no new information.
- iii. *This DBS certificate is no longer current. Please apply for a new DBS check to get the most up-to-date information* – New

information has come to light since the initial certificate was issued and a new DBS will need to be applied for.

- iv. *The details entered do not match those held on our system. Please check and try again* – The individual has not subscribed to the Update Service or the DBS certificate has been removed from the Update Service.

2.6 If the change to mandatory subscription to the DBS Update Service is made then Taxi Licensing Policies will be amended to reflect this. The details of which are set out below:

<i>Current policy</i>	<i>Proposed Policy</i>
<p>An Enhanced DBS shall be undertaken upon application and every three years thereafter (if subsequent renewal applications are made).</p> <p>On the years when an Enhanced DBS is not due (Years 2 & 3) then a Basic criminal record check will be undertaken.</p>	<p>An enhanced DBS shall be undertaken upon application and all licensed drivers will at that point be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate.</p> <p>Every three years, officers of the Council will undertake an online check of the DBS Update Service in order to check the applicant's current status.</p> <p>Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken.</p> <p>All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to</p>

continue to hold an East Herts Council issued driver's licence.

Where an individual fails to maintain and/ or renew their subscription before it ends; they will be required to apply for a new DBS Check and register for the Update Service again.

Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.

2.7 In conclusion, it is considered that the proposals are very necessary in order to contribute to the Council's Safeguarding responsibilities, along with the statutory licensing obligations. The time frame for moving all existing licensed drivers to the DBS Update Service is a three year cycle, due to the logistical set up of licence renewals. Members are recommended to consider the information within this report and approve the consultation document at **Essential Reference Paper 'B'**.

3.0 Implications/Consultations

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

Background Papers

Not applicable

Contact Member: Councillor Peter Boylan – Executive Member for Neighbourhoods

Contact Officer: Jonathan Geall – Head of Housing and Health, Tel: 01992 531594.

Report Author: Oliver Rawlings – Service Manager, Licensing and Enforcement, Tel: 01992 531629.

This page is intentionally left blank

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	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:	It is proposed that a public and trade consultation regarding the proposal be undertaken between 4 th November 2019 and 15 th December 2019.
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
Equality, diversity and human rights considerations, and whether Equality Impact Assessment required:	No issues identified by report author or contact officer
Environmental Sustainability	No issues identified by report author or contact officer

This page is intentionally left blank



**Hackney Carriage & Private Hire Drivers
DBS Update Service Consultation
Document**

Period of consultation:

4th November 2019 - 15th December 2019.

Introduction and Background

East Herts Council has responsibility for licensing Hackney Carriage and Private Hire, drivers, proprietors and operators within the District.

The Council carries out its licensing functions with a view to promoting the following objectives:

- i. The safety and protection of the public;
- ii. Vehicle safety, comfort and access;
- iii. The prevention of crime and disorder;
- iv. The promotion of environmental sustainability;
- v. Protection of children and adults at risk from harm.

Vehicles, drivers and operators are regulated to ensure the protection of the public and the Council is dedicated to providing a top quality Hackney Carriage and Private Hire service for its residents and visitors alike. The process for obtaining a driver's licence is therefore targeted at various aspects to ensure that the Council can be satisfied that an individual is a "fit and proper" person to hold such a licence.

Policy

The Taxi Licensing Policies set out the Licensing Requirements for all parties in a clear and transparent manner so that the Council can carry out its licensing functions.

The Council will not licence anyone as a driver unless they are satisfied they are a fit and proper person.

There is no legal definition of fit and proper, it is for the Council to determine how they wish to be satisfied that someone is fit and proper to be granted a driver licence. To this end, the Council considers a range of documentary evidence, practical criteria and

testing mechanisms provided by a new and renewal applicant in order to be satisfied of this.

Disclosure & Barring Service (DBS) Check

The Disclosure & Barring Service (DBS) is an executive non-departmental public body sponsored by the Home Office. It aids organisations to make safer decisions and prevent unsuitable people from working with vulnerable groups, including children.

The Council uses criminal record checks as one of the testing mechanisms to assess an applicants' suitability for the role of a licensed driver.

An Enhanced DBS check will be sought upon first application for a driver's licence and every three years thereafter (if subsequent renewal applications are made). In the intervening two years drivers are required to have basic criminal record checks.

The Council may, at its discretion, require additional DBS checks within the standard three year cycle.

Our Process

1. All new and renewal applicants for the role of a licensed driver will need to apply for the DBS check through East Herts Council, unless they are subscribed to the Update Service for the same level and workforce.
2. Currently a DBS check is undertaken, face to face, at an appointment with an Officer of the Council.
3. Following an application being made, the DBS certificate is issued directly to the applicant. Where no information is present the physical certificate does not need to be presented to the Council. Where information is present it is the applicant's responsibility, upon receipt of the certificate, to

present it to the Council before their any application can be fully processed.

4. If an applicant's Enhanced DBS check is not completed and the result obtained prior to the expiry date of the licence, then the licence will be deemed to have expired. An applicant would then be expected to start the application process again.
5. Upon receipt of a disclosure certificate from the DBS, via the driver, containing information that information will be risk assessed by an Authorised Officer who will consider whether the information disclosed is capable of having real relevance as to whether or not the individual is a fit and proper person to hold a licence in line with the policy and guidance.
6. Until this point in time, the Council has been strongly encouraging all licensed drivers to subscribe to the Update Service. In doing so, the Update Service allows individuals to keep their DBS certificate up to date online, subject to an annual fee which is currently set at £13.
7. Some licensed drivers are subscribed to the Update Service and this works well for them and for the Council in undertaking relevant checks and in processing their application. In addition these drivers save £60.00 and considerable time over the life of a 3 year licence.
8. Subscribing to the Update Service is quick and simple and must be done within the specified timescales. Subscription lasts for a year and must be renewed annually, before the current one ends.

Consultation

East Herts Council is conducting a consultation to seek the views of the trade as well as a wide range of partnering agencies and stakeholders, on the following proposal which will form part of the Hackney Carriage and Private Hire Licensing Policy.

<i>Current policy</i>	<i>Proposed Policy</i>
<p>An Enhanced DBS shall be undertaken upon application for a driver's licence and every three years thereafter (if subsequent renewal applications are made).</p> <p>On the years when an Enhanced DBS is not due (Years 2 & 3) then a Basic criminal record check will be undertaken.</p>	<p>An enhanced DBS shall be undertaken upon application and all licensed drivers will at that point be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate.</p> <p>Every year, officers of the Council will undertake an online check of the DBS Update Service in order to check the applicant's current status.</p> <p>Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken.</p> <p>All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to continue to hold an East Herts Council issued driver's licence.</p> <p>Where an individual fails to maintain and/or renew their subscription before it ends; they will be required to apply for a new DBS Check and register for the Update Service again. In</p>

	<p>these circumstances the drivers licence will be suspended until the results of the new Enhanced DBS check are received by the Council.</p> <p>Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The consultation is open to the licensed trade, partner agencies and the public from the 4th November 2019 and the closing date for submitting consultation responses is 15th December 2019.

All feedback is encouraged and the results of the consultation exercise will be presented to Members at Licensing Committee in March 2020 and will form part of a revised Hackney Carriage and Private Hire Licensing Policy.

Any comments that you forward to the Licensing Authority should clearly state your name and any organisation or persons you may represent.

Send your response:

- By email to licensing.taxi@eastherts.gov.uk please include the words 'DBS Update Service Consultation' in the subject field; or
- In writing to Licensing & Enforcement Team, East Herts Council, Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ.