



## Public Document Pack

*James Ellis*  
Head of Legal and Democratic Services

**MEETING** : LICENSING COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 23 JUNE 2021  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

### **MEMBERS OF THE COMMITTEE**

Councillor D Andrews (Chairman)

Councillors R Bolton, K Crofton, M Goldspink, A Hall, J Jones, T Page,  
C Redfern, S Reed, D Snowdon, N Symonds and C Wilson

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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.

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## AGENDA

1. Appointment of Vice-Chairman

2. Apologies

To receive apologies for absence.

3. Chairman's Announcements

4. Declarations of Interest

To receive any Members' declarations of interest.

5. Minutes - 10 March 2021 (Pages 7 - 14)

To approve the Minutes of the meeting of the Committee held on Wednesday 10 March 2021.

6. Licensing Sub-Committee - 29 March and 6 April 2021 (Pages 15 - 46)

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

29 March 2021

6 April 2021

7. Consideration of the responses to the consultation on the draft revision of the Statement of Licensing Policy 2021-26 (Pages 47 - 204)

8. Review and Revision of the Licensing Records Points Scheme (Pages 205 - 236)

9. Licensing Annual Report 2020-21 (Pages 237 - 250)

10. 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 AS AN  
ONLINE MEETING ON  
WEDNESDAY 10 MARCH 2021, AT 7.00 PM

PRESENT: Councillor D Andrews (Chairman)  
Councillors R Bolton, K Crofton, B Crystall,  
M Goldspink, T Page, S Reed, D Snowdon,  
N Symonds and C Wilson

OFFICERS IN ATTENDANCE:

James Ellis	- Head of Legal and Democratic Services and Monitoring Officer
Steven King	- Finance Management Trainee
Oliver Rawlings	- Service Manager (Licensing and Enforcement)
William Troop	- Democratic Services Officer

408 APOLOGY

An apology for absence was submitted on behalf of Councillor Jones.

409 MINUTES - 25 NOVEMBER 2020

It was moved by Councillor Bolton and seconded by

Councillor Crofton, that the Minutes of the meeting of the Committee held on 25 November 2020 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, this motion was declared CARRIED.

**RESOLVED** – that the Minutes of the Committee meeting held on 25 November 2020 be confirmed as a correct record and signed by the Chairman.

410 CHAIRMAN'S ANNOUNCEMENTS

The Chairman said that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 came into force on Saturday 4 April 2020 to enable councils to hold remote committee meetings during the COVID-19 pandemic period. This was to ensure local authorities could conduct business during the current public health emergency. This meeting of Licensing Committee was being held remotely under these regulations, via the Zoom application and was being recorded and live streamed on YouTube.

411 DECLARATIONS OF INTEREST

There were no declarations of interest.



412 LICENSING SUB-COMMITTEE MINUTES - 20 NOVEMBER, 9  
DECEMBER 2020, 8 JANUARY, 5 FEBRUARY 2021

**RESOLVED** – that the Minutes of the Licensing Sub-Committee meetings held on 20 November, 9 December 2020, 8 January and 5 February 2021, be received.

413 DEPARTMENT FOR TRANSPORT (DFT) STATUTORY TAXI  
AND PRIVATE HIRE VEHICLE STANDARDS – CONSULTATION  
RESPONSES

The Service Manager for Licensing and Enforcement introduced the report. He said that there had been eight responses during the eight week consultation. Some amendments to policy had been made in response, such as recognising that it might not always be possible for a taxi firm to obtain a passenger's name prior to pick-up, particularly on corporate accounts or where the taxi had been booked for the passenger by someone else. It was also recognised that it might have been too onerous for drivers to demonstrate their English proficiency at each licence renewal, and proof of a suitable English qualification would be accepted instead. There had been broad support for the wider use of CCTV, and further work would be done on this issue and presented to the Committee in due course.

Councillors Wilson and Goldspink asked about the possibility of the Council being challenged on its more stringent standards on drug-related convictions and said this might leave the Council open to challenge if there was no 'compelling local reason' for this.

The Service Manager said that the current standards had been approved by the Committee, but he understood Members' concerns. It was agreed that he would establish the reason for the original decision and respond to Members outside of the meeting. However, the Council's policy on handheld devices was in line with the Department for Transport's (DfT) minimum standards and consultee's responses that the policy seemed harsh would not constitute a compelling reason to amend it.

The Chairman said that he was disappointed with the low level of engagement with the consultation given the careful consideration and work on these matters by Committee and Officers. He was also concerned that the DfT considered taxis to be high-risk environments.

Councillor Crofton said that taxis could potentially be high-risk environments, but he was satisfied that the work of the Committee and Officers had significantly reduced this risk.

The Chairman asked how the Council could regulate firms outsourcing their booking operations. The Service Manager said that the Council had a right of inspection and firms would have to show that any third-party contractor was operating to the same required standards if this was requested. However, it was not mandatory for firms to inform the Council that they were outsourcing work.

Councillor Goldspink asked what the specific suggested

steps to the Council were from response four in the consultation.

The Service Manager referred Members to Appendix B where the full wording of each response could be found and said Officers explained to the respondent the stringent standards the Council upheld and what checks were carried out on each taxi driver.

The Chairman and Councillor Bolton said that they were supportive of the increased use of CCTV within taxis across the District. This would protect both drivers and passengers, and could be gradually phased in alongside the requirement for drivers to have more environmentally friendly vehicles. The cost of in-vehicle CCTV systems was no longer prohibitive and could be used to record images with or without sound, in order to protect the privacy of passengers.

Councillors Crofton and Wilson said that the Council should be cautious not to place financially onerous requirements on firms and drivers, particularly in the current economic climate.

The Service Manager said that there was now a national register of drivers who had had a licence refused or revoked. This required each Council to sign up, but East Herts had been using information from this register and also sharing intelligence. He said that the Council had been championing CCTV for several years, and previously sourced funding to lower the cost of CCTV systems for licence holders. The Committee would receive a report on the possible further expansion of the use of CCTV later in the year.

Councillor Page said that it was clear the Council was doing good work to regulate licensed firms and drivers, but asked what was being done about unlicensed drivers.

The Service Manager said that the Council carried out night-time operations and did other work to discourage unlicensed pick-ups, as well as drivers from other districts touting for fares after a drop-off in East Herts. This was a difficult thing to prevent, but it was being addressed.

The Chairman commented that the Council had led on standardising regulation and enforcement across the county, and Officers had been supported in this by the Committee.

It was moved by the Chairman and seconded by Councillor Snowden that the recommendations, as detailed, be approved. After being put to the meeting and a vote taken, the motion was declared CARRIED.

**RESOLVED** – that the Policy changes detailed within Appendix A (a to f) be recommended to Council for adoption with a commencement date of 1 June 2021.

#### 414 REVIEW OF LICENSING ACTIVITY IN QUARTER 3 OF 2020

The Service Manager for Licensing and Enforcement introduced the report and highlighted the main points to the Committee.

The Chairman thanked the Service Manager and Officers for their work. He asked about licenses for scrap metal collection and waste removal within the District and said it may be beneficial for licensed operators to have a badge to display on their vehicles in the same way that taxi drivers did.

The Service Manager said that there was a low level of this activity within the District. However, information was passed on to the police where intelligence was garnered about illegal practises or unlicensed operators. The Council did provide notices for display in operators' windscreens, as well as a badge to prove they were licensed.

Councillor Symonds said she had been unaware of the need for operators to be licensed for waste removal and suggested that awareness was raised amongst residents about this.

The Head of Legal and Democratic Services said that there was a legal obligation on residents to ensure that any operator collecting their waste was appropriately licensed.

Councillor Crystall asked for further details on the settling of the Jungle Bar licence application by a consent order.

The Service Manager and the Chairman explained that a compromise had been struck between the Licensing Authority and the applicant, both having taken a steer from Members of the relevant Sub-Committee. All of the conditions and restrictions had remained, but the

licensed hours had been slightly extended. This was agreeable to the applicant and the appeal had been withdrawn.

**RESOLVED** – that the report be received.

415 URGENT BUSINESS

There was no urgent business.

The meeting closed at 8.00 pm

Chairman .....

Date .....

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD IN THE  
ONLINE MEETING - LIVESTREAMED ON  
MONDAY 29 MARCH 2021, AT 10.00 AM

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PRESENT: Councillor D Snowdon (Chairman)  
Councillors M Goldspink and C Wilson

OFFICERS IN ATTENDANCE:

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

32 APPOINTMENT OF CHAIRMAN

It was moved by Councillor Goldspink and seconded by Councillor Wilson, that Councillor Snowdon be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

**RESOLVED** – that Councillor Snowdon be appointed Chairman for the meeting.

33 APOLOGIES

There were no apologies for absence.

34     CHAIRMAN'S ANNOUNCEMENTS

The Chairman said that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 came into force on Saturday 4 April 2020 to enable Councils to hold remote committee meetings during the COVID-19 pandemic period. This was to ensure local authorities could conduct business during this current public health emergency. This meeting of the Licensing Sub-Committee was being held remotely under these regulations, via the Zoom application and was being recorded and live streamed on YouTube.

35     DECLARATIONS OF INTEREST

There were no declarations of interest.

36     MINUTES - 8 JANUARY AND 5 FEBRUARY 2021

It was moved by Councillor Goldspink and seconded by Councillor Wilson that the Minutes of the meetings held on 8 January and 5 February 2021 each be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, this motion was declared CARRIED.

**RESOLVED** – that the Minutes of the meetings held on 8 January and 5 February 2021 each be confirmed as a correct record and signed by the Chairman.



37 APPLICATION FOR A VARIATION OF A PREMISES LICENCE  
FOR RUSH GREEN SERVICE STATION, STANSTEAD ROAD  
(A414), HERTFORD, SG13 7SH (21/0059/PLV)

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The Senior Licensing and Enforcement Officer presented his report covering an application for a variation of a premises licence under Section 34 of the Licensing Act 2003. The Sub-Committee was advised that on 1 February 2021, an application for a variation of a premises licence was made by BP Oil Limited at Rush Green Service Station, Stanstead Road (A414), Hertford. The application sought approval to vary the current premises licence by extending the supply of alcohol between 07:00 to 23:00 daily, which equated to an increase of one hour between 07:00 to 08:00 each morning and to remove and replace all of the conditions on the premises licence.

The Sub-Committee was advised that the applicant had put forward a number of steps that would be taken to promote the licensing objectives and these could be found on pages 65 to 68 of the application and these included conditions in respect of the CCTV system. The Senior Licensing and Enforcement Officer detailed the nine conditions that the applicant had proposed in place of the current annexe two conditions on the licence.

The Sub-Committee was advised that during the 28 day statutory public consultation period, there had been eight representations from Interested Parties, which included one from the local county councillor and the other seven from residents. These representations were included at Appendix 'B'.

The Senior Licensing and Enforcement Officer said that the representations from the Interested Parties each engaged the public safety licensing objective with one representation engaging the prevention of public nuisance objective. The main concerns of the interested parties were the extra traffic they believed this application would bring to the roundabout.

The Senior Licensing and Enforcement Officer said that the report covered the East Herts statement of licensing policy and the revised guidance under Section 182 of the Licensing Act 2003. The Sub-Committee should determine the application with a view to promoting the four licensing objectives and Members must consider if the applicant had evidenced whether the application would promote the licensing objectives and would not undermine them and this evidence should be balanced against the evidence given by interested parties.

He also said that if the Sub-Committee believed that the licensing objectives would not be undermined then the application should be granted. Members were advised that if they believed that the application would not promote the four licensing objectives, they should take appropriate and proportionate action to address these concerns. The Senior Licensing and Enforcement Officer said that the Sub-Committee could attach conditions, limit the hours or restrict licensable activities. The application should only be refused as a last resort and the Members' decision should be evidence based, justified, appropriate and proportionate.

The Applicant's legal representative explained that the existing licence allowed the sale of alcohol from 8:00 to 23:00 hours. He said that the applicant (BP Oil Limited) had a preference that all its store licences matched the store trading hours and this was encouraged by the government in the Section 182 guidance, unless there were good reasons for the hours to be restricted.

The Sub-Committee was advised by the legal representative that the application had been served on the responsible authorities and there had been no objections from those authorities. He said that the applicant did not anticipate selling a lot of alcohol in the extra hour of trading but it was a matter of management of opening the whole store at 07:00 and not closing off the alcohol section.

The legal representative said that the representations that had necessitated this hearing being held all related to traffic in terms of the BP site being shared with McDonalds. He referred to a statement that had been made in the House of Commons last week that had implied that the matter of traffic exiting the site had been resolved between BP and McDonalds. He said that the Sub-Committee would only need to consider the matter of traffic egress if Members felt that the extra hour of alcohol sales would result in an increased risk to public safety.

The Sub-Committee was advised that the applicant did not anticipate any increase in traffic from the extra hour being applied for. The legal representative said the applicant did not anticipate any increase in traffic

from this application as this was not a destination shop for the purchase of alcohol between 07:00 and 08:00. He said that having the whole store opening at the same was in accordance with the Licencing Act 2003, the Section 182 guidance and the licensing policy of East Hertfordshire District Council.

The legal representative said that the conditions had been updated as whenever an application was submitted, the applicant always looked at the conditions in case any of these needed to be updated. He gave the example of challenge 21 on the existing licence when challenge 25 was in use at the premises. He welcomed questions from the Sub-Committee.

Councillor Wilson asked the applicant's representative if there was any data from other similar petrol stations in terms of any how many people might typically attend between 7 and 8 am to purchase alcohol.

The applicant's legal representative said that from experience of running 300 petrol stations, it was not anticipated that customers would arrive between 7 and 8 am just to purchase alcohol. He confirmed that the applicant was not expecting any increase in traffic or footfall as a result of this application.

Councillor Wilson said that it had seemed to take some time to resolve the issues around traffic. He asked the applicant's legal representative how the applicant intended to respond quickly to concerns from residents regarding licensing matters.

The applicant's legal representative said that the

residents were welcome to have his contact details if that helped. He also said that contact details could also be provided for an area manager if that would assist residents as well. He stated that he had not been involved in the multi-agency discussions in respect of traffic but he believed that this complicated matter appeared to have been resolved.

Councillor Goldspink asked for some more clarification from the applicant as to why there was a need to change the conditions on the premises licence. The applicant's legal representative explained that the conditions were very similar and the main difference was reflecting the new industry standard of applying Challenge 25 to alcohol sales.

The Sub-Committee was advised that the mandatory conditions stayed and the police were satisfied with the steps the applicant had taken in respect of CCTV. The applicant's legal representative said that the waste condition had been updated as had the condition for Challenge 25.

Councillor Goldspink referred to the existing conditions in respect of the positioning of CCTV cameras and the placement of waste receptacles. The legal representative said that waste receptacles were in place as standard at all BP premises and this could be included as a condition. He spoke at length about the configuration and positioning of the CCTV cameras and said that this could be altered if required to cover the alcohol display area.

Councillor Snowdon commented on the use of

language in terms of the condition regarding the location of bins. The legal representative explained that the new conditions were more explicit regarding the location of bins. He said that as regards the CCTV the applicant was perfectly content with having cameras focussed on the entrance and the alcohol display area. He confirmed that the applicant would be happy with a condition that required the CCTV to cover the entrance, the exit and the alcohol display area.

Mr Vitmar, a resident and Chairman of Kingsmead Resident's Association, asked the applicant's legal representative why the extra licensing hour was necessary when the applicant did not anticipate selling alcohol during the requested extended hour between 07:00 and 08:00.

Mr Bowen said that his objection related to safety and the traffic nuisance caused by the site. He stated that he had heard that the matter of traffic had been resolved according to a statement made by Julie Marson MP in the House of Commons last week. He said that this had come as a surprise to residents who did not believe that the matter had been resolved. He emphasised that BP had failed to engage in solutions to the problem and Hertfordshire County Council had yet to hear from BP in terms of any progress as regards traffic safety concerns.

Mr Bowen concluded that resident's objections were based on a view that any new traffic coming to this site would add to the existing problems regarding safety and nuisance. Councillor Andrew Stevenson said that he believed that there was an unresolved police order

on this site that had not yet been satisfied. He accepted that this whilst this related to traffic nuisance, it would be wrong to grant this application whilst this matter had not been legally resolved.

The applicant's legal representative said that the police had not objected to this application and this must be determined on its own merits and in accordance with the licensing act. He pointed out that he did not say that nobody would purchase alcohol between 7 and 8 am but the applicant did not anticipate any increase in traffic as a consequence of this application. He said that it was important to the applicant that the whole store was able to open at 7 am.

The applicant's legal representative briefly summed the position of the applicant. He reiterated that he would be happy provide his contact details to the residents association and the local Councillor in case there were any issues with the premises licence.

At the conclusion of the closing submission, the Sub-Committee, the Legal Services Manager and the Democratic Services Officer withdrew from the main Zoom session to allow Members to consider the evidence.

Following this, Members and Officers returned and the Chairman announced that the Licensing Sub-Committee had listened to the comments of the Senior Licensing and Enforcement Officer, the applicant, the local Member and had listened very carefully to the concerns of the residents and taken into account the written representations.

The Sub-Committee decided to grant the application, subject to the retention of existing condition 2 at the expense of the proposed condition 4. In coming to its decision, the Sub-Committee believed that the applicant has provided evidence that the granting of the licence would promote and not undermine the licensing objectives.

Members had noted that the applicant had applied for one extra hour on its licence, and that the police have not objected to the variation to the licence. There was not sufficient evidence to show that the extra hour of the licence would create substantially increased traffic and undermine the licensing objectives.

As a result, the evidence was balanced against the representations made by the interested parties. The Sub-Committee had also noted the applicant's willingness to provide their solicitor's details as a point of contact for the residents.

**RESOLVED** – that the application for a variation of a Premises Licence for Rush Green Service Station, Stanstead Road (A414), Hertford, SG13 7SH be granted, subject to the retention of existing condition 2 at the expense of the proposed condition 4.

38      APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR ASDA, WATTON ROAD, WARE, SG12 0AD (21/0056/PLV)

The Senior Licensing and Enforcement Officer presented his report covering an application for a



variation of a premises licence under Section 34 of the Licensing Act 2003. The Sub-Committee was advised that on 3 February 2021, an application for a variation of a premises licence was made by Asda Stores Limited for ASDA, Watton Road, Ware, SG12 0AD. The application sought approval to vary the current premises licence by extending the supply of alcohol between 07:00 to 23:00 Monday to Sunday, to enable home deliveries for click and collect orders.

The Sub-Committee was advised that the current premises licence permitted the supply of alcohol between 08:00 and 22:00 hours Monday to Saturday and between 10:00 and 16:00 hours on Sundays. Members were advised that the store opening hours were to remain unchanged.

The Senior Licensing and Enforcement Officers said that the application could be found in Appendix A on pages 101 to 112 and regarding the steps to promote the licensing objectives, the applicant had stated that all existing conditions would be maintained and operated.

The Sub-Committee was advised however that during the 28 day statutory consultation period, the applicant had agreed further conditions with Hertfordshire Constabulary and these conditions could be found at paragraph 3.6 of the report. The additional conditions were summarised by the Senior Licensing and Enforcement Officer, and included details of CCTV, age verification policy, notices advertising the age verification policy, staff training on the Challenge 25 scheme, and the maintenance of an incident book or

electronic log.

The Senior Licensing and Enforcement Officers said there had been three representations from Interested Parties during the 28 statutory consultation period; and details of these representations could be found at Appendix 'B' on pages 113 to 116 of the Agenda.

The Senior Licensing and Enforcement Officer said that the representations from the Interested Parties each engaged the engagement of the prevention of public nuisance and prevention of crime and disorder licensing objectives. Members were advised that another representation had mentioned public safety and the main concerns of the interested parties were extra traffic and noise during the extended period of sales.

The Sub-Committee was advised that in respect of crime and disorder, it should be noted that the police had been consulted and due to the agreed conditions, they were satisfied that this licensing objective would not be undermined.

The Senior Licensing and Enforcement Officer said that the report covered the East Herts statement of licensing policy and the revised guidance under Section 182 of the Licensing Act 2003. The Sub-Committee should determine the application with a view to promoting the four licensing objectives and Members must consider if the applicant had evidenced whether the application would promote the licensing objectives and would not undermine them and this evidence should be balanced against the evidence given by interested parties.

He also said that if the Sub-Committee believed that the licensing objectives would not be undermined then the application should be granted. Members were advised that if they believed that the application would not promote the four licensing objectives, they should take appropriate and proportionate action to address these concerns.

The Senior Licensing and Enforcement Officer said that the Sub-Committee could attach conditions, limit the hours or restrict licensable activities. The application should only be refused as a last resort and the Members' decision should be evidence based, justified, appropriate and proportionate.

Mr Taylor, legal representative for the applicant, introduced the ASDA licensing manager and also the store manager for the premises at Watton Road in Ware. He explained that this was an unusual application and he would deal with it in three parts.

Mr Taylor reiterated that this was an application for the variation of the premises licence to permit alcohol sales between 07:00 and 23:00 hours 7 days a week, in order to service home deliveries and click and collect orders. He explained that this would not affect the hours that the store would be open to customers for shopping.

Mr Taylor said that the variation in hours was to allow ASDA to service home delivery and click and collect orders due to the COVID-19 pandemic, as this had more than doubled the demand for home delivery and

had quadrupled the demand for click and collect. He said that enhanced conditions had been agreed with Hertfordshire Constabulary and reference had been made in the conditions that the purpose of the application was to fulfil remote orders.

Mr Taylor explained that ASDA could currently do home deliveries that did not contain alcohol at any time of the day. He said that the applicant wished to make the full range of products available to customers and he did not believe that this would prejudice the licensing objectives.

Mr Taylor explained that click and collect was available between 08:00 and 22:00 hours Monday to Saturday and between 10:00 and 16:00 hours, and a planning application had been made to extend those hours. He said that if the variation was approved by Members, nothing would change for click and collect until the planning permission was also in place.

Mr Taylor said that all home delivery drivers would have the same training as the checkout staff in store in terms of adhering to enforcing Challenge 25 on the doorstep. He explained that any alcohol was removed from the shopping if the customer was unable to provide proof of age if they were challenged on the doorstep for appearing under the age of 25. Members were advised that the same challenge process was in place in the car park for click and collect.

Mr Taylor explained that he had made submissions to the Senior Licensing and Enforcement Officer on the basis that the submissions that had been made by

interested parties were not relevant. He said that a main point of relevance was the effect on the licensing objectives of a bottle of wine being included in a home delivery.

Mr Taylor said that there would be no impact on light or noise pollution or effect on residents in terms of anti-social behaviour. He said that the police had not objected to the application and there would be no anti-social behaviour. He said that ASDA wanted to be good neighbours, would always work with residents and would meet with them to achieve that aim.

Mr Taylor said that the operating hours of the service yard were governed by planning and nothing would change as ASDA would continue to comply with planning rules. He said that the store manager would be happy to talk to residents to ensure that there were no issues. He pointed out that there would be no impact in terms of litter, lighting, landscaping or exhaust emissions.

Councillor Wilson asked the applicant's legal representative whether the applicant would respond adequately to any concerns that had been raised by the residents in respect of the licensing objectives.

Mr Taylor said that the applicant would always be happy to talk to the residents and there was evidence that this had been taking place. He said that ASDA always sought to be part of the community and be a benefit rather than a burden to the area.

At the conclusion of the closing submission, the Sub-

Committee, the Legal Services Manager and the Democratic Services Officer withdrew from the main Zoom session to allow Members to consider the evidence.

Following this, Members and Officers returned and the Chairman announced that the Licensing Sub-Committee had listened to the comments of the Senior Licensing and Enforcement Officer and the applicant and the Sub-Committee had taken into account the concerns of the residents. The Sub-Committee had decided to approve the application.

In coming to its decision, the Sub-Committee believed that the applicant had provided evidence that the granting of the licence would promote and not undermine the four licensing objectives.

**RESOLVED** – that the application for a variation of a Premises Licence for ASDA, Watton Road, Ware, SG12 0AD, be granted.

39 URGENT BUSINESS

There was no urgent business.

The meeting closed at 11.47 am

Chairman .....

Date .....

MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE HELD AS AN  
ONLINE MEETING ON TUESDAY 6 APRIL  
2021, AT 10.00 AM

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PRESENT: Councillor R Bolton (Chairman)  
Councillors S Reed and N Symonds

ALSO PRESENT:

Councillors T Page and D Andrews

OFFICERS IN ATTENDANCE:

Dimple Roopchand	- Litigation and Advisory Lawyer
William Troop	- Democratic Services Officer
Brad Wheeler	- Senior Licensing and Enforcement Officer
Victoria Wilders	- Legal Services Manager

ALSO IN ATTENDANCE:

Robert Cinnamon	- Hertford Town Councillor (Interested Party)
Nick Kirby	- Hertford Town Council (Interested Party)
Jonathan Mattai	- Applicant
Hardish Purewal	- Applicant
Jack Wylde	- Applicant

#### 40 APPOINTMENT OF CHAIRMAN

It was moved by Councillor Symonds and seconded by Councillor Reed, that Councillor Bolton be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

**RESOLVED** – that Councillor Bolton be appointed Chairman for the meeting.

#### 41 APOLOGIES

There were no apologies for absence.

#### 42 CHAIRMAN'S ANNOUNCEMENTS

The Chairman said that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 came into force on Saturday 4 April 2020 to enable councils to hold remote committee meetings during the COVID-19 pandemic period. This was to ensure local authorities could conduct business during this current public health emergency. This meeting of the Licensing Sub-Committee was being held remotely under these regulations, via the Zoom application and was being recorded and live streamed on YouTube.

#### 43 DECLARATIONS OF INTEREST

The Chairman declared a non-pecuniary interest in that she was a Hertford Town Councillor and also chaired the Hertford at Night action group. She said



that she did not sit on the Hertford Town Council Planning Committee which had made representations relating to Item 7, nor had she contributed to the representations.

Councillor Symonds declared a non-pecuniary interest in that she was Vice-Chairman of the Bishop's Stortford Food Bank.

44      APPLICATION FOR A VARIATION OF A PREMISES LICENCE  
FOR TESCO, BISHOPS PARK CENTRE, LANCASTER WAY,  
BISHOP'S STORTFORD (21/0069/PLV)

The Chairman summarised the procedure for the Sub-Committee hearing. All those present were introduced or introduced themselves.

The Senior Licensing and Enforcement Officer presented his report covering an application for a variation of a premises licence under Section 182 of the Licensing Act 2003. The Sub-Committee was advised that on 8 February 2021, Tesco Stores Ltd submitted an application for a variation of a premises licence at Tesco, Bishops Park Centre, Lancaster Way, Bishop's Stortford. The application sought approval to vary the current premises licence by extending the supply of alcohol to 24 hours a day and to amend a condition relating to barriers to the car park.

Members were advised that the applicant had proposed a number of steps that could be taken to promote the four licensing objectives, including, but not limited to the provision of comprehensive staff training and the presence of store managers at all times when the store was open. The applicant had

agreed further conditions with the Police, including the retention of CCTV footage for an increased timescale of 31 days, a Challenge 25 policy and the discouragement of customers having open vessels or loitering on site.

The Senior Licensing and Enforcement Officer said that the report covered the East Herts statement of licensing policy and the revised guidance under Section 182 of the Licensing Act 2003. The Sub-Committee should determine the application with a view to promoting the four licensing objectives and Members must consider if the applicant had evidenced whether the application would not undermine the licensing objectives and this should be balanced against the evidence given by interested parties.

The Senior Licensing and Enforcement Officer said that four representations from interested parties had been received which engaged the prevention of public nuisance, public safety and prevention of crime and disorder licensing objectives.

He also said that if the Sub-Committee believed that the licensing objectives would not be undermined then the application should be granted. Members were advised that if they believed that the application would not promote the four licensing objectives, they should take appropriate and proportionate action to address these concerns. The Senior Licensing and Enforcement Officer said that the Sub-Committee could attach conditions, limit the hours or restrict licensable activities. The application should only be refused as a last resort and the Members' decision should be evidence based, justified, appropriate and

proportionate.

The Chairman asked the Senior Licensing and Enforcement Officer whether the condition relating to the car park barriers would fall under the remit of the Sub-Committee, or whether this would be a matter for Planning.

The Senior Licensing and Enforcement Officer said that the Sub-Committee could attach conditions relating to the barriers, but Planning would also have jurisdiction over the matter.

Councillor Page, attending as an interested party and ward Councillor, asked whether the licence applied solely to the supermarket, or also to the petrol filling station. The Senior Licensing and Enforcement Officer said that the licence would only apply to the supermarket.

Tesco's Licensing Manager (the applicant) gave a summary of the application and explained Tesco's operations generally, as well as well as at the Bishop's Stortford store. The Store Manager was experienced and Tesco strove to be a good neighbour, donating large amounts to local charities, leading on national standards relating to the sale of alcohol and maintaining an open dialogue with the police and local community. All staff received training on the sale of alcohol, as well as refresher training twice a year, which included specific training on recognising already inebriated customers and for group scenarios. This was supported further by automated till prompts when alcohol was scanned at checkouts. Members were advised that there were security measures in

place, including the monitoring of CCTV from a national hub. The police had not objected to the application and had not been made aware of anti-social behaviour referred to in the representations. The store's housekeeping team had not reported high levels of litter on site and it was within the store's interest to keep the site tidy. It was anticipated only a small amount of additional sales of alcohol would be made during the additional licensed hours that had been requested, but it would offer convenience to the store's customers.

Councillor Symonds asked about possible disturbance in a residential area alluded to by the interested parties, problems caused by customers parking on nearby streets, and whether a gate for pedestrians onto the site would be locked when the store was closed. She also asked why the store had applied for a 24 hour licence given it was not open 24 hours.

The applicant said that car park barriers would remain closed when the store was closed. Whilst no problems had been raised with the store directly, Tesco was happy to work with residents and would ban any customers who were engaging in anti-social behaviour after visiting the store. Measures to discourage parking away from the car park and locking the gate could be considered. Trading patterns were subject to change, which made the 24 hour licence useful, but legislation such as regarding trading on Sundays would not be superseded by the licence.

Councillor Reed asked if alcohol would ever be sold outside of the store, such as in a temporary structure in the car park. The applicant said that it would not be.

The Chairman asked about instances in which there was no manager present in the store, when security was present and what would happen if a guard was on a break or already dealing with an incident.

The Store Manager said that one guard was currently present 7am – 11pm. Another staff member would cover the guard during their break. The store's car park was a large area to cover, but at least one staff member would go with the guard to deal with any instances of anti-social behaviour, and the police called if it could not be resolved by them. There would be three managers working in the store each evening, with managers receiving a more thorough degree of security training than other staff.

Councillor Page said that the applicant had been somewhat dismissive of the representations regarding litter and anti-social behaviour. He said that he would encourage the Store Manager to look around the store, rather than just on-site, as this is where the problem with littering was. The Sub-Committee should also consider whether Tesco's desire for operational flexibility was a satisfactory reason to grant a 24 hour licence, and whether this was necessary.

Councillor Symonds said that there was a higher level of crime around the store. The Legal Services Manager said that the police had made no formal objections relating to crime and disorder or otherwise.

The applicant said that she had not intended to be dismissive of interested parties' concerns, but had pointed out that the store had not been contacted

directly to discuss these concerns and the police had not objected to the application. A large store was likely to have higher levels of crime due to high footfall concentrated in a small area. She also reiterated that the store was willing to engage with residents. This was a well-run store and the Sub-Committee would need a good reason, supported by evidence, to reject the application.

At the conclusion of the closing submission, the Sub-Committee, the Legal Services Manager, Solicitor and Democratic Services Officer withdrew from the main Zoom session to allow Members to consider the evidence.

Following this, Members and Officers returned and the Chairman announced that the Licensing Sub-Committee had listened to the comments of the Senior Licensing and Enforcement Officer and the applicant and the Sub-Committee had taken into account the concerns of the residents and the interested party. The Sub-Committee had decided to grant the application, subject to additional conditions.

#### Additional Conditions:

- Condition 1 of Annex 3 reading 'Barriers on the car parks to be closed from store close and checks be made on this' to remain in place.
- Licensed hours on Sundays are 10am – 6pm. The Sub-Committee felt this was a balanced and proportionate time period to allow flexibility within the legal trading hours permitted under the Sunday Trading Act 1994.

In coming to its decision, the Sub-Committee believed that the applicant had provided evidence that granting the licence would promote and not undermine the four licensing objectives. The Sub-Committee also noted the applicant's willingness to meet with local residents in an attempt to resolve concerns regarding parking and anti-social behaviour, and would encourage this.

**RESOLVED** – that the application for a variation of a Premises Licence for Tesco, Bishops Park Centre, Lancaster Way, Bishop's Stortford, be granted, subject to additional conditions.

Additional Conditions:

- Condition 1 of Annex 3 reading 'Barriers on the car parks to be closed from store close and checks be made on this' to remain in place.
- Licensed hours on Sundays are 10am – 6pm. The Sub-Committee felt this was a balanced and proportionate time period to allow flexibility within the legal trading hours permitted under the Sunday Trading Act 1994.

Those present were advised that the decision would be issued in writing and there was the right of appeal within 21 days to the magistrate's court.

The Senior Licensing and Enforcement Officer presented his report covering an application for a variation of a premises licence under Section 182 of the Licensing Act 2003. The Sub-Committee was advised that on 8 February 2021, Tesco Stores Ltd submitted an application for a variation of a premises licence at Tesco, Ware Road, Hertford. The application sought approval to vary the current premises licence by extending the supply of alcohol on a Monday, Friday, Saturday and Sunday and for a seasonal variation of 24 hour alcohol sales between 13 December and 2 January each year.

Members were advised that the applicant had proposed a number of steps that could be taken to promote the four licensing objectives, including, but not limited to, the provision of comprehensive staff training and the presence of store managers at all times when the store was open. The applicant had agreed further conditions with the Police, including the retention of CCTV footage for an increased timescale of 31 days, a Challenge 25 policy and the discouragement of customers having open vessels or loitering on site.

The Senior Licensing and Enforcement Officer said that the report covered the East Herts statement of licensing policy and the revised guidance under Section 182 of the Licensing Act 2003. The Sub-Committee should determine the application with a view to promoting the four licensing objectives and Members must consider if the applicant had evidenced whether the application would not undermine the licensing objectives and this should be balanced against the



evidence given by interested parties.

The Senior Licensing and Enforcement Officer said that one representation from an interested party – Hertford Town Council - had been received, which engaged the prevention of public nuisance licensing objective.

He also said that if the Sub-Committee believed that the licensing objectives would not be undermined then the application should be granted. Members were advised that if they believed that the application would not promote the four licensing objectives, they should take appropriate and proportionate action to address these concerns. The Senior Licensing and Enforcement Officer said that the Sub-Committee could attach conditions, limit the hours or restrict licensable activities. The application should only be refused as a last resort and the Members' decision should be evidence based, justified, appropriate and proportionate.

Tesco's Licensing Manager (the applicant) gave a summary of the application, explaining Tesco's operations generally, as well as at the Hertford store. She again reiterated Tesco's ambition to be a good neighbour and highlighted charitable donations to groups within the community, and its willingness to work with residents. Working patterns were changing, which was highlighted further by the COVID-19 pandemic. This meant that customers wanted to shop at different times and the application reflected this. The application pre-empted any future possible change to Sunday trading laws, in order to avoid submitting another application for a variation should this happen.

Councillor Symonds asked what the store would do to limit disturbance to nearby residents and whether a gate leading onto the site would be locked when the store was closed.

The Store Manager said that there had been no major issues raised by residents, aside from regarding some vegetation which was periodically cut back when requested. Barriers were used to prevent vehicles entering the site after the store closed, but the gate remained open as residents often cut through the site to get to the nearby train station. Members were also advised of existing opening hours and the working pattern of security guards.

The Chairman asked about the potential for anti-social behaviour to take place out of sight of security given the shape of the car park.

The Legal Services Manager said there had been no evidence presented which showed anti-social behaviour at the store. In response to a question from Councillor Symonds, she also said that the application had been advertised in line with the Licensing Act 2003.

Councillor Cinnamon, Hertford Town Councillor, asked whether the British Transport Police (BTP) had been consulted, as it was common for people to buy alcohol and then board a train. He also said the late night sale of alcohol was already provided by small local off licenses.

The applicant said whilst the police had been

consulted, BTP specifically had not, however Tesco were open to this going forward.

Hertford Town Council's Civic Administration Manager said the location the store's proximity to the station and Hartham Common meant that an extension of the licence could contribute to an increase in anti-social behaviour and littering in these locations.

The applicant reiterated Tesco's desire to work with residents, local groups and the police. The impact of a variation on other local businesses was not a licensing consideration. The store was well run and Tesco had worked closely with the police in order to reach a compromise on licensed hours and the police had not objected.

At the conclusion of the closing submission, the Sub-Committee, the Legal Services Manager, Solicitor and Democratic Services Officer withdrew from the main Zoom session to allow Members to consider the evidence.

Following this, Members and Officers returned and the Chairman announced that the Licensing Sub-Committee had listened to the comments of the Senior Licensing and Enforcement Officer and the applicant and the Sub-Committee have taken into account the concerns of the interested party. The Sub-Committee decided to grant the application, subject to the following additional conditions:

Additional Conditions:

- Licensed hours on Sundays are 9am – 5pm. The

Sub-Committee felt this was a balanced and proportionate time period to allow flexibility within the legal trading hours permitted under the Sunday Trading Act 1994, also taking into account the current licensed hours.

- The seasonal variation of 24 hour alcohol sales between 13 December and 2 January each year was granted, apart from on Sundays, when existing licensed hours will apply.

In coming to its decision, the Sub-Committee believed that the applicant had provided evidence that the granting of the licence would promote and not undermine the four licensing objectives. The Sub-Committee also noted the applicant's co-operation with the responsible authority regarding the licensed hours and Members accepted the applicant's offered condition to network and work with the local communities and stakeholders to alleviate any concerns regarding public nuisance and crime and disorder.

**RESOLVED** – that the application for a variation of a Premises Licence for Tesco, Ware Road, Hertford, be granted, subject to the following additional conditions:

- Licensed hours on Sundays are 9am – 5pm. The Sub-Committee felt this was a balanced and proportionate time period to allow flexibility within the legal trading hours permitted under the Sunday Trading Act 1994, also taking into account the current licensed hours.

- The seasonal variation of 24 hour alcohol sales between 13 December and 2 January each year was granted, apart from on Sundays when existing licensed hours will apply.

Those present were advised that the decision would be issued in writing and there was the right of appeal within 21 days to the magistrate's court.

46 URGENT BUSINESS

There was no urgent business.

The meeting closed at 12.58 pm

Chairman .....

Date .....

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## **East Herts Council Report**

### **Licensing Committee**

**Date of meeting:** 23 June 2021

**Report by:** Oliver Rawlings, Service Manager –  
**Licensing** and Enforcement

**Report title:** Consideration of the responses to the  
consultation on the draft revision of the  
Statement of Licensing Policy 2021-26

**Ward(s) affected:** All

### **Summary**

- The Licensing Act 2003 requires each Local Authority to adopt and publish a Statement of Licensing Policy (SLP) at least every five years. The purpose of the Policy is to set out the principles the Local Authority will apply when carrying out its licensing functions under the Act.
- There is a requirement for public consultation and the consideration of any responses that are received.

### **RECOMMENDATIONS FOR LICENSING COMMITTEE:**

- A) Consider the consultation responses; and**
- B) Propose any amendments considered necessary to the draft Statement of Licensing Policy; and**
- C) The final version of the Statement of Licensing Policy 2021-26 be endorsed for presentation for consideration by the Executive Member for Neighbourhoods.**

## **1.0 Proposal(s)**

- 1.1 That the amended wording of the proposed Statement of Licensing Policy 2021-26 be considered in light of the consultation responses.

## **2.0 Background**

- 2.1 The Licensing Act 2003 regulates the provision of sale of alcohol, regulated entertainment and late night refreshment (hot food and/or drink between 23:00-05:00) in England and Wales.
- 2.2 The Act makes Local Authorities responsible for licensing premises that are used for these activities within their District or Borough.
- 2.3 It also requires each Local Authority to adopt and publish a Statement of Licensing Policy at least every five years. The purpose of the Policy is to set out the principles the Local Authority will apply when carrying out its licensing functions under the Act.
- 2.4 In 2018 the Licensing Authority created a 'Night Time Economy Position Statement' as an addendum to the Statement of Licensing Policy. This document contained additional information and explanations around 'Licensing Decision Making relating to the Night Time Economy'.

## **3.0 Reason(s)**

- 3.1 As the Licensing Authority East Herts Council is required to have a Statement of Licensing Policy and revise it at least every 5 years.



- 3.2 The current Statement of Licensing Policy expires in July 2021 so as a result an up-to-date revision of the document has been consulted upon as required by the Act.
- 3.3 The SLP is an important document which sets out the principles we will apply when carrying out our licensing function. For this reason extensive consultation was carried out during the drafting process which included:
- the responsible authorities;
  - the licensed trade;
  - a reference group of elected Members;
  - Community Safety Partnership and Joint Action Group members.
- 3.4 As part of the revision the relevant parts of 'Night Time Economy Position Statement' were integrated into the SLP. This will add all stakeholders in licensing as there will now be one document to reference which will contain all the relevant information.
- 3.5 Some of the changes that were proposed in the draft were:
- A new section on pre-application advice and engagement
  - Licensing Hours – Revised premises definitions and timings
  - Town Centres – Revised locations and the introduction of a Sensitive Licensing Area
  - Revised section on stakeholder engagement and representations
  - Revised section on enforcement and inspection
- 3.6 The changes to the original SLP reflect the changes that have been seen in relation to licensing over the last number of years and reflect local trends and issues as well as dealing with issues that were not prevalent when the Policy was last reviewed. Examples of these issues are:

- Modern Slavery;
  - Child sexual Exploitation (CSE);
  - Psychoactive substances.
- 3.7 At the same time as consulting on the SLP the opportunity was taken to seek views on the 'Pool of Model conditions' which the authority already had in place. This is a separate document to the SLP with no statutory requirement to consult on changes however it was felt that it was best practice to take the opportunity to seek opinions on this document as well.
- 3.8 Extensive consultation was undertaken on the proposed revised SLP and during this consultation seven responses were received. Each consultation response is a separate appendix to this report and contains:
- the consultees response;
  - the Licensing Authorities response to the consultee; and
  - details of any amendments to the draft Statement of Licensing Policy proposed as a result of that consultation response.
- 3.9 The first response which is **Appendix A** was received from a Parish Council. This response raised the issue of advertising applications with local residents and sighted a specific example relating to a small music festival.
- 3.10 The Licensing Authority response explains the prescriptive nature of the rules within which applications and advertising must take place and that it is not possible to mandate a different process. The additional steps that the Council will take to facilitate residents engagement were detailed and links included that can be shared with the Parish residents.

- 3.11 The second response which is **Appendix B** was sent on behalf of the holder of a premises licence for an educational establishment.
- 3.12 The response simply stated that they were grateful that we had shared the information and that they were satisfied with the document.
- 3.13 The third response which is **Appendix C** was received from the Fire and Rescue service and is in reference to the 'Pool of Model conditions' rather than the SLP. The point raised was regarding a model condition which required an Event Management Plan to be submitted 28 days prior to the event. The Fire Service felt that this time period was not long enough for a responsible authority to properly consider such documents. Having amended the model condition and informed the Fire Service a further email was received on the same point.
- 3.14 This additional response is **Appendix D**. After consideration it was felt that inclusion of the point within the body of the Statement of Licensing Policy was appropriate.
- 3.15 **Appendix E** contains the Fire service 'Guidance for Event Organisers' referenced in the second email.
- 3.16 The fourth response at **Appendix F** was received from the Hertfordshire Modern Slavery Partnership Coordinator.
- 3.17 The response dealt solely with section 25 of the draft policy which contains information regarding Modern Slavery. Insertions of new information and changes to the original text were proposed in support of the issues identified in this section of the policy.
- 3.18 There was also a question around the feasibility of including two sections in the Pool of Model conditions.

- 3.19 The fifth response which is **Appendix G** was received from Hertford Town Council and dealt with two areas of the draft policy.
- 3.20 The first point related to making it mandatory for applicants to engage early with a variety of bodies and the setting of a minimum period for this to happen.
- 3.21 The second point raised relates to the area defined within the draft policy as being considered Hertford Town Centre and so covered by the proposed 'Sensitive Licensing Area'. Concerns were raised that certain areas were excluded from this definition.
- 3.22 The sixth response which is **Appendix H** was received from Environmental Health, a responsible authority under the Licensing Act 2003.
- 3.23 Of the eight points raised several were in support of the wording of different parts of the draft policy. Slight amendments were suggested to two paragraphs, a typo was highlighted and there was a request for additional information regarding Late Night Levy's.
- 3.24 The seventh response which is **Appendix I** was received from the Police, a responsible authority under the Licensing Act 2003.
- 3.25 The Police response states that they are happy with the draft policy and in particular it is good to see the Sensitive Licensing area for Hertford and the comments made in paragraphs 7.4, 7.5 and 7.9.
- 3.26 The Police commented on various parts of the policy including section 8 (Licensing Objectives), section 9 (Stakeholder engagement and representations), section 16 (Conditions) and

section 20 (Festivals and outdoor events). Some more general comments and questions were also included.

- 3.27 Below is a table containing all the amendments proposed to the draft Statement of licensing Policy as a result of the consultation responses.

Para. No. or Section	Proposed amendment to draft Statement of Licensing Policy as a result of consultation responses
4.14	Add a foot note to stating: <i>Such small scale events may still benefit from contacting the East Herts Safety Advisory Group: <a href="https://www.eastherts.gov.uk/community-wellbeing/community-events">https://www.eastherts.gov.uk/community-wellbeing/community-events</a></i>
7.0	Add <i>Castle Street</i> and <i>The Folly</i> to the area considered Hertford Town Centre, and subsequently the Sensitive Licensing Area.
8.0	Add additional paragraphs dealing with under 18's working in licensed premises (8.40-8.44)
8.24	Add the words 'manage or' to start of bullet point 3 so that it reads: • <i>manage or prevent queuing (either by pedestrian or vehicular traffic);</i>
8.9	Add an additional bullet point stating: • <i>the use or not of an ID scanning type system;</i>
8.37	Change 'premise' to 'premises'.
9.2	The wording of bullet point 5 amended to read: • <i>on the first day after the statutory consultation closed, the licence is automatically granted as applied for, that is, without any variation or additional conditions beyond those offered as part of the application.</i>
9.2	Add a foot note to stating: <i>Amendments made by the applicant during the consultation process become part of the application as 'applied for' and will be reflected in any licence which is <b>automatically</b> granted.</i>
16.0	Add additional paragraphs dealing with mandatory licence conditions and irresponsible drinks promotions

<b>Para. No. or Section</b>	<b>Proposed amendment to draft Statement of Licensing Policy as a result of consultation responses</b>
	(16.8-16.15) as detailed in <b>Appendix I</b> .
20.5	Add a foot note to stating: <i>Small scale events may still benefit from contacting the East Herts Safety Advisory Group: <a href="https://www.eastherts.gov.uk/community-wellbeing/community-events">https://www.eastherts.gov.uk/community-wellbeing/community-events</a></i>
20.8	Add an additional paragraph to 'Festivals and outside events' section stating: <i>Where the nature of an event means an Event Management Plan, or other similar document, is required it is likely that the responsible authorities will need the final version of these documents to be provided 6 weeks in advance of the event start date. This sort of time scale allows the responsible authority time to properly consider the documents, respond with any concerns and then those concerns to be addressed in good time. Late submission of complex and lengthy documents is likely to result in representations being made against applications</i>
25.0	Amend the section on Modern Slavery as detailed in <b>Appendix F</b> .

3.28 Below is a table containing proposed amendments to draft Statement of Licensing Policy which have been identified by officers during the consultation period. These are not substantive changes but are proposed for clarity.

<b>Para. No. or Section</b>	<b>Proposed amendment to draft Statement of Licensing Policy as a result of consultation responses</b>
Foreword	The foreword to be amended slightly to highlight the introduction of a Sensitive Licensing Area (SLA) and the increased detail regarding public health and well-being. Adding an acknowledgement that the foreword is by Executive Member for

<b>Para. No. or Section</b>	<b>Proposed amendment to draft Statement of Licensing Policy as a result of consultation responses</b>
	Neighbourhoods.
18.1	Wording revised to better demonstrate the interplay between the role of the Licensing Committee and the Executive Member.
<b>Appendix 1</b> - Consultation	Additional paragraphs added to the start of the appendix to document the engagement work carried out prior to a draft Policy being finalised for consultation.

3.29 The Pool of Model conditions, as amended following the consultation, is attached as **Appendix K** to this report. It is included for information only as it is a separate document to the Statement of Licensing Policy.

## **4.0 Options**

4.1 Recommend the draft Policy as consulted upon without amendment.

4.2 Recommend the draft Policy amended as suggested within the body of the report.

4.3 Do not recommend the Policy.

4.3 Recommend the existing Statement of Licensing Policy

4.4 Make amendments to the draft Policy and consult again.

## **5.0 Risks**

5.1 The Licensing Authority is required to review its Statement of Licensing Policy at least every 5 years. To fail to do so would leave the authority unable to carry out its licensing function

until such time as a Statement of Licensing Authority was in place.

5.2 Failure to address any perceived or actual gaps within the current Statement of Licensing Policy could be detrimental to the authority's ability to make and defend robust decisions.

5.3 If the authority does not have robust policies and procedures in place then it is unable to ensure that the Licensing Objectives are promoted.

## **6.0 Implications/Consultations**

### **Community Safety**

The Statement of Licensing Policy is an important document which seeks to promote the four licensing objectives: Prevention of Crime and Disorder, Public Safety, Prevention of public nuisance; and Protection of children from harm. Therefore Community Safety has been considered when drafting the Policy.

### **Data Protection**

No changes are proposed to how data will be held or handled so no additional implications.

### **Equalities**

Consideration has been given to the Equality Act 2010 and the Public Sector Equality Duty whilst drafting the Policy.

### **Environmental Sustainability**

None

### **Financial**

None

### **Health and Safety**

None



## **Human Resources**

None

## **Human Rights**

As with all Policies and Council functions, the Human Rights Act 1998 has been considered when drafting the Policy.

## **Legal**

All statutory requirements have been considered in preparing this report.

## **Specific Wards**

No

### **7.0 Background papers, appendices and other relevant material**

- 7.1 **Appendix A** – Parish Council Consultation response
- 7.2 **Appendix B** – Licence Holder consultation response
- 7.3 **Appendix C** – Fire and Rescue consultation response
- 7.4 **Appendix D** – Fire and Rescue second response
- 7.5 **Appendix E** – Fire and Rescue, Guidance for event organisers
- 7.6 **Appendix F** – Hertfordshire Modern Slavery Partnership Coordinator consultation response
- 7.7 **Appendix G** – Hertford Town Council consultation response
- 7.8 **Appendix H** – Environmental Health Consultation response
- 7.9 **Appendix I** – Police consultation response

- 7.10 **Appendix J** – Proposed amended wording of the Statement of Licensing Policy 2021-26
- 7.11 Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705327/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705327/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018.pdf)
- 7.12 East Herts Statement of Licensing Policy 2016 – [https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Statement\\_of\\_Licensing\\_Policy.pdf](https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Statement_of_Licensing_Policy.pdf)
- 7.13 Night Time Economy (NTE) Position Statement – [https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Night\\_Time\\_Economy\\_NTE\\_Position\\_Statement.pdf](https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Night_Time_Economy_NTE_Position_Statement.pdf)

### **Contact Member**

Councillor Peter Boylan, Executive Member for Neighbourhoods.  
[peter.boylan@eastherts.gov.uk](mailto:peter.boylan@eastherts.gov.uk)

### **Contact Officer**

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### **Report Author**

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### Little Hadham Parish Council consultation response (10/05/2021):

Thank you for giving Little Hadham Parish Council the opportunity to respond to the Consultation on the draft statement Policy 2021-2026

We were concerned recently when a licence was given to a small music festival at Little Hadham without the affected residents having the opportunity to give their concerns to the body considering whether or not to grant the alcohol License for this event.

They were not aware that the event was being considered and once they became aware were very alarmed as the event was very likely to have loud music very close to their homes. They would have wished to give their concerns to the body considering the request so that these concerns could have been taken into account.

I would suggest that letters should be sent to the close residents so that they can be aware of the planned event and be clear who to contact to give their views.

They felt that the holders of the event deliberately did not display notices near their homes but rather further away from where the event was to be held so that the residents did not object as it would not affect them.

I would suggest a method that is used when consulting close neighbours for planning applications, which is by letter and by notices this is then clear and gives people the opportunity to give their views.

Thank you for consulting us and hopefully this method of improved consultation will now be used for such events

### Licensing Authority response:

Thank you for taking the time to respond to the consultation.

I am afraid that as highlighted in the draft policy the way in which applications are made and the requirements for advertising them are very prescriptive. We are unable to require applicants to do more than is required under the regulations, which is:

1. advertise the application (new application or variation of an existing licence) for a period of no less than 28 consecutive days;

2. publish at least once, within 10 working days of making the application, a notice in a local newsletter or similar.

As the Licensing Authority we ensure that these obligations are properly fulfilled for each application and take action where they are not.

In addition to this there is an obligation on us to advertise the application (new application or variation of an existing licence) on our website for a period of no less than 28 consecutive days. By checking this webpage any individual can see any new or variation application within all of East Herts as they will be shown under 'Current Applications': <https://www.eastherts.gov.uk/licences-registration/beer-entertainment-late-night-refreshment/notice-application-objecting-licence-applications>. Please feel free to share this link.

The Council appreciates the points you make and whilst we are not able to mandate a similar process to that in the Planning regime we are doing our utmost to ensure anyone wishing to make representation. We will:

- encourage applicants to hold informal discussions with local residents and businesses, the responsible authorities, Town Council's, Parish Council's and others prior to submitting formal licence applications
- alert ward members and parish/town councils of applications in their areas to enable them to discuss matters with residents should they wish
- alert all local councillors of applications on a weekly basis through the Members Bulletin
- include a link to the webpage containing notices of application in the Network email that residents can subscribe to (<https://www.eastherts.gov.uk/network-0>)
- assist residents to register on public access so that they can be notified if an application is received relating to a particular premises (<https://publicaccess.eastherts.gov.uk/online-applications/search.do?action=simple&searchType=LicencingApplication>)

Please feel free to pass this information on to the residents you mentioned or any others that may have concerns about licensed premises or licence applications. Any enquiries can be directed to: [community.protection@eastherts.gov.uk](mailto:community.protection@eastherts.gov.uk) or complaints about licensed premises can be directed to: [licensing.enforcement@eastherts.gov.uk](mailto:licensing.enforcement@eastherts.gov.uk).

Proposed amendments to draft policy:

No amendments proposed.

### Premises licence holder response (13/05/2021):

Dear Oliver,

Thank you for sharing this information, we're satisfied with this document.

Kind regards,

### Licensing Authority response:

Thank you for taking the time to consider the draft document and respond to the consultation.

### Proposed amendments to draft policy:

No amendments proposed.

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### Fire and Rescue Service consultation response (14/05/2021):

Good afternoon

I would like to make a comment in relation to the [Pool of Model Conditions](#) 16.3.

Would 28 days be sufficient time to receive and assess an Event Management Plan for all occasions and then make representations against a new premises licence or for concerns leading to a review of an existing premises licence? Bearing in mind the intention of making the representations or requesting a review would be to prevent an event taking place or wanting to curtail the identified concerns.

Could it be better to set a 6 week / 42 day time frame to meet the desired objective? This is suggested with the anticipation of a responsible authority requiring 2 working weeks to assess an EMP & engage with the applicant or their representative and other stake holders including other authorities and maybe convene a SAG. It would be prudent to also note the version of the EMP should be described as the finalised version and developing versions of the EMP formed in liaison with responsible authorities would be gratefully received in phases prior to the 6 week deadline.

Kindest regards



**Station Commander | Fire Safety Manager | Fire Protection | Fire and Rescue Service**

**Hertfordshire County Council**

Room 346 Old Block, County Hall, Pegs Lane, Hertford, Hertfordshire SG13 8DQ, Postal Point: CH0331

**T: 01707)**

**T – Admin: 01707**

**E:**



### Licensing Authority Response:

Thank you for taking the time to respond to the consultation.

You make a very valid point and as such we have amended the model condition (16.3) to remove “28 days” and replace it with [insert minimum time period]. This makes it clearer to all stakeholders that the minimum time period in relation to

this condition is subject to negotiation in the particular circumstances of an application.

Your second point regarding liaison with the responsible authorities is covered within various sections of the draft Statement of Licensing Policy including “Pre-application advice & engagement” and “Festivals and outdoor events”. These sections recommend early engagement and submission, contact with the SAG. As a responsible authority you are able to request a condition requiring the matters you mention either as part of negotiations with an applicant or following making a representation.

If you have a particular wording in mind for a condition to be added to the pool then please send to us for consideration.

Proposed amendments to draft policy:

No amendments proposed to the draft policy but condition 16.3 of the Pool of Model conditions amended to remove “28 days” and replace it with [insert minimum time period].



### Fire and Rescue Service further response (27/05/2021):

Hi Oliver

Suggestion below which would be consistent with our services guidance (attached).

The premises licence holder will provide a final copy of the Event Management Plan to the Fire Authority (note: *could change to all responsible authorities*) no later than six (6) weeks prior to the commencement of the event build-up on site of each year's event.

Does that work?



**Station Commander | Fire Safety Manager | Fire Protection | Fire and Rescue Service**  
**Hertfordshire County Council**  
Room 346 Old Block, County Hall, Pegs Lane, Hertford, Hertfordshire SG13 8DQ, Postal Point: CH0331  
**T: 01707 292396 (Internal: 82396)**  
**T – Admin: 01707 292310**  
**E:**



### Licensing Authority Response:

Thank you for coming back to me on this point. We consider it important enough to be added to the section of the Licensing Policy which deals with festivals and outside events. As such we have added an additional paragraph as shown below:

- 20.8 Where the nature of an event means an Event Management Plan, or other similar document, is required it is likely that the responsible authorities will need the final version of these documents to be provided 6 weeks in advance of the event start date. This sort of time scale allows the responsible authority time to properly consider the documents, respond with any concerns and then those concerns to be addressed in good time. Late submission of complex and lengthy documents is likely to result in representations being made against applications.

We felt that it was better to include this point in the body of the Policy as, unlike the Pool of Model Conditions, a Licensing Sub-Committee must have reference to the Policy when making a decision on an application.

We hope this amendment satisfactorily addresses your point but if you would like to discuss it further then please let me know.

Proposed amendments to draft policy:

Add an additional paragraph to the section of the Statement of Licensing Policy relating to 'Festivals and outside events' (20.8):

*Where the nature of an event means an Event Management Plan, or other similar document, is required it is likely that the responsible authorities will need the final version of these documents to be provided 6 weeks in advance of the event start date. This sort of time scale allows the responsible authority time to properly consider the documents, respond with any concerns and then those concerns to be addressed in good time. Late submission of complex and lengthy documents is likely to result in representations being made against applications.*

# Hertfordshire Fire and Rescue Service Guidance for Event Organisers



## Relevant Conditions for a Premises Licence and details to be accounted for within an Event Management Plan

Conditions suggested by Fire Authority, in their role as a responsible authority, deemed appropriate for the promotion of the public safety licensing objective relating to the Licensing Act 2003

- 1.** The premises licence holder will notify the Fire Authority of the dates of each year's event no later than (insert number) calendar months prior to the commencement of the event.
- 2.** The premises licence holder will provide draft copies of the Event Management Plan and Risk Assessments to the Fire Authority no later than (insert number) calendar months prior to the commencement of each year's event.
- 3.** The premises licence holder will provide a final copy of the Event Management Plan to the Fire Authority no later than six (6) weeks prior to the commencement of the event build-up on site of each year's event.

The final Event Management Plan will form part of the premises licence operating schedule conditions for each year's event..

- 4.** The premises licence holder will ensure that the Event Management Plan covers the following areas to the complete satisfaction of Fire Authority.

**4.1** A scaled electronic site plan showing how each part of the area will be used, identification of all structures, access routes and ingress/egress points;

**4.2** Capacities and evacuation plans for all areas of the event;

**4.3** Roles and responsibilities of all key personnel responsible for managing the event, including names, contact telephone numbers and back-up contact details in the event of non-availability;

**4.4** Risk assessments for all activities relating to public safety, including fire;

**4.5** Full details of security and stewarding arrangements.

**4.6** Details of any proposed special effects and the proposed safety arrangements associated with their use;

**4.7** Details for managing all traffic and vehicle movements on site, including within parking areas, during the event build-up phase, during the event and during the site breakdown phase;

**4.8** Management arrangements for site access and egress, including specific arrangements for emergency services;

**4.9** Details of any camping and provided sleeping accommodation, in respect of event attendees, staff and volunteers;

**4.10** Details of power supplies, including all generators; Provision of artificial lighting, including emergency escape lighting;

**4.11** Provision of adequate fire-fighting cover, including facilities, personnel and water supplies;

**4.12** Technical details for all proposed temporary demountable structures;

**4.13** Details of all proposed safety barriers and fencing to be erected on site, including the positioning;

**4.14** Relevant independent certification or manufacturers' details to demonstrate that any fabric, or other material, used in the construction of, or in conjunction with, tents, marquees and similar structures, roof coverings, weather protection covers, curtains, drapes, backdrops, scrims and other materials used in, or upon, structures shall be rendered flame resistant to the current applicable British Standard;

**4.15** Identification of competent persons, including proof of competence, in relation to the construction of structures and the continual monitoring of them during the event;

**4.16** Details of the proposed maximum occupancy of each area, the method of controlling numbers therein;

**4.17** An event running order should be made available including times for when artists appear on stage and expected time of completion of set;

**4.18** Details of a suitable communication network;

**4.19** Means for giving warning of an emergency, including the initiating and effecting of any evacuation, including from structures;

**4.20** Provision of adequate emergency exit routes and emergency exits, both within structures and externally, and suitable provision of emergency signage;

**4.21** The profiles of the performers and the anticipated attendees;

**4.22** Contingencies for degraded systems.

**4.23** Contingencies in respect of points 4.1 to 4.22 inclusive above regarding the effects of adverse weather conditions including, but not limited to, wind, rain and heat.

**5.** In the event that the premises licence holder requires the attendance of a representative from the Fire Authority within the Emergency Liaison Team, other than in the event of an emergency response, the cost of the attendee will be paid by the premises licence holder.

**6.** If the premises licence holder, due to exceptional or unforeseen circumstances, wishes to make any amendment to the final Event Management Plan (that being the version that forms part of the premises licence operating schedule conditions) that would impact upon any public safety issue covered by conditions 1 to 5 inclusive above, he may only do so with written consent from the Fire Authority.

---

For further assistance contact:

**Fire Protection**

Room 346 Old Block, County Hall, Pegs Lane, Hertford, Hertfordshire SG13 8DQ, Postal Point: CH0331

**Email** – [administration.cfs@hertfordshire.gov.uk](mailto:administration.cfs@hertfordshire.gov.uk)

**Telephone** – 01707 292310



**Hertfordshire Fire and Rescue Service**

Working to protect. Acting to save - [www.hertfordshire.gov.uk/fire](http://www.hertfordshire.gov.uk/fire)

Dear Colleagues,

As part of the current consultation, please see attached for my proposed additional content to be included/edited in the modern slavery section on pp.82-83 of the East Herts DC Draft Statement of Licensing Policy 2021 – 2026, with 2 highlighted sections proposed for the Pool of Model Conditions 2021 if feasible in line with requirements within the Licensing Act 2003.

Most of the content added was in direct support to the identified issue on p.82 of 'Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker' with some layout changes embedded in line with that.

Changes proposed are in red with some tracked changes and the original content as it stands in the policy out for consultation is provided at the end to enable easier comparison.

If there is anything that requires further clarity or any questions, please do not hesitate to contact me.

Thanks,

Attached:

HMSP Submission – Coordinator:- 27/05/2021: EHDC Consultation on the Draft Statement of Licensing Policy 2021 - 2026 & Pool of Model Conditions 2021: Feedback Submission

### ***Proposed Content (pp.82-83)***

### ***Additions and Changes in Red plus Tracked Changes:***

## **25.0 Modern Slavery**

25.1 Modern slavery is a crime. The UK [Modern Slavery Act 2015](#) includes the following under the offence of modern slavery:

- Slavery, where ownership is exercised over a person.
- Servitude, where a person is obliged to provide services imposed by coercion.
- Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily.
- Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.

**25.2** Modern slavery happens everywhere, including here in the UK. It operates in plain sight and can affect businesses without them even knowing. In the UK, estimates go as high as 136,000 when quantifying the number of hidden victims living in conditions of slavery. In the European hospitality sector, which includes bars and restaurants, a recent study found 110,000 victims of exploitation annually. Government agencies in the UK have specifically identified hospitality as a high-risk area for modern slavery.

**25.3** Due to the nature of footfall seen in many licensed premises, employees may identify issues, which should be reported. However, it is also crucial that all businesses, including licensed premises, understand how they might be affected so that they can take steps to reduce the risk. Exploitation accounts for all situations that stray away from 'decent work', from labour market infringements and abuse, all the way to more severe forms of exploitation.

**Licensed premises might be unwitting hosts to modern slavery in two ways:**

1. 1. Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.
2. 2. Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.

## **25.4 Mitigating Exploitation Risks to Workers**

**25.5** Licensed premises should be aware of and meeting their obligations under all relevant legislation, including the Modern Slavery Act 2015, The Conduct of Employment Agencies and Employment Businesses Regulations 2003 and the National Minimum Wage Act 1998.

**25.6** Examples of labour market infringements that have been known to be experienced by employees of licensed premises include: 1) Long hours, 2) insufficient pay (e.g. non-payment of minimum wage), 3) poor working conditions e.g. denial of sick pay and other entitlements, 4) bogus self-employment; and 5) control by an unscrupulous third-party agency.

**25.7** Other examples of labour market infringements include: 1) Lack of personal protective equipment (PPE); 2) Few or no breaks; 3) Demeaning treatment; 4) Retention of identity documents or valuable possessions, 5) Restriction of movement or confinement to the workplace; and 6) Threat of denunciation to authorities (mainly illegal migrant workers).

**25.8** There are also specific examples of practice that sometimes occur within licensed premises, which can create vulnerability and increase the risk of exploitation of drivers and office staff. In certain sectors, the use of fixed pay,

part-time and/or zero-hour contracts is a common practice, which can lead to underemployment or workers being paid below minimum wage. It is important that licensed premises owners and managers take account of their own anti-slavery policies and practices, as well as those of subcontractors and third-party agencies.

**25.9** Owners and managers of licensed premises are responsible for ensuring that their employees' rights are upheld. A licence holder can work to prevent labour exploitation and modern slavery by taking steps to mitigate the risks of exploitation and undertaking effective due diligence. Steps to take include the following:

- 1. Promoting awareness of worker rights. Specifically, providing **every worker with a written contract** in a language they understand detailing working hours, pay/overtime rates, deductions (if any), holiday and sick pay entitlements and accommodation arrangements (if relevant)
- 2. Ensuring **clear reporting channels for grievances and whistleblowing** are clear and that workers are made aware of these procedures (see Section 25.14: Identification and Reporting)
- 3. **Conducting internal checks and checks of subcontractors** i.e. check payroll to ensure worker's wages are paid directly to them, that workers are being paid the national minimum wage at a minimum, and that no workers have paid any fees related to their recruitment. Also speak to workers directly.
- 4. Committing to **uphold high ethical standards**.
- 5. Ensuring that **all worker communications are translated** into the languages that make up the licensed premise's workforce. (For more information on how to undertake these steps, see the [Modern Slavery SME Toolkit](#))
- 6. **Raising awareness of the signs of exploitation with workers**. It is important to ensure that any independent contractors (e.g. self-employed beauticians) are in fact agreeing to a fair contract and where work, fare and contract termination are agreed by both parties.

## 25.10 Third-Party Due Diligence

25.11 Before working with a third-party agency, licensed premise owners/managers should always check that:

- The company is **licensed to provide temporary labour** to the relevant sector of your business.
- The company's directors are **not listed on the Employment Agency Standards Inspectorate's list** of people that have been prohibited from running an employment agency/business due to past misconduct.

- The company only **subcontracts with a licensed premise's authorisation** and conducts their own due diligence on subcontractors when we give permission to subcontract.
- The company has a clear **commitment to not charging recruitment fees** and to covering the cost of recruitment when sourcing workers from overseas.
- The company has an **accessible and transparent reporting mechanism** that all workers can use to report concerns or issues.
- The company **provides information to their workers** on what optional services they offer, how much they cost, and how the workers can refuse or cancel them without penalty.

25.12 In the course of working with a third-party provider of employees, licensed premise owners and managers should periodically review a sample of employee key documents to ensure required labour standards are being met. Key documents to be reviewed could include:

- 1. **Payslips** (i.e. to check that the number of hours match operator records, that all workers are being paid at least the NMW, that optional services are clearly indicated, and that correct taxes and national insurance contributions are being paid);
- 2) **Right to work checks.**

25.13 Additionally, licensed premise owners and managers are encouraged to speak with all workers directly, on occasion, to ascertain if any labour market infringements have been made.

## 25.14 Identification and Reporting

25.15 Staff at licensed premises can have the power to identify and report any exploitation they encounter, **whether experienced by them, a colleague, a customer, or a client.** A licence holder may ensure awareness of modern slavery by:

- ~~Identifying any risks at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.~~
- ~~Actively informing those working on the premises of their rights and how they can confidentially seek help or advice on modern slavery if required.~~
- Providing **regular training** to all staff on the indicators of modern slavery and how to report concerns.
- Establishing **strong relationships with local police and victims service providers**, such as the national Modern Slavery **and Exploitation** Helpline (0800 0121 700), in advance of any incident.

## 25.16 Reporting Protocols



25.17 Having **clear and straightforward protocols** for when an incident is discovered is crucial to ensure that victims get appropriate support. Where employees identify a potential victim, they can follow a specific internal procedure in order to protect the safety of that individual.

25.18 The procedure should **1) not be overly complex, 2) should involve senior level staff and 3) should account for when reporting should go immediately to the police** (i.e. if certain indicators are met, if the potential victim is in immediate danger, if the potential victim is a child).

**The Modern Slavery and Exploitation Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.**

*Original Content:*

## 25.0 Modern Slavery

25.1 Modern slavery is a crime. The UK Modern Slavery Act 2015 includes the following under the offence of modern slavery:

- Slavery, where ownership is exercised over a person.
- Servitude, where a person is obliged to provide services imposed by coercion.
- Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily.
- Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.

25.2 In the UK, estimates go as high as 136,000 when quantifying the number of hidden victims living in conditions of slavery. In the European hospitality sector, which includes bars and restaurants, a recent study found 110,000 victims of exploitation annually. Government agencies in the UK have specifically identified hospitality as a high-risk area for modern slavery.

**Licensed premises might be unwitting hosts to modern slavery in two ways:**

1. Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.
2. Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.

## 25.3 Identification and Reporting

25.4 Staff at licensed premises can have the power to identify and report any exploitation they encounter. A licence holder may ensure awareness of modern slavery by:

- **Identifying any risks** at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.
- **Actively informing those working on the premises** of their rights and how they can confidentially seek help or advice on modern slavery if required.
- Provide **regular training** to all staff on the indicators of modern slavery and how to report concerns.
- Establishing **strong relationships with local police and victims service providers**, such as the national Modern Slavery Helpline (0800 0121 700), in advance of any incident.

## 25.5 Reporting Protocols

25.6 Having clear and straightforward protocols for when an incident is discovered is crucial to ensure that victims get appropriate support. Where employees identify a potential victim, they can follow a specific internal procedure in order to protect the safety of that individual.

25.7 The procedure should **1) not be overly complex, 2) should involve senior level staff and 3) should account for when reporting should go immediately to the police** (i.e. if certain indicators are met, if the potential victim is in immediate danger, if the potential victim is a child).

**The Modern Slavery Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.**

### Licensing Authority response:

Thank you for taking the time to look at the draft policy and respond to the consultation.

We have taken on board your suggestions regarding your suggested changes to section 25 relating to Modern Slavery. We have amended the draft content to reflect all the changes and additions you suggested given that this is your particular area of expertise.

In your submissions you have asked whether two points can be added to the Pool of model conditions. For both of the points you raised there are already obligations on an employer under legislation which already exist. Licence conditions should not duplicate other legislation so I am afraid that these particular points cannot be added to the pool but it is hoped that the content of the Statement of Licensing Policy will bring these matters further to the

forefront of the minds of existing licence holders and those considering applying for licences.

Having gone back to look at what the Revised guidance issued under section 182 of the Licensing Act 2003 says about licence conditions I note that it states:

Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises.

Adding conditions to the pool along these lines is something that we can discuss outside of the consultation on the Statement of Licensing Policy if you think that would be beneficial? I would be happy to arrange a meeting for us to discuss it or we could raise it at the Herts & Beds Licensing Group and look at it countywide.

#### Proposed amendments to draft policy:

Section 25 of the draft Statement of Licensing Policy (Modern Slavery) to be amended to reflect all of the proposed changes contained within the consultation response.

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Hertford Town Council (03/06/2021):

Good afternoon,

Thank you for the giving the Town Council an opportunity to comment on this document.

The Councils Planning Sub Committee considered the draft Policy in 1 June 2021 and made the following comments:

It was noted that the policy **encourages** applicants to engage early with a variety of bodies and individuals. Committee felt this consultation should be mandatory and that **it be a requirement to consult early**, along with a minimum period of notice specified for bodies to consult.

Committee noted the roads included in Hertford Town Centre as a Sensitive Licensing Area. There was concern that it excludes the areas around public house on Folly Island; West Street, Castle Street and Port Vale and felt that these should be included. Furthermore late night alcohol licences have been issued to Sainsburys and Tesco's Supermarkets which currently fall outside this area.

Kind regards

**Civic Administration Manager**



**The Castle, Hertford. SG14 1HR**

**Direct line: 01992 528062**

**Reception: 01992 552885**

**Hertford Town Council** website: [www.hertford.gov.uk](http://www.hertford.gov.uk)

**Hertford Castle** website: <http://hertfordcastle.co.uk>

**Hertford Town Centre Directory** website: <http://gohertford.co.uk>

Licensing Authority Response:

We appreciate Hertford Town Council taking the time to respond to the consultation. We will try to address your points in order.

1. Mandatory consultation. The requirements concerning consultation and time scales have been set by central Government. As such we are unable

to place additional mandatory requirements on applicants above and beyond the statutory requirements.

2. With regards to the extent of the Hertford Town Centre, which is the area covered by the proposed Sensitive Licensing Area, we have reviewed your comments with regards to the four additional locations suggested. In considering the proposal to include these areas we have taken into account not just the physical distance from the centre of Hertford but also the types and number of licensed premises in these areas. As such we propose to add Castle Street and The Folly to what is considered to be Hertford Town centre under in the draft Statement of Licensing Policy.
3. Inclusion of Sainsbury's, Hartham Lane and Tesco, Ware Road. Again using similar criteria to point 2 above we would not consider these to be Town Centre locations.

Your suggestions will be put in front of the Members of the Licensing Committee along with this response, which in no way fetters their discretion to depart from the officer observations above. If you have any additional information to support your reasoning for the inclusion of the areas suggested within the definition of Hertford Town centre then please feel free to supply this to us for consideration.

Proposed amendments to draft policy:

That Castle Street and The Folly be added to the area considered Hertford Town Centre, and subsequently the Sensitive Licensing Area, contained within section 7 of the draft Statement of Licensing Policy.

### Environmental Health consultation response (04/06/2021):

Good afternoon,

Please see Environmental Health's comments on Licensing's Statement of Licensing Policy below.

1. Great that paragraph 3.22 (page 11/12) talks about protecting the public from nuisance and minimising the regulatory burden. Hope that the latter part opens up more ways we can support each other.
2. With regards to paragraph 4.14 (page 15), should the policy encourage the use of SAG for these events?
3. Support paragraph 5.6 (page 17), though might want to expand on why they may ask them to consult (for example specialist noise advice).
4. Support and encouraged by the sensitive licensing areas, paragraph 7.6 (page 25).
5. Paragraph 7.16 (page 27) plans regarding nuisance prevention could be considered at this stage as one of the licensing objectives is 'preventing public nuisance'
6. Pleased to see paragraph 8.19 (page 33)
7. Typo on paragraph 8.37 (page 37), premises rather than premise
8. Interested in knowing more about why we haven't adopted the late night levy mentioned in section 17.18 (page 66)

Many thanks,

### Licensing Authority response:

Thank you for consideration of the draft and taking the time to respond. For ease I will respond to each of your points in order:

1. In your first point I believe that you are referencing pint 3.22 not 3.11 (which is on page 9). We included the points at 3.22 as we thought it was important to layout the key aims and purposes for all stakeholders in licensing, hopefully meaning that everyone is trying to achieve the same thing.

2. We have added a footnote below point 4.14 which contains the web link to the SAG webpage and states: *Such small scale events may still benefit from contacting the East Herts Safety Advisory Group:*
3. Paragraph 5.6 references pre-application advice that is likely to be received from the Licensing Team. This team is not the expert in noise nuisance so we would be highly unlikely to advise contacting a specialist noise consultant. In such a case we would refer them to the appropriate responsible authority (Environmental Health) who would be able to discuss the potential issues and recommend the appropriate course of action to address them.
4. Thank you for your comment regarding the creation of a Sensitive Licensing area for Hertford.
5. We agree that plans regarding nuisance prevention can be considered at this stage or at any point throughout the application process. Consideration of the impact on the 4 licensing objectives will always be considered.
6. Thank you for your comment of support for this paragraph relating to risk assessments for outdoor and large scale events.
7. Thank you for this comment and we will amend this.
8. The assessment of whether or not to implement a Late Night Levy is very complicated, weighing up the benefit of imposing a levy against the negative impact that it can have. Whilst the Late Night Levy was seen by Government as a useful tool for Licensing Authorities only 11 have implemented one since the powers were conferred by The Police Reform and Social Responsibility Act 2011, the vast majority being in London Boroughs or large cities such as Liverpool or Nottingham. The possibility of introducing a Late Night Levy was last revisited in 2019 and I am happy to share this piece of work with you. More information about the levy can be found here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98126/late-night-levy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/98126/late-night-levy.pdf). If you wish to discuss it further then please contact me directly.

Proposed amendments to draft policy:

Add a foot note to paragraph 4.14 suggesting that organisers of events that fall under the deregulation might benefit from contacting the SAG.



### Police consultation response (06/06/2021):

I am happy with the Policy, in particular it is good to see the Sensitive Licensing area for Hertford and the comments made in paragraphs 7.4, 7.5 and 7.9.

Points for consideration for amendments -

1. Under section 8 – Licensing Objectives, the use of ID scan type systems should be mentioned under the prevention of crime and disorder.
2. Under section 8 – Licensing Objectives, there is a growing trend by premises to offer ‘bottomless brunches’ – while food is part of the deal the customers are able to drink as much as they want within a set time normally 2 hours (during the afternoon), before being asked to leave as the table is booked for the next round of customers. As a result these have been seen to cause issues as people are getting drunk very early on, they leave the relevant premises and then cause issues trying to get into other premises. Can bottomless brunches be mentioned specifically in some capacity? I believe that because food is involved it doesn’t come under the irresponsible drinks promotions?
3. Under 8.24 – restricting the times that outdoor spaces are used and when in use especially in the evenings restrict the numbers using them. Also management of queues – it currently states prevent queues which may not be achievable.
4. Under 8.31 – Protection of children from harm – can something be added in relation to the use of children under 18 years of age being used as glass collectors in certain premises.
5. Under 9.2 – the final paragraph states ‘the licence is automatically granted as applied for, that is without any variation or condition’ – should this not state ‘the licence is automatically granted as applied for, without any variation and with conditions attached that are consistent with the information submitted on the operating schedule’?
6. Under 16.1 – Conditions agreed with other authorities after the submission of the application – where do these sit in relation to what is stated in 16.1?

7. Under 20.4 and 20.5 – I would advise removing ‘taking place under the authority of a premise licence’ and ‘events which include special risk factors’. We have a number of large events (that do not have premise licences – such as Much Hadham Fete) and even smaller events, that should go through SAG. We do not want people to think that they do not need to use SAG unless they have a premise licence. Instead it should be stated that ‘event organisers are encouraged to notify the SAG of events they are planning’.
8. Under 20.11 and 20.12 – whilst I agree that there are many events where multiple TEN’s are appropriate there are also situations where they are not. Our view is that generally multiple bars at a community event would be fine while trying to licence for example a number of fields under TEN’s for music would not be. This section reads as though it is acceptable to use multiple TEN’s in this way. Can this be further clarified. Perhaps stating that multiple TEN’s may be appropriate for events where the main purpose is something other than alcohol consumption and / or regulated entertainment ie Much Hadham Fete (large numbers attending but the entertainment and alcohol is additional to the main purpose of the event).

Other points to be added -

9. Licensable plans - state that licensable plans submitted with applications should be of a specified quality – ie to scale, clear, accurate and clearly define the licensable area

Also requirement / expectations to update plans when changes are made

10. Expectations in relation to the licence being sent out once granted

Please advise if any of the above is unclear,

Many thanks,

PS 2182

Community Safety Unit East Herts and Broxbourne

Hertford Police Station

Hale Road

Hertford

SG13 8FL

Licensing Authority response:

Thank you for the response to the draft policy, and your comments regarding the proposed 'Sensitive Licensing Area' for Hertford. I will respond to your points in order:

1. We have added the use of ID Scanning systems to the matters that will be taken into consideration when determining applications for licences or reviews.
2. We have added a section regarding the mandatory conditions, which includes irresponsible drinks promotions. We have included 'Bottomless Brunches' as a practical example (please see attached).
3. We have added the word manage to the bullet point about queues so that it reads: • *manage or prevent queuing (either by pedestrian or vehicular traffic)*; and added another point which reads: • *restrict the number of patrons using outside areas in the evening and at night*;
4. We have added paragraphs regarding under 18's working in licensed premises and these are also attached.
5. We have amended the last bullet point to read: • *on the first day after the statutory consultation closed, the licence is automatically granted as applied for, that is, without any variation or additional conditions beyond those offered as part of the application*.
6. Conditions agreed during the consultation period, with a responsible authority or other party, become part of the application as applied for. We have added a footnote to 9.2 which reads: *Amendments made by the applicant during the consultation process become part of the application as 'applied for' and will be reflected in any licence which is automatically granted*.
7. A similar point has been raised by the response to the consultation received from Environmental Health. As a result point 4.14 was amended with a footnote which contains the web link to the SAG webpage and states: *Such small scale events may still benefit from contacting the East Herts Safety Advisory Group*. We have added the same footnote to 20.5 and do not propose to make any other amendments as the Statement of Licensing Policy details how we will deal with the discharge of our licensing functions rather than being a general event guide for those that do not require a permission to carry out events.

8. Whether multiple temporary events can be used for a particular event must be assessed on its own merits. Whilst it is not desirable for some types of events to operate in this way it is also not always unlawful to do so. As you are aware the Licensing Authority administers the TEN's regime so we cannot specify which types of events should or should not operate under TEN's. If a valid application is received for any type of event it would be for one of the consultees to make a valid objection or the TEN to be allowed to go ahead and then action taken retrospectively for any breaches if they occur.
9. The details of what should be included on plans the scale are covered by the regulation. The Licensing Authority checks the validity of applications including the submitted plans and as such a responsible authority will be notified whether an application is valid or not, any it can only be valid if the plans meet the regulations. If you are notified that an application is valid but you believe that the plans do not meet the requirements of the regulations then please let us know. If on the other hand the plans provided do not show the information you need to make an assessment of whether or not an application will undermine the licensing objectives then please contact the applicant. If they do not subsequently provide plans that mitigate your concerns then it is open to you, as a responsible authority, to make representations against that application. Guidance regarding plans is on the East Herts webpages so we do not propose to include any reference in the Statement of Licensing Policy.
10. Applicants are notified when their applications are granted and are allowed to operate under that licence before receiving the hardcopy from the Licensing Authority. The expectation is that all licences granted to date will be issued by 31st July 2021 and that going forward hardcopies of licences will be issued within a maximum of 2 weeks from grant.

Regards

Proposed amendments to draft policy:

Paragraph 8.9 addition of: • the use or not of an ID scanning type system;

Additional paragraphs dealing with mandatory licence conditions and irresponsible drinks promotions (16.8-16.15).

Paragraph 8.24, added 'manage or' to bullet point 3.

Additional paragraphs dealing with under 18's working in licensed premises (8.40-8.44).

Paragraph 9.2 wording of bullet point 5 amended to read: • on the first day after the statutory consultation closed, the licence is automatically granted as applied for, that is, without any variation or additional conditions beyond those offered as part of the application.

A footnote added to above bullet point that reads: Amendments made by the applicant during the consultation process become part of the application as 'applied for' and will be reflected in any licence which is **automatically** granted.

A footnote added to paragraph 20.5 which reads: Such small scale events may still benefit from contacting the East Herts Safety Advisory Group:

<https://www.eastherts.gov.uk/community-wellbeing/community-events>

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**East Hertfordshire District Council**

**Draft Statement of Licensing Policy  
2021-2026**

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## 1.0 **Foreword**

This Policy supports East Herts Council's Vision and Corporate Priorities.

### **East Herts: A place to grow**

Our vision is supported by four priorities

- Sustainability at the heart of everything we do
- Enabling our communities
- Encouraging economic growth
- Digital by design

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 can play a positive 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 this is no reason to be complacent 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 licensed 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.

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.

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.

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 does negatively impact upon both public health and well-being. Whilst outside of the scope of this Policy we recognise the impact upon the public purse through the demands made upon hospital emergency departments; additional Policing; additional street cleaning; and the criminal justice system. Examples of other local costs include Night Time Economy enforcement patrols, Taxi marshals in Hertford Town Centre and the Street Pastors.

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.

To help ensure that the balance is achieved, and that the safety of residents, workers, visitors and service users is maintained, this policy goes some way to address public health and well-being in more detail than previous ones. It also introduces the concept of Sensitive Licensing Areas (SLA) where the impact of licensed premises on a particular area is causing concern and where steps may need to be taken to redress the balance.

We believe these aims are achievable if all parties concerned work together.

A handwritten signature in blue ink, appearing to read 'Peter Boylan'.

**Cllr Peter Boylan**

**Executive Member for Neighbourhoods**

## 2.0 About East Herts

East Herts is the largest of the 10 districts in Hertfordshire. It covers about 480 square miles, around a third of the Hertfordshire, and offers a blend of rural and town living. The benefits of this mixture are greatly appreciated by the 149,748 people who live in the district.

The District has Broxbourne to the south, Welwyn and Hatfield and Stevenage to the west and North Hertfordshire as its northern boundary. To the east, the district borders on the county of Essex.

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 43,870, followed by Hertford (33,006), Ware (20,092), Sawbridgeworth (9,071) and Buntingford (7,020)<sup>1</sup>.

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.

East Herts is regarded as an attractive rural location for those moving out from (and commuting into) London because of its excellent transport links.

The people of East Herts are predominantly employed and enjoy higher than average earnings of £714.70 gross weekly pay for full-time workers compared to £587.10 for the whole of the country<sup>2</sup>. Unemployment is very low (2.4%<sup>3</sup>).

House prices are among the highest in the country; in 2014 for the period April to June the average property price was £513,983 while the average salary in 2020 was £32,240 compared to £31,165 in Hertfordshire.

The 2011 Census showed a fifth of people are under 16 and a fifth of people are over 60. The average age in the district is 39.5.

Over 89% of people were born in England, 3% were born in other countries in the European Union and 4% in other countries.

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<sup>1</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/wardlevelmidyearpopulationestimatesexperimental>

<sup>2</sup> <https://www.nomisweb.co.uk/reports/lmp/la/1946157224/report.aspx#tabempunemp>

<sup>3</sup> <https://www.nomisweb.co.uk/reports/lmp/la/1946157224/report.aspx#tabempunemp>

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%.

Over a third of people are educated to NVQ level 4 or higher e.g. Bachelor's degree (45.7%, 41,900). However, under a fifth of the population have no qualifications (17.2%, 18,959).

The percentage change between recorded crimes for headline offences in East Herts has fallen by 15% for years ending September 2019 and September 2020.

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 1882 people per 100,000 of our population.
- Alcohol specific hospital stays for our under 18 year olds is 15.2 per 100,000 of our population.
- Male deaths from chronic liver disease was the highest in Hertfordshire by count at 26 and the fourth highest per 100,000 at 12.7 (Source LAPE all ages)

### **3.0 About this document**

3.1 This document is East Herts Council's statement of licensing policy in respect of the regulation of alcohol supplies, regulated entertainment and late night refreshment, and publication of it fulfils the authority's statutory obligation under section 5 of the Licensing Act 2003 ("the Act"). It sets out the policies and principles that we will follow when exercising our powers under that Act, particularly in respect of considering applications in respect of licences and other authorisations. It also gives details of our expectations of applicants and licence-holders. This statement must be published on at least one occasion in each five-year period. The statement must also be kept under review during its validity period, and revised if required, with any revisions published prior to taking effect.

3.2 This Statement of Licensing Policy was adopted by the Council on the xx xxxx 2021, and was published via our website, at <https://www.eastherts.gov.uk>. The statement will have effect from **XXXX 2021 to XXXX 2026**.

- 3.3 This revised Policy has been reviewed and updated to reflect the authority's experiences in exercising its powers that have taken place in the intervening period.
- 3.4 We are required to exercise our licensing functions under the Act with a view to promoting the licensing objectives, which are:
- **the prevention of crime and disorder,**
  - **public safety,**
  - **the prevention of public nuisance, and**
  - **the protection of children from harm.**
- 3.5 Each objective has equal importance, and they are explained in greater detail in later chapters.
- 3.6 We must also have regard to our published Statement of Licensing Policy, and to the Guidance for licensing authorities published by the Secretary of State under section 182 of the Act.
- 3.7 The purpose of this statement is to provide guidance to committees and officers determining matters under delegated authority, to provide consistency to our decision-making. However, where the circumstances justify doing so, we may depart from any provision of this statement, or of the Government's Guidance, to make an appropriate decision based upon the individual circumstances of a particular case. In any such case we will give a clear explanation and reasons as to why we have done so.
- 3.8 This policy statement reflects the wide range of competing, and sometimes conflicting, considerations which we must take into account when exercising our powers, and aims to balance these insofar as is possible.

### **3.9 Our vision**

- 3.10 Licensing authorities are encouraged to include a vision statement within their licensing policies, summarising the strategic aims and intentions that will guide the exercise of their licensing powers. East Herts vision statement, which supports the Corporate Vision and Priorities, is:

**“To regulate the operation of a diverse range of safe, well-managed and enjoyable licensed leisure and retail outlets throughout the District, offering a variety of entertainment, cultural and community activities while also ensuring the promotion of the licensing objectives”.**

- 3.11 The inclusion of such a statement in no way fetters the authority's discretion to determine cases on their individual merits, but rather seeks to guide applicants as to the authority's expectations of licensed premises.

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

- 3.13 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,
- Festivals and other outdoor 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
- Visitors to East Herts
- Businesses not directly involved with the licensed trade
- The local economy and prosperity of East Herts

### **3.14 Consideration of this Policy**

- 3.15 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.
- 3.16 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.
- 3.17 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.
- 3.18 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.
- 3.19 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).
- 3.20 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.



- 3.21 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.
- 3.22 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.

## **4.0 The Licensing Act 2003**

- 4.1 The Act has been in operation since 24 November 2005, and is administered by local authorities. 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 achieve this.
- 4.2 The Act aims to provide the entertainment/leisure industry with freedom and flexibility over provision of licensable activities and opening hours.
- 4.3 The Act specifies a set of licensable activities, which may only be provided under an authorisation issued by the relevant local Licensing Authority (East Herts Council for all premises within the District of East Herts). The licensable activities, which are covered in greater detail within this section, include supplying alcohol, providing regulated entertainment, and providing late night refreshment.
- 4.4 The types of authorisation which Licensing Authorities may issue to permit licensable activities include premises licences, club premises certificates, temporary event notices, and personal licences.
- 4.5 In exercising its licensing functions under the Act, the Licensing Authority shall:
  - aim to promote the licensing objectives,
  - have regard to this statement of licensing policy, and
  - have regard to the Government's Guidance.
- 4.6 The Licensing Authority may not reject an application nor revoke a licence in response to representations concerning general moral or ethical objections to the carrying on of licensable activities, unless a direct link to one or more of the licensing objectives can be established. In particular, the supply of alcohol is expressly permitted under UK legislation, and the Licensing Authority has a duty to act fairly and in accordance with the legislation.
- 4.7 Every matter considered by the Council, in its role as a Licensing Authority, will be considered on its own merits and in accordance with the statutory

requirements of the Act. Nothing in this Statement of Licensing Policy shall:

- a) prevent any person from making an application for authorisation or giving a notice under the Act;
- b) prevent any person from making representation in respect of an application of a type where the Act provides for them to do so;
- c) prevent any person from making an application for the review of a premises licence; or
- d) restrict or fetter the Council's discretion to consider and determine applications, or to initiate legal proceedings or other enforcement action, based upon the individual circumstances and merits of a particular case.

4.8 Typically, the Licensing Authority's discretion over whether to refuse applications, to issue counter-notices or to impose additional licence conditions is only engaged if relevant representations or objection notices have been given to the authority within a prescribed period. For many of the application processes under the Act (with a small number of key exceptions), if no relevant representations or objection notices are received within the prescribed period, the Licensing Authority will be obliged to grant the application, subject only to any statutory conditions and conditions consistent with measures proposed by the applicant in their operating schedule.

4.9 The Licensing Authority has a general duty under the Crime and Disorder Act 1998 *'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area'*.

4.10 East Herts Council is a signatory of the Hertfordshire Local Enterprise Partnership's *'Better Business For All'* initiative and we will follow the provisions of the charter<sup>4</sup> when we exercise our regulatory powers in respect of licensable activities.

## **4.11 Licensable activities**

4.12 The Act regulates a set of broad 'licensable activities' relating to the leisure and retail industries, as follows:

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<sup>4</sup> [https://www.hertfordshirelep.com/media/5202/069520-bbfa-charter\\_2.pdf](https://www.hertfordshirelep.com/media/5202/069520-bbfa-charter_2.pdf)

- Supplies of alcohol, including:
  - Sale by retail of alcohol,
  - Supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- The provision of regulated entertainment, comprising:
  - Performances of plays,
  - Exhibitions of films,
  - Indoor sporting events,
  - Boxing and wrestling entertainments,
  - Performances of live music,
  - Playing of recorded music,
  - Performances of dance,
  - Entertainment which is similar to music or dance,
- The provision of late night refreshment.

4.13 To be considered licensable, entertainment must be provided in the presence of an audience (which may consist of a single person), and either be open to the public or a section thereof, or provided for a consideration (e.g. admission fee, tickets) and with a view to profit. The definitions of these activities were left deliberately wide so as to account for future developments in the industries carrying on those activities – for example in recent years there has been an increase in the number of ‘silent discos’, which are considered to be regulated entertainment as they consist of recorded music, but which may not have been captured under a narrower definition.

4.14 The Government has pursued a deregulatory agenda in respect of entertainment licensing for community events and lower-impact entertainments by introducing new exemptions. As a result, many smaller-scale entertainments now fall outside of licensing requirements<sup>5</sup>. Where this is the case, it should be noted that we may be unable to use our licensing powers to regulate these events, although other regulatory schemes may be utilised to remedy any issues that arise. Schedule 1 to the Act details the exemptions that apply to entertainment licensing requirements.

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<sup>5</sup> Such small scale events may still benefit from contacting the East Herts Safety Advisory Group: <https://www.eastherts.gov.uk/community-wellbeing/community-events>

- 4.15 Late night refreshment is defined as the sale of hot food or hot drinks, between the hours of 11 p.m. and 5 a.m. Exemptions applying to late night refreshment are set out in schedule 2 to the Act.
- 4.16 Although the Act has fairly wide application, it does not control every activity which may be carried out in licensed premises, and some premises which are authorised under this Act may also need separate licences and authorisations for other activities carried on at those premises. Where the Licensing Authority is responsible for issuing such authorisations (for example, for gaming machines or prize gaming in licensed premises), we have published separate licensing policies to give details of how applications for those alternate licence types will be considered.

## **5.0 Pre-application advice and engagement**

- 5.1 The Council's Licensing team are available to assist with what is known as pre-application advice. This is predominantly meant for smaller businesses and individuals who may not be familiar with the licensing process.
- 5.2 As applications for licences can be quite complex, and have a wide variety of requirements, it may be beneficial to applicants to seek advice prior to completing and submitting an application. One example that highlights the importance of getting the process right is the requirement to use a newspaper notice to alert people to your application. Getting the advert details or timing wrong could lead to the application being invalid, and the applicant losing the money spent on that notice; obtaining advice from the Council is a good way to avoid this sort of mistake, which is not unusual and easily made.
- 5.3 As well as ensuring the requirements are followed, the Licensing team can assist you in drafting a valid application, which ensures that you are applying for the full extent of the activities that you are likely to require for your business, whilst avoiding inadvertently including or omitting information that increases the likelihood of objections being received.
- 5.4 Objections to applications can lead to delays in licences being granted, and can cost time away from your business in order to resolve any issues

arising, so it is best that applicants do all that they can to ensure that any unnecessary objections are avoided.

- 5.5 We may limit the amount of time we spend on pre-application advice particularly for large organisation or those planning large events who should seek independent paid for advice.
- 5.6 As part of the advice we may recommend that an applicant contacts some or all of the responsible authorities, the Safety Advisory Group (SAG) or other appropriate individuals or organisations.
- 5.7 Engagement is an important element of the licensing process. Applicants are expected to have considered the location and community it is proposing to operate in. An understanding of the concerns to be addressed can be obtained by early engagement with a variety of bodies and individuals including:
- Responsible authorities
  - Ward councillors
  - Town councils
  - Parish councils
  - Residents Associations
  - Businesses and residents in the vicinity of the proposed premises.
- 5.8 Experience shows that early engagement allows concerns to be addressed in the most timely and cost effective way for all parties. Where concerns cannot be addressed before an application is made resulting in representations the expectation is that the dialogue between the parties continues to try and find common ground.
- 5.9 If a Licensing Sub-Committee has been scheduled the parties have up until 24 hours before the hearing starts to reach agreement and dispense with the hearing. Where necessary the Licensing Authority can facilitate these discussions.

## **6.0 Licensing Hours**

- 6.1 The Licensing Authority recognises the principle of flexibility and the potential benefits of avoiding concentrations of customers leaving premises simultaneously.

## 6.2 Premises definitions

- 6.3 The Licensing Authority has recognised that the lines between different types of venues have become blurred since this Policy was last published. As such we have widened the definitions to try to accommodate this change in culture.
- 6.4 For the purposes of the Policy we define licensed premises as set out below. Upon receiving an application the Licensing Authority will generally place the premises in the most appropriate category shown in the table below.
- 6.5 Where an application does not clearly fit within a single definition then the Licensing Authority may consider the different elements of the application under separate definitions.
- 6.6 As an example a restaurant style venue during the day may change into a more night-club style venue in the evening meaning the licensable activities for each part may be considered separately and differing hours applied. Premises with on sales and off sales could be granted different terminal hours for each type of sale if the evidence provided made that decision appropriate and proportionate.
- 6.7 The category or categories may be referred to at any subsequent Licensing Sub-Committee and applicants will be able to make submissions regarding this point.

Premises	Use
<b>Restaurant</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.
<b>Public house, wine bar, Café-bar or other drinking establishment</b>	Primarily for the sale of alcohol for consumption on the premises, this may or may not include the provision of food or light snacks.

<b>Premises</b>	<b>Use</b>
<b>Café</b>	The sale of food and or light refreshments generally during the daytime but could include opening hours extended into the evening, where alcohol sales are not a predominant feature of the premises.
<b>Hotel bar</b>	The sale of alcohol and/or food, either to hotel residents or to non-residents. Private functions and events maybe a feature.
<b>Night-club (including SEV)</b>	Primarily for the sale of alcohol and provisions of recorded or amplified music with facilities for dancing and opening times past 2300 hours. May include the provision of late night refreshments.
<b>Off-licence</b>	Premises with off sales of alcohol only, for consumption away from the premises.
<b>Alcohol delivery service</b>	Premises used solely for the delivery of alcohol by off sales where customers do not attend the premises.
<b>Qualifying club</b>	Qualify for a club premises certificate under the Licensing Act 2003.
<b>Take-away (Food)</b>	The provision of late night refreshment (hot food and drink) between 11 pm and 5 am, not to be eaten on the premises.
<b>Moveable vessel and structure</b>	Trailers, vehicles and vessels or other moveable structures used in outdoor locations whether public or private.
<b>Festival</b>	An organised event, typically lasting more than one day, featuring all or a combination of licensable activities including performances of live and recorded music. Can involve the audience staying on site.
<b>Other outdoor event</b>	Events that are held outside, with or without the use of temporary or permanent structures, on public or private land and operate on a regular or one off basis. This covers events such as carnivals, fetes, markets. They can include all licensable activities.
<b>Other entertainment venue</b>	Entertainment, whether licensable or not, is the main focus of the premises. The sale of alcohol and provision of late night refreshment (hot food and drink) is either absent or only ancillary to other the other activities.

## 6.8 Location and operation of premises



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

Premises type	Location	Timings
Restaurants	Town Centre	Will generally be granted licensable activities no later than <b>01:00</b> only.
Restaurants	Other Area	Will generally be granted licensable activities no later than <b>midnight</b> only.
Public house, wine bar, Café-bar or other drinking establishment	Town Centre	Will generally be granted alcohol sales for consumption on the premises no later than <b>midnight</b> and no later than <b>22:30</b> on Sunday.
Public house, wine bar, Café-bar or other drinking establishment	Other Area	Will generally be granted alcohol sales for consumption on the premises no later than <b>23:00</b> hours and no later than <b>22:30</b> on Sunday.
Cafe	Town Centre	Will generally be granted alcohol sales no later than <b>21:00</b> .
Cafe	Other Area	Will generally be granted alcohol sales no later than <b>20:00</b> .
Hotel bars	Any	Will generally be granted the sale of alcohol only to residents <b>24 hours</b> . In relation to private events and events open to non-residents licensable activities will generally be granted no later than <b>00:30</b> .
Night-club (including SEV)	Town Centre	Will generally be granted licensable activities no later than <b>01:00</b> on Monday to Saturday and until <b>22:30</b> on Sunday.
Night-club (including SEV)	Other Area	Will generally be granted licensable activities no later than <b>midnight</b> on Monday to Saturday and until <b>22:30</b> on Sunday.
Off-licences	Town Centre	Will generally be granted alcohol sales no later than <b>midnight</b> .
Off-licences	Other Area	Will generally be granted alcohol sales no later than <b>23:00</b> .
Alcohol delivery service	Any	Will generally be granted alcohol off sales no later than <b>midnight</b> .
Qualifying clubs	Town Centre	Will generally be granted licensable

Premises type	Location	Timings
		activities no later than <b>00:30</b> .
<b>Qualifying clubs</b>	Other Area	Will generally be allowed late-night refreshment sales to <b>midnight</b> only.
<b>Take-away (food)</b>	Town Centre	Will generally be granted licensable activities no later than <b>01:00</b> .
<b>Take-away (food)</b>	Other Area	Will generally be granted licensable activities no later than <b>midnight</b> .
<b>Moveable vessel and structure</b>	Any	Will generally be granted alcohol sales no later than <b>23:00</b> Monday to Saturday and <b>22:30</b> on Sunday, except for use during private events
<b>Festival</b>	Any	Will generally be allowed licensable activity until <b>01:00</b> on Friday and Saturday. On Sunday to Thursday <b>23:00</b> , unless the following day is a Bank Holiday or recognised National Holiday.
<b>Other outdoor event</b>	Any	Due to events being so varied times will be considered based on the type of event, activities requested, hours requested and the location.
<b>Other entertainment venues not listed</b>	Town Centre	Will generally be granted licensable activity no later than <b>midnight</b> and no later than <b>22:30</b> on Sunday.
<b>Other entertainment venues not listed</b>	Other Area	Will generally be granted licensable activity no later than <b>23:00</b> hours and no later than <b>22:30</b> on Sunday.

6.10 The hours detailed above will not be automatically applied where representations are received and a Licensing Sub-Committee decides the application. Each application will be considered on its own merits and the most appropriate way to mitigate concerns will be taken.

6.11 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”).

6.12 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 are effectively the only form of post-midnight transport in the District.

- 6.13 We are adopting this approach with the Government's recommendations at paragraph 14.51 of the statutory guidance in mind<sup>6</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.
- 6.14 This justifies a more restrictive approach in residential areas when relevant representations have been made.

## **7.0 Town Centres**

- 7.1 Our vision is to create a diverse, safe and family-friendly environment within the District, particularly within the Town Centres. The nature of our Town Centres and the types of people attracted to the offering varies depending on the time of day. We want there to be something for everyone and not a predominance of one type of licensed premises only appealing to one demographic. Whilst we recognise that each application must be considered on its individual merits and must be granted in the absence of any relevant representations, policies will be implemented to achieve our overall aims.
- 7.2 For the purpose of this Policy Town Centres are:  
(NOTE: once the areas are finalised we will be including plans to make it clear which premises are inside these areas)

### **7.2.1 Hertford (Sensitive Licensing Area)<sup>7</sup>**

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

### **7.2.2 Bishop's Stortford**

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<sup>6</sup> All references to the Revised Guidance issued under section 182 of the Licensing Act 2003 refer to the April 2018 revision.

<sup>7</sup> See paragraph 7.6 for further details.

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

7.2.3 **Ware**

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

7.2.4 **Sawbridgeworth**

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

7.2.5 **Buntingford**

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

7.3 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.

7.4 Evidence suggests that violent crime and anti-social behaviour increases with every hour that licensed premises are open. Therefore, in the absence of improvements from other measures, opening hours of premises may need to be restricted to reduce the rise in violent crime and anti-social behaviour.

7.5 We want to encourage more restaurants, cafes, food establishments and venues offering a wide variety of daytime and early evening 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 14.19, will not be a consideration.

## **7.6 Sensitive Licensing Area**

7.7 Although East Herts is a largely rural District the Town Centres have concentrations of licensed premises and some have the associated issues. In particular over recent years there have been concerns raised by a number of parties regarding the concentrations of particular types of

premises within Hertford Town Centre, their impact on the licensing objectives and the perceived ongoing increase in licensed hours.

7.8 As a result the Licensing Authority has identified Hertford Town Centre (as detailed above) as a **Sensitive Licensing Area**. The Licensing Authority is particularly likely to make representations itself for applications in this area suggesting additional conditions to reduce any impact on the licensing objectives to address concerns about:

- alcohol (both on and off sales) and/or late-night refreshment being available at times later than other premises in that area (undermining the Prevention of Crime & Disorder objective); and
- litter, noise and other nuisances from a concentration of late-night take-aways (undermining the Prevention of Public Nuisance objective).

7.9 Our approach in the Sensitive Licensing Area will be:

1. Where an application for alcohol sales or late-night refreshment has been received, the Licensing Authority will consider making representations and will seek to strictly apply this Policy in relation to those premises.
2. Where additional representations have been made by other parties, our strict starting point in these areas will be to consider whether conditions will be appropriate to address those concerns or whether a refusal is justified on the basis that the licensing objectives would be undermined.

## **7.10 Justification for creating the Sensitive Licensing Area**

7.11 The Sensitive Licensing Area is a mix of commercial and residential properties in a densely built-up area. The concentration of licensed premises in the area has caused considerable concern in terms of the issues detailed above leading to licence reviews and significant levels of representations against licence applications in this area. Levels of recorded crime, disorder, anti-social behaviour and nuisance are higher than in other parts of the District.

7.12 It is hoped that this will be a useful tool in helping to manage alcohol related anti-social behaviour and highlights the issues in this part of the District to both existing licence holders and those that may wish to open new premises there.

## 7.13 General approach

7.14 Where relevant representations have been received, we will consider granting the application limited to the hours of operation set out in this Policy unless an applicant can demonstrate why an exception should be made.

7.15 Exceptions will not be made solely 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) 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 anti-social behaviour.
- (4) another premises licence has been granted with the same hours and activities requested.
- (5) due to the premises appealing to a niche market they will not contribute to crime, disorder and anti-social behaviour.
- (6) the proceeds from the premises/event will be given to a charity or good cause.

7.16 Where relevant representations have been received we will take into account the following factors to fulfil our vision:

- (1) Does the application contribute to the development of a diverse offering with our Town Centres
- (2) Does the application contribute to 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)
- (3) Does the application include entertainment that's provided during the early evening rather than being focussed solely on the consumption of alcohol
- (4) Are there links with other activities in the town, to encourage day-time users to stay in the evening;
- (5) Is the sale of alcohol only being made to customers purchasing a substantial meal;
- (6) Has any transport/dispersal provision been made, particularly during periods when public transport is unavailable;

- (7) Style and type of venue. A diverse Town centre is characterised by a range of activities and offers that would appeal to people of all ages and backgrounds. This may (but need not) be characterised by:
- a range of alcoholic and soft drinks suitable for all ages;
  - a food menu catering 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 (CSP) initiatives.
- (10) use of street pavement licences for outdoor table areas.

7.17 Where an applicant wishes an exception to be considered it is their responsibility to provide evidence to support this.

## 8.0 **Licensing objectives**

8.1 The Licensing Authority must carry out its functions with a view to promoting the four licensing objectives, each of which has equal importance:

- **the prevention of crime and disorder,**
- **public safety,**
- **the prevention of public nuisance, and**
- **the protection of children from harm.**

8.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in partnership with all stakeholders and partners towards the promotion of the licensing objectives.

- 8.3 The Licensing Authority expects applicants to address the licensing objectives within their operating schedules, having regard to the nature of the premises, the licensable activities to be provided, operational procedures, and the nature of the location and the needs of local communities. The operating schedule should contain sufficient information to enable the Licensing Authority, responsible authorities and other persons who may be affected by the operation of the licensed premises to assess whether the steps which will be taken to promote the licensing objectives are sufficient to mitigate any potential adverse impact.
- 8.4 The Licensing Authority is committed to empowering local community action, and meeting the needs of its communities through close partnership working with others. The Licensing Authority recognises that licensed entertainment can provide a valuable contribution towards the economy of the District, and seeks to balance the needs of the local businesses and licence holders, whilst protecting those of local residents.
- 8.5 Further policy considerations in respect of each of the objectives are set out below.

## **8.6 Prevention of Crime and disorder**

- 8.7 The Authority will endeavour to reduce crime and disorder throughout the District, in accordance with its statutory duty under section 17 of the Crime and Disorder Act 1998.
- 8.8 The Authority will expect applicants to take appropriate and proportionate measures to promote the crime and disorder objective. Examples of the sources of crime and disorder which the Authority would require applicants to take into consideration may include, but are not limited to:
- Underage drinking
  - Drunkenness on the premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Overcrowding/occupancy capacity
  - Anti-social behaviour



8.9 When determining licence applications and reviews the Licensing Authority will give consideration to:

- whether the premises make or will make a significant contribution to levels of crime and disorder in the local area, and
- whether the operating schedule demonstrates that an adequate risk assessment of the likelihood of crime and disorder occurring as the result of the issue of an authorisation has been carried out by the applicant.
- the ability and competency of the person in charge of the premises to monitor the premises at all times it is open;
- the training given to staff in how to defuse or manage conflict amongst patrons and crime prevention measures appropriate to those premises;
- 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;
- risk assessment of drinks promotions which may contribute to the impact on crime and disorder (e.g. 'happy hours'), and plans for minimising risks;
- 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.;
- where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- the use or not of an ID scanning type system;

- the likelihood of any violence, public disorder or policing problem if the licence is granted;
- whether design of the premises has been considered having regard to reducing conflict and minimising opportunities for crime;
- the measures taken to control admission to, and dispersal from, the premises, including the use of registered door supervisors;
- 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;
- the arrangements for delegating and accounting for responsibility for the supply of alcohol on community premises operated without a DPS.

8.10 This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.

8.11 The authority will work closely with Hertfordshire Constabulary and the other members of the Community Safety Partnership (CSP), both to monitor and investigate incidents of crime or disorder associated with licensable activities, at and around licensed premises, and to identify emerging trends and patterns in such incidents.

8.12 To achieve the best results, the prevention of crime and disorder requires partnership working between statutory bodies and licensed premises. While there are a number of measures which licence-holders can, and will be expected to, implement in order to promote this objective within their premises, the authority also expects licence-holders to understand which issues they will not be able to resolve themselves, and to liaise and co-operate with the Licensing Authority, Police, and other bodies. In particular, incidents occurring outside of but in the vicinity of licensed premises, which do not involve the customers or staff from that premises, are likely to be outside of the direct control of licence-holders, but they may be able to provide evidence or intelligence allowing statutory bodies to investigate the incident in question.

- 8.13 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.

## **8.14 Public Safety**

- 8.15 When considering this objective, the Licensing Authority will concern itself with the physical safety and wellbeing of the people who use licensed premises, and those who may be affected by the use of licensed premises (e.g. non-customers who happen to be in the immediate vicinity of a premise). This will include measures that seek to prevent accidents, injuries and short- or long-term illnesses to staff, customers or other persons.

- 8.16 The Licensing Authority will have regard to the measures to be taken by applicants to ensure that the physical safety of any person visiting or working in licensed premises is not compromised. This should be demonstrated in an applicant's operating schedule. Factors that may be considered include, but are not limited to:

- The total occupancy capacity (staff, customers, others) of the premises
- Physical environment of the premises
- Customer profile
- Traffic management including access for emergency vehicles
- Crowd management
- Special arrangements for large events
- Use of special effects
- Lighting – emergency and general
- Temporary electrical installations

- 8.17 There are several regulatory regimes concerned with public safety, and the Licensing Authority will seek to avoid duplication as much as possible. In particular the Licensing Authority recognises that the Regulatory Reform (Fire Safety) Order 2005 replaced the previous fire safety legislation. Accordingly the Authority will not seek to impose the fire safety conditions on a licence/certificate where the Order applies.

- 8.18 However, where representations are made by responsible authorities responsible for enforcing these regimes concerning the failure of a licence-holder to adhere to or comply with another regime, the Licensing Authority may consider whether this is indicative of a wider systemic failure on the part of the licence-holder to promote the licensing objectives.
- 8.19 It is recognised that special issues may arise in connection with outdoor and large scale events. Risk assessments must be used to assess whether any measures are necessary in the individual circumstances of any premises.

## **8.20 Prevention of public nuisance**

- 8.21 The Licensing Authority will interpret the term 'public nuisance' widely as advised in the Secretary of State's guidance. When considering this objective the Authority will take into account issues relating to noise, vibration, light, litter, offensive odours and anti-social behaviour arising from or in connection with the provision of licensable activities. Public nuisance can be at a low level only affecting a few people locally, as well as a major disturbance affecting the wider community.
- 8.22 This objective does not mean the complete prevention of all of the above issues, but rather the prevention of such unreasonable levels of these as would constitute a nuisance to the public or a section thereof. A degree of noise, for example, is an inevitable consequence of the provision of most forms of regulated entertainment. The Licensing Authority will therefore seek to exercise its powers in a way which promotes the licensing objective, to discourage and eliminate the carrying on of licensable activities in a way that causes unreasonable inconvenience, upset or distress to others.
- 8.23 The Authority would expect applicants to have demonstrated in their operating schedule that public nuisance concerns have been identified, with suitable control measures implemented and maintained. Factors that may be considered include, but are not limited to:
- The location of the premises and proximity to residential and other noise sensitive premises

- The hours of opening, including times when licensable activities may not be taking place, last admission time and 'wind down period'
- Nature of activities provided
- Supervision of customers including managing dispersal
- Odour and light nuisance
- Litter and waste disposal
- the location of delivery and collection areas and delivery/collection times
- Noise management plan (where appropriate)

8.24 Steps that can be taken to minimise public nuisance include those 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;
- prevent disturbance by customers and staff arriving at or leaving the premises;
- manage or prevent queuing (either by pedestrian or vehicular traffic);
- help ensure patrons and staff leave the premises quietly;
- minimise the effect of parking by patrons on local residents;
- restrict the number of patrons using outside areas in the evening and at night;
- minimise noise from the use of smoking shelters, gardens and other open-air areas.

8.25 This lists above are not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.

8.26 The Authority notes that, as with other licensing objectives, there are other regulatory regimes exist which may be used to control nuisance. The Environmental Protection Act 1990 in particular allows Environmental Health officers to require the abatement of a statutory nuisance, and would be considered the primary control for such issues. However, the Licensing Authority notes that this regime is largely reactive, whereas licensing may be used to establish proactive controls, preventing a nuisance from reaching a statutory level in the first instance.

- 8.27 Nuisance may arise directly as a result of licensable activities (for example, noise from music), or indirectly (noise from customers at the premises). Applicants and licence-holders are strongly encouraged to consider all possible sources of nuisance when compiling operating schedules, and to implement appropriate measures for the promotion of this objective. For many types of nuisance, this process will begin in the initial design stages prior to the construction or redevelopment of premises. The Council's Environmental Health officers may be consulted for informal advice, prior to the making of a licence application, on proposed measures likely to reduce or prevent the likelihood of public nuisance arising from the operation of licensed premises.
- 8.28 The Licensing Authority will have regard to best practice guidance when considering this licensing objective, including but not limited to<sup>8</sup>:
- Guidelines on Community Noise (World Health Organisation)
  - Effective Management of Noise from Licensed Premises (British Beer and Pub Association)
  - Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- 8.29 Where premises which are the subject of licensing applications involving amplified musical entertainment beyond 11pm are in close proximity to residential properties, the Licensing Authority will require a comprehensive operating schedule listing measures that the applicant intends to implement to ensure the promotion of this licensing objective.
- 8.30 The Licensing Authority will also pay close regard to premises in close proximity to residential property proposing or permitted to trade after 11pm, where the premises includes one or more external areas for use by customers (for example, beer gardens, external dining areas, or smoking areas), as use of such areas by customers has the potential to lead to a public nuisance if not closely controlled. Applicants are required to include measures within their operating schedule setting out how they intend to control the use of such areas, in order to promote this licensing objective.

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<sup>8</sup> See Appendix 3 – Useful resources

### 8.31 Protection of children from harm

- 8.32 The Licensing Authority is aware that this objective relates primarily to preventing children from being exposed to or permitted to access age-restricted products, such as alcohol; or age-restricted services, such as films with content deemed suitable only for adults or relevant entertainment of a sexual nature. Considerations relating to the physical safety and welfare of children will also be taken into account as part of any action the Authority takes to promote the public safety objective.
- 8.33 The Authority recognises the great variety of premises for which licences may be sought and the benefits and risks these may bring. The Authority will only restrict access by children to any particular type of premises where it considers it appropriate to do so in order to protect them from harm.
- 8.34 There is no reason why children should not be admitted to responsibly-run, family-oriented licensed premises (for example, restaurants, theatres, cinemas (showing age-appropriate films), supermarkets, community premises, etc.), when accompanied by a suitable adult, such as a parent or guardian, and the Act allows for this. However, it is an offence under the Act:
- to admit children to exhibitions of films where a premises holds a licence permitting such regulated entertainment, if they are below the minimum age recommended by the Licensing Authority or a film classification body,
  - to allow unaccompanied children under the age of 16 to be present at premises being used exclusively or primarily for the supply of alcohol for consumption on those premises, or
  - to allow unaccompanied children under 16 to be present between midnight and 5 a.m. at licensed premises supplying alcohol for consumption on the premises.
- 8.35 When deciding whether to limit the access of children, the Licensing Authority will judge each application on its individual merits. Examples which may give rise to concern in respect of children would include premises:

- where entertainment or services of an adult or sexual nature are commonly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- where there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of gaming machines)
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- where other concerns relating to this objective have arisen

8.36 Where possible the Authority will avoid completely prohibiting access by children. Alternative options include:

- limits on the hours when children may be present
- limits or exclusions on children when particular activities are taking place
- limited access to parts of premises
- full exclusion of under-18s from the premises when any licensable activities are taking place

8.37 Where a large number of children are likely to be present at a licensed premises, the Licensing Authority will expect an appropriate number of suitably-trained adult staff to be present, to control access and egress of children, and ensure their safety and protection from harm.

8.38 Even if the age restrictions mentioned above do not apply and the Licensing Authority has not attached conditions restricting access by children, there is still no obligation for licence-holders to admit children to their premises. Ultimately access to premises will remain at the discretion of the licence-holder, who may choose to adopt any reasonable admission policy.

8.39 Child sexual exploitation is a significant concern for licensing authorities nationwide, as demonstrated by a number of high-profile reported cases which revolved around licensed premises. Where the operation of licensed premises is causally or demonstrably linked to child sexual



exploitation, the Licensing Authority will not hesitate to use the full range of powers at its disposal to promote this licensing objective.

#### **8.40 Under 18's working in licensed premises**

- 8.41 Concern is sometimes raised with regards to people under the age of 18 years old being employed in licensed premises. If done properly this can be positive for the person being employed and not undermine the licensing objectives. Children 14 years old and above can work if it does not impact their development or health and safety and is not instead of attendance at school.
- 8.42 The sorts of work they can do in a pub or restaurant includes: take orders from customers, serving tables, collecting glasses, and clearing tables/galsses.
- 8.43 Under 18's can sell alcohol as long as each individual sale has been specifically approved by a responsible person. The responsible person must be:
- the holder of the Premises Licence;
  - the Designated Premises Supervisor; or
  - anyone aged 18 or over who has been authorised by the Premises Licence Holder or the DPS to authorise sales made by the under 18s.
- 8.43 For an under 18 to be serving alcohol they will need a 'responsible person' with them at all alcohol to approve each sale made. It is not enough to authorise them once to serve alcohol and then let them continue, each individual sale must be supervised and approved.
- 8.44 There are limits on the times you can employ an under 18 and special rules relating to working time and employment for under 16's (children). Sometimes children are not permitted to work without an employment permit issued by Hertfordshire County Council so for more details please see: <https://www.hertfordshire.gov.uk/services/schools-and-education/young-people-and-work/apply-for-a-childs-work-permit/apply-for-a-childs-work-permit.aspx> for more information.

## **9.0 Stakeholder engagement and representations**

## 9.1 The basis of decision making

9.2 The process for making decisions on licensed premises applications is governed by the Licensing Act 2003 and associated regulations. Unlike other ways in which the Local Authority determines applications, for example planning applications, there is a presumption in licensing law that if:

- the licensing authority receives a valid application *and*
- the application is properly advertised *and*
- there is no objection raised by any responsible authority within the statutory consultation period *and*
- there is no objection raised by any other person within the statutory consultation period *then*
- on the first day after the statutory consultation closed, the licence is ***automatically*** granted as applied for, that is, without any variation or additional conditions beyond those offered as part of the application<sup>9</sup>.

9.3 It is within this context that the council will do its utmost to facilitate those wishing to make representations to do so in the most effective way and within the statutory consultation period.

## 9.4 How responsible authorities can make their views known

9.5 The council strongly encourages the responsible authorities listed in table below to engage in the consultation process regarding applications (for new, and variations to existing, premises licences a club premises certificates) and raise any points as representations to the Licensing Authority. This may include submitting an objection.

Responsible authorities	Made aware by
<ul style="list-style-type: none"><li>• Licensing Authority – East Herts Council</li><li>• Hertfordshire Police</li><li>• Environmental Health – East Herts Council</li><li>• Planning Service – East Herts Council</li><li>• Fire Authority – Hertfordshire Fire &amp;</li></ul>	<ul style="list-style-type: none"><li>• Applicant will submit copies of application documents directly to them at the same time as the documents are sent to the licensing authority; or</li><li>• In the case of applications made</li></ul>

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<sup>9</sup> Amendments made by the applicant during the consultation process become part of the application as 'applied for' and will be reflected in any licence which is ***automatically*** granted.

<b>Responsible authorities</b>	<b>Made aware by</b>
Rescue Service <ul style="list-style-type: none"> <li>• Hertfordshire Safeguarding Children Board</li> <li>• Trading Standards – Hertfordshire County Council</li> <li>• Home Office – Alcohol Licensing Team</li> <li>• Public Health – Hertfordshire County Council</li> <li>• Health and Safety Executive</li> <li>• <i>(only need to be consulted if they are the enforcing authority for Health and Safety at the premises)</i></li> </ul>	online through the licensing portal, the council's licensing team will send the application documents electronically to the responsible authorities upon receipt

9.6 Evidence-based representations provide the Council, when acting as the Licensing Authority deciding on applications, with the best means of assessing the merits, or otherwise, of applications under consideration.

9.7 While the type of representation and level of evidence will vary on a case-by-case basis, best practice would suggest representations should include wherever possible:

- whether the representation is for or against the application
- reference to concerns over the undermining or potential undermining of the Licensing Objectives (as determined by legislation and listed in the this document)
- evidence to support the above

9.8 The Council encourages all responsible authorities to engage with applicants at the pre-application stage and give advice to assist applicants to amend their proposals to accommodate the issues raised and thus avoid the responsible authority needing to make an objection. Whether the responsible authority engages or not, and whether or not the applicant works with the responsible authority, does not fetter the responsible authority's discretion over whether or not to object to an application. If an objection has been received, the Licensing Authority will wish to see efforts or continued efforts on the part of both the applicant and the responsible authority to accommodate the concerns raised.

## 9.9 Temporary Event Notice (TEN)

9.10 The Police and the Council's Environmental Health team are the only responsible authorities the law requires to be notified of and have the right to object to Temporary Event Notices (TENs). They have an ability to assist the Licencing Authority by making appropriate objections during the consultation period following submission of a TEN.

9.11 The format and content of objections are not defined in legislation or guidance. It would assist the licensing authority in their decision making if responsible authorities could include in their submissions as much of the following information as possible in support of their position:

- a commentary on past events at the venue / event
- any evidence of breaches of relevant statutory requirements
- a summary of complaints, if any, from the public concerning the premises

## 9.12 How members of the public can make their views known

9.13 In order to make informed decisions, the Council is keen to hear from those with a view on a particular application (for new, and variations to existing, premises licences a club premises certificates).

Other persons includes	Made aware by
<ul style="list-style-type: none"><li>• People who live or work near licensed premises.</li><li>• Any company, charity, community organisation or similar body.</li><li>• Any other person regardless of whether they live or work in the vicinity.</li></ul>	<ul style="list-style-type: none"><li>• Written notices will be put up by the applicant (in a statutorily prescribed format), attached to or near the premises concerned and displayed for not less than 28 days and visible 24 hours per day<sup>10</sup></li><li>• A public notice (in a statutorily prescribed format) submitted by the applicant will be published in</li></ul>

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<sup>10</sup> Applications for minor variations only require a notice at the premises and it only needs to be displayed for 14 days.

Other persons includes	Made aware by
	a locally circulated newspaper • A public notice of application will be displayed on the council's website <sup>11</sup>

9.14 As noted in the table above, the legislation and guidance dictates that members of the public have a specific time period during which to raise issues.

9.15 Of note, the Licensing Act 2003 established a very prescriptive procedure for the way in which applications are made and determined:

- the requirements concerning advertising of applications are set out in the Licensing Act 2003 (Premises Licences and Club Premises Certificates Regulations) 2005
- Regulation 25 provides that the applicant shall advertise the application (new application or variation of an existing licence) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority by displaying a notice that complies with prescribed requirements
- the applicant must also publish at least once, within 10 working days of making the application, a notice in a local newsletter or similar document circulating in the vicinity of the premises
- these regulations dictate the consultation period during which members of the public can raise issues or concerns
- the Regulations oblige the Council, as the Licensing Authority, to also advertise the application on its website for a period of no less than 28 consecutive days starting on the day after the day on which the application was given. The content of the notice is similar to that of the notice at the premises.

9.16 The Council has considered the scope for raising awareness of applications in additional ways. Given that licensing matters are governed

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<sup>11</sup> Notices related to current applications for new licences or to vary existing licences can be found here: <https://www.eastherts.gov.uk/licences-registration/alcohol-entertainment-late-night-refreshment/notices-application-objecting-licence-applications>

by statute and regulation, this is not quite as straightforward as it may seem. Of note, Westminster City Council has sought in the past to facilitate greater awareness by contacting properties in the vicinity of premises subject to a licence application by means of individual correspondence. The Council was then challenged in the High Court by some residents who lived in the locality but outside of the 'perimeter' the Council had drawn for consultation purposes and so had not been contacted directly by the Council. The judgement was that the Council did not need to send letters to residents but if they chose to do so then they should send letters to all residents affected.

*R. (on the application of Albert Court Residents Association) v Westminster City Council [2010] EWHC 393 (QB).*

- 9.17 Having considered this case, it appears that any view on who constitutes 'all the residents affected' will always be open to debate and thus such an approach is likely to place the Council in a very difficult position. Therefore, it is the Council's view that relying on the means of communication set by the relevant regulations, and detailed above, is a better way to proceed than attempting to directly contact those the Council may deem at any one time to be likely to be affected.
- 9.18 That said, the Council will do its utmost to ensure anyone wishing to make a representation is aware of the 28 day window for responding and the central importance of this given that, unfortunately, the Council cannot vary this time period.
- 9.19 Within the relevant legislation, regulations and case law discussed above, the Council will strive to facilitate resident engagement, including emphasising the consultation window. The Council will:
- encourage applicants to hold informal discussions with local residents and businesses, the responsible authorities, Town Council's, Parish Council's and others prior to submitting formal licence applications
  - ensure applicants meet their statutory obligations to publicise their applications; advertising in a local newspaper and posting a notice at or near the premises – when such notices are not visible 24 hours per day, are removed or become defaced the Council will require them to

be replaced and if appropriate the consultation time period to be restarted

- advertise applications for new or variation to existing licences or certificates on the Council's website
- alert ward members and parish/town councils of applications in their areas to enable them to discuss matters with residents should they wish
- alert all local councillors of applications on a weekly basis through the Members Bulletin
- include a link to the webpage containing notices of application in the Network email that residents can subscribe to
- assist residents to register on public access so that they can be notified if an application is received relating to a particular premises

9.20 When deciding on applications, it would be particularly helpful if members of the public making representations could provide the following:

- whether the representation is for or against the application
- reference to concerns over the undermining or potential undermining of the Licensing Objectives (as determined by legislation and listed in the council's Licensing Policy)
- evidence to support the above

## **9.21 How comments made by members of the public feed into the decision making process**

9.22 So long as comments from members of the public are relevant (this term is explained below) and are received by the Council within the consultation period, they will be fed into the decision-making process. Thus, comments from members of the public have a significant role to play in the decision making process. The Council will share comments with other responsible authorities where the comments relate to that authority's remit. This will:

- provide information which the responsible authority can draw on when considering what representations, if any, it wishes to make

- assist the responsible authority in determining what conditions, if any, it would wish to see attached to a grant approval
- enable the responsible authority to assess whether it needs to carry out any further investigations itself

9.23 The Council will share comments with the applicant as required by law. This will:

- assist the applicant to better understand how the proposal could impact on local people
- enable the applicant to make amendments to, or withdraw, the application to mitigate or allay concerns raised
- provide the applicant with the opportunity to better explain what is proposed and/or address any misunderstandings; this in itself may mitigate or allay concerns

9.24 To be a valid representation then the person making the representation must be clearly identifiable and give their address. The representation must be 'relevant', and must not be 'vexatious' or 'frivolous'.

9.25 A representation is 'relevant' if it is argued that the granting of the licence would be likely to have a negative impact on at least one of the licensing objectives:

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

9.26 So, for example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant as prevention of a detrimental impact on other commercial premises is not one of the four licensing objectives.

9.27 A representation may be considered 'vexatious' if it appears intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses.



- 9.28 'Frivolous' representations are essentially those lacking seriousness. Frivolous representations could concern issues which are, at most, minor and/or for which no remedial steps would be warranted or proportionate.
- 9.29 Any person who is aggrieved by a rejection of their representations as either vexatious or frivolous may lodge a complaint through the Council's corporate complaints procedure. A person may also challenge the Authority's decision by way of judicial review.

### **9.30 Determining applications**

- 9.31 Where at all possible, the Council will assist in enabling the applicant and those making representations to find common ground thus mitigating or removing the concerns raised. As stated above, however, the timescale for this is extremely tight.
- 9.32 If the issues raised by members of the public cannot be mitigated by the applicant through informal discussion, nor allayed to the satisfaction of the responsible authorities, then the council will, within 20 working days of the close of the consultation, hold a public hearing of the Licensing Committee, or a Sub-Committee, to consider and determine the contested application. This also applies to contested applications for variations to a licence or a review of a licence.
- 9.33 At the hearing all responsible authorities and other persons who have made valid representations will be entitled to attend and make their representations in person. Those who have made representation do not have to attend and all valid representations whether made in person or in writing will be considered.
- 9.34 The Council's Licensing Committee, or a Sub-Committee of this Committee, will consider the oral and written evidence before them. In determining the weight to place on the evidence before them, the members of the Committee will consider how the application supports or otherwise affects the licensing objectives engaged by the representations.
- 9.35 These four objectives underpin the Council's Licensing Policy.

- **the prevention of crime and disorder**

- **public safety**
- **the prevention of public nuisance and**
- **the protection of children from harm.**

9.36 The Licensing Committee, or Sub-Committee, will generally give its determination on the day of the hearing. However, regulations allow the authority to make its determination within a maximum period of five working days beginning on the last day on which the hearing was held.

## **10.0 Monitoring of the licensing function**

- 10.1 The Police, fire authority and other responsible authorities will be encouraged to report to the Council annually on the operation of the licensing function.
- 10.2 The Licensing Committee will receive Quarterly reports on the licensing function to ensure oversight of these areas of regulation and allow the Authority to evidence that it is fulfilling its statutory responsibilities.

## **11.0 Administration, exercise and delegation of power**

- 11.1 The Licensing Committee will consist of between ten and fifteen Councillors that will usually meet three times per year, but at least annually. The Council will review this Policy at least every 5 years. Any substantive changes to the Policy will include a full consultation.
- 11.2 Sub-Committee(s) of 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.
- 11.3 The Licensing Committee will deal with other licensing matters not associated with the Licensing Act 2003.
- 11.4 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 for that application.

- 11.5 A Sub-Committee may refer 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 or vote on any question, to the Licensing Committee.
- 11.6 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.
- 11.7 The Licensing Committee takes seriously its obligations under other legislation for example the Equalities Act 2010 and the Human Rights Act 1998.
- 11.8 The Council's authorised officers will deal with all other licence applications where either no representation has been received, or where representations have been received and it is agreed by all the parties that a hearing is not necessary.
- 11.9 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, vexatious or repetitious. Where representations are rejected, the person making that representation will be given written reasons why that is the case.
- 11.10 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.

## **12.0 Enforcement and Inspection**

- 12.1 Licensing Authorities are required to state the principles to be applied by the Authority in exercising enforcement functions under the Act, both in terms of the inspection of premises and in instituting criminal proceedings in respect of specified offences.
- 12.2 The Licensing Authority will be led by the Guidance in respect of the inspection of premises and the powers to institute criminal proceedings, and will endeavour to ensure that enforcement and compliance actions are:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
  - **Consistent:** rules and standards must be joined up and implemented fairly;
  - **Transparent:** regulators should be open, and keep regulations simple and user friendly;
  - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 12.3 The Council's enforcement action needs to be targeted. Decisions about which premises to investigate will be:
- reactive – based on a specific complaints or resulting from intelligence from partners that strongly suggests a breach of the licence has occurred/is on-going; and/or
  - proactive – this may take the form of one-off or periodic inspections based on previous complaints.
- 12.4 The Licensing Authority may arrange for the inspection of premises, both licensed and otherwise, in response to specific complaints about those premises and the provision of unauthorised licensable activities therein. The Licensing Authority may also, from time to time, arrange a programme of risk-based inspections of licensed premises, consistent with the principles expressed throughout this document. Should officers witness offences or breaches of an authorisation during an inspection, appropriate action will be taken.
- 12.5 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 them to the appropriate authority.

- 12.6 Where possible 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 a more serious offence, which has either been committed over a period of time or which jeopardises public safety may result in a referral for prosecution.
- 12.7 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Delivery Office (BRDO) in its consideration of the regulatory functions of Local Authorities.
- 12.8 The Licensing Authority shall also have regard to any corporate enforcement policy published by East Herts Council.
- 12.9 Where the power to make representations or initiate reviews on behalf of the Licensing Authority is utilised, proper separation of functions will be ensured by having different officers conduct the different functions (for example, if a licensing enforcement officer makes a representation, they will have no involvement in the administration of the application itself).
- 12.10 A number of licence-holders with multiple outlets have formed primary authority partnerships, under which they receive 'assured advice' from a single local authority in respect of one or more regulated aspects of their business – for example, preventing underage sales of age-restricted products. Where we have concerns around a premises whose operator has formed a primary authority partnership relevant to the issue in question, we will consult with the primary authority prior to taking any formal action.
- 12.11 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.
- 12.12 When applications are received that have a statutory requirement for consultation officers will check that notices are correctly displayed in compliance with the requirements of the legislation.

## **12.13 Raising concerns about licensed premises**

12.14 Given the Council's desire to be as responsive as possible to concerns, it is likely that most enforcement action will be reactive. It is therefore paramount that individuals, organisations and other authorities report incidents and concerns about specific licensed premises when they arise so that timely investigation and intelligence gathering can take place.

12.15 Wherever possible, the Council would expect such concerns to be raised with the Premises Licence Holder or Designated Premises Supervisor in the first instance. Often, the business may not have realised that its operation is causing nuisance or problems and raising the issue is sufficient to ensure a prompt and adequate remedy.

12.16 Complaints can be made directly to Licensing Enforcement Officers at: [licensing.enforcement@eastherts.gov.uk](mailto:licensing.enforcement@eastherts.gov.uk).

## **12.17 Dealing with complaints**

12.18 In all instances complaints received about licensed premises, events and activities will be recorded.

12.19 If raising concerns directly with particular premises does not remedy the situation or is not appropriate, the Council may become involved. In such circumstances, the Council may:

- arrange meetings between various parties, including members of the public if appropriate, to jointly explore how best to remedy the situation
- direct the Premises Licence Holder or Designated Premises Supervisor, business owner or occupier, as appropriate, to take action. This could take the form of issuing advice and guidance or may be more directive, for example, though not limited to, requiring specific remedies for noise nuisance or imposing variations to the conditions of the licence via a review
- visit the premises in an attempt to witness the problem directly

12.20 Sometimes, issues may arise within an area or on a particular street where it is not clear which establishment(s) is causing the issues. It can be the case that an issue arises from the interaction of venues and patrons purely because of the geographical proximity, for example, a pub or club, late night food take-away and/or taxi ranks all located in close proximity may encourage concentrations of noise and/or other nuisance.

- 12.21 In the short-to-medium term, in such circumstances Council officers will seek to identify which establishment(s) is/are causing the issues and then make appropriate interventions as discussed above.
- 12.22 In the longer term, the Council, in its wider capacity than simply being the Licensing Authority, recognises it has a role to play with partners in identifying, addressing, mitigating and if at all possible designing-out the types of nuisance that can arise from the night time economy.

### 12.23 Partners' roles in enforcement activities

- 12.24 Enforcement activity may be undertaken by one or more of the responsible authorities separately based on the extent to which the issue in question relates to their particular jurisdiction.
- 12.25 The statutory guidance issued to Licensing Authorities by the Home Office under section 182 of the Licensing Act 2003 (last amended in 2018) states at 9.15:

*"It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority".*

- 12.26 On that basis the lead authorities would be:
- **Crime and disorder** – Hertfordshire Constabulary
  - **Noise and other nuisance** – East Herts Council as Environmental Health
  - **Public safety issues** – East Herts Council as Environmental Health; Hertfordshire County Council as Fire Authority
  - **Prevention of children from harm** - Hertfordshire Constabulary; Hertfordshire County Council as Social Services and Education Authority.

12.27 Where the issues are wider, enforcement may be taken by the responsible authorities working together in partnership. The Council is committed to partnership working. This could involve, for example:

- sharing intelligence, joint monitoring visits and intervention meetings with licence holders
- bringing forward a review of the licence for an individual licensed premises
- seeking changes to the East Herts Council's Statement of Licensing Policy on the basis of the evidence for, and articulation of, particular amendments.

## **13.0 Reviews**

13.1 A Responsible Authority or any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising at the premises which may have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Sub-Committee at a hearing.

13.2 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, local residents or businesses and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation.

13.3 Responsible authorities are encouraged to give an early warning of concerns about problems identified at the premises concerned and of the need for improvement although it is recognised this is not always practicable or desirable. It is expected that a failure to respond to such warnings would lead to a decision to request a review.

13.4 Similarly those persons other than responsible authorities who are seeking a review are encouraged to take initial steps such as:

- Asking the Licensing Authority to talk to the licence/certificate holder on their behalf
- Asking their local MP or Councillor to speak to the licence/certificate holder on their behalf
- Talking to the relevant responsible authority to establish whether there is other action that can be taken to resolve the problem



- 13.5 We will expect that any party making an application for a licence to be reviewed will prove the facts that they are relying on to support their allegations on the balance of probabilities, that is, that it is more likely than not that the circumstances being complained of did actually occur. Because of the potentially serious consequences to a licence holder following a licence review, mere anecdotal or hearsay evidence will not be sufficient.
- 13.6 Following a review, the Authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available are:
- to modify the conditions of the premises licence
  - to exclude a licensable activity from the scope of the licence;
  - to remove the designated premises supervisor
  - suspend the licence for a period not exceeding three months;
  - revoke the licence;
  - take no action.
- 13.7 In its role as the Licensing Authority we will offer the same level of support and guidance to those wishing to apply for the review of a licence as we would to those seeking to apply for a new licence.

## **14.0 Appeals**

- 14.1 Where the Licensing Authority's discretion has been engaged and a decision reached on a particular application, any party to the proceedings (including residents) aggrieved by a licensing decision is (in most cases) entitled to appeal to the Magistrates Court within 21 days of the receiving the decision notice.
- 14.2 Where there is a right of appeal the relevant parties will be notified of this right when they are issued with the decision.

## **15.0 Operating schedules**

- 15.1 Steps to promote the licensing objectives<sup>12</sup>

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<sup>12</sup> Revised guidance under s 182 Licensing Act 2003 issued April 2018, 8.41 – 8.45, <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

*“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. ‘*

- 15.2 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.

## **16.0 Conditions**

- 16.1 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 two circumstances:
1. where the applicant volunteers them as part of their operating schedule; and/or
  2. on receipt of relevant representations from potentially affected parties, or responsible authorities.
- 16.2 Where applicants volunteer conditions as part of their operating schedule our officers will draft appropriate conditions for premises licence and club registration certificates which reflect the intention of the applicant.
- 16.3 We have produced a separate document containing a pool of model conditions for premises licences and club premises certificates. Applicants are under no obligation 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.

16.4 Conditions attached to premises licences or club premises certificates 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.

16.5 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.

16.6 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 diverse offering, 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) transport/dispersal provision, particularly during periods when public transport is unavailable;
- (6) style and type of venue. The licensing authority wants to attract only high-quality operators who can provide a safe and professional environment, characterised by a range of activities and offers that would appeal to individuals of all backgrounds. This type of offering 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.
- (7) involvement in local community events and organisations
- (8) commitment to involvement in Community Safety Partnership (CSP) initiatives
- (9) use of pavement licences for outdoor table areas.

16.7 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.

## **16.8 Mandatory Conditions**

- 16.9 Applicants for relevant licences and particularly licence holders of relevant licences need to be aware of the mandatory conditions that apply to their licence.
- 16.10 Responsibility for compliance with the relevant mandatory conditions fall to a 'responsible person' which is defines as:
1. The licence holder;
  2. The designated premises supervisor; or
  3. Any individual 18 or over who is authorised by either 1 or 2 above.
- 16.11 The mandatory conditions deal with matters such as: designated premises supervisor, authorisation by personal licence holders, irresponsible drink promotions (drinking games, large quantities of alcohol for free or a fixed price, prizes and reward, posters and flyers), dispensing alcohol directly into a mouth, free potable water, age verification, smaller measures, ban on sales of alcohol below the permitted price, exhibition of films and door supervision.
- 16.12 The Police, in their role as a responsible authority under the Licensing Act 2003 have highlighted concerns over irresponsible drinks promotions and the proliferation and popularity of 'Bottomless Brunches', which may have a negative impact on the licensing objectives. As such we feel it is important to address this point in the current revision of the policy.
- 16.13 The 'responsible person' as defined in 16.10 above must be careful not to breach the mandatory conditions, or any other conditions on a licence, when offering a drinks promotion.
- 16.14 If you want to run a promotion offering bottomless alcohol, it is important that this is done and managed properly to avoid any premises licence reviews or other issues:
1. Ensure the way the promotion is communicated and advertised is done responsibly so that customers understand the need to enjoy the promotion responsibly.
  2. The promotion should be subject to some kind of fair use policy and the business must retain the right to refuse alcohol to anyone who appears to be intoxicated and who may be causing issues.
  3. Promotions should ideally be time limited. This makes good commercial sense but is also good due diligence so that the provision of alcohol is not "unlimited or unspecified quantities of alcohol".

4. If any such promotion appears to be causing crime, disorder or nuisance at your premises, or in the vicinity, you should consider whether to cease the promotion or change it.
5. The inclusion of food within a promotion containing alcohol does not automatically preclude it from being an irresponsible promotion.

16.15 Any promotion will be considered on its own merits to see if it possesses a 'significant risk' of breaching one or more of the licensing objectives. If it does then it could be argued that it is an irresponsible promotion that can result in a review or a prosecution pursuant to section 136 of the Licensing Act 2003.

## **17.0 Special Licensing Policies**

17.1 There are several types of special licensing policy which a Licensing Authority is entitled to adopt, to help it regulate the provision of licensable activities within its area.

### **17.2 Cumulative Impact**

17.3 Cumulative impact is the term used to describe the impact, potential or actual, of a large number of licensed premises concentrated in a single locality. In terms of the licensing objectives, this may be evidenced by an increase in incidents of crime, disorder or public nuisance, over and above the impact of the individual premises themselves.

17.4 The cumulative impact of licensed premises on the promotion of any of the licensing objectives is a matter that the Licensing Authority can take into account in determining its Licensing Policy. This should not, however, be confused with any question of 'need' which relates to the commercial demand for a particular type of premises (for example, a pub, restaurant or hotel). The issue of 'need' is a matter for market forces to influence and for the planning authority to regulate, and so does not form part of this Policy statement.

17.5 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.

- 17.6 The Licensing Authority notes that, in accordance with the Guidance, it may adopt a special policy in response to a cumulative impact issue in a defined area. Consideration of such a policy may be prompted by submissions from responsible authorities or other persons, evidenced appropriately and linked to one or more of the licensing objectives. Where such a policy has been adopted, the issue of cumulative impact can be taken into account when considering the individual merits of any application within the area defined within that policy.
- 17.7 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.
- 17.8 Hertford Town Centre  
During the drafting of this revision of the Policy a number of parties raised the issue of the cumulative impact of the licensed premises within Hertford Town Centre. The Licensing Authority has engaged with the Police and Public Health and has undertaken to examine the evidence available of the cumulative impact of licensed premises in the area.
- 17.9 Whilst this policy has been determined to cover 2021-26 we have an obligation to keep it under review during that period and make revisions where we consider it appropriate. If during the life of this document we are presented with evidence to support a special policy anywhere within the District we will not hesitate to act.
- 17.10 If such a policy were adopted it would not override the duty on the Licensing Authority to consider each application on its own merits. Such a policy would introduce a presumption of refusal of applications for new premises licences or variations of existing premises licences within a defined area except where the applicant can demonstrate that the grant would not negatively impact on the relevant licensing objectives (normally the Prevention of Crime and Disorder and Prevention of Public Nuisance).
- 17.11 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.

17.12 In coming to any decision about cumulative impact the Licensing Authority will have regard to other mechanisms outside of the licensing regime which may be available to address this issue.

17.13 When dealing with cumulative impact issues, the Licensing Authority recognises that, as well as licensing functions, there are a number of other mechanisms for addressing issues of nuisance, disorder and anti-social behaviour occurring away from licensed premises. These may include:

- planning controls;
- measures to provide a safer and cleaner environment in partnership with local businesses, transport operators and other departments of the Council;
- the provision of CCTV surveillance in town centres, taxi ranks, street cleaning and litter patrols;
- powers for a local authority to protect public spaces from the effects of anti-social consumption of alcohol, enabling police and accredited persons to confiscate alcohol;
- enforcement of the law relating to disorder and anti-social behaviour, including the issue of fixed penalty notices or other sanctions under the Anti-Social Behaviour, Crime and Policing Act 2014;
- the prosecution of any personal licence holder or member of staff at licensed premises who is selling alcohol to children or people who are drunk;
- powers to close down instantly any premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from premises causing a nuisance;
- the power for responsible authorities or other persons to apply for a review of a premises licence or club premises certificate; or
- other local initiatives that similarly address these problems.

### **17.14 Early morning alcohol restriction orders (EMARO's)**

17.15 To promote the licensing objectives, a Licensing Authority may utilise powers under the Act to pass an early morning alcohol restriction order. Such an order would prohibit the sale of alcohol from any premises within

an area defined in the order between specified times (which may extend from midnight until 6 a.m.) on specified days.

17.16 It is envisaged that this power will only be used in response to severe and recurring issues arising from the supply of alcohol in the night-time economy, such as high levels of alcohol-related crime and disorder in specific areas at specific times, which cannot be attributed to an individual premises. The Licensing Authority views this as a 'last resort' option, for use after other tools have been unsuccessful in remedying the issue.

17.17 At the present time, East Herts has not utilised the provisions of the Act to pass an early morning alcohol restriction order, and has no current plans to do so. Should this position change, full details will be published on our website and notified to all licensed premises that would be affected.

### **17.18 Late night levy**

17.19 Part 2 of the Police Reform and Social Responsibility Act 2011 introduced a new power for Licensing Authorities to establish a 'late night levy'. Licensed premises within the area of a Licensing Authority which has adopted such a requirement will be required to pay an additional annual fee if they are licensed to supply alcohol within a late night period set by the Authority (generally between midnight and 6 a.m., although shorter periods are permissible).

17.20 Where a levy requirement has been adopted, the Licensing Authority will be responsible for the collection of the appropriate amounts from licence-holders. After deduction of administration costs, not less than 70% of the net proceeds of the levy must be paid by the Licensing Authority to the local Police force, which may be used (but is not required to be) to offset the costs incurred in policing the night time economy arising from the alcohol supplies permitted from affected licensed premises. The remaining amount may only be applied on purposes prescribed in Regulations, namely arrangements connected with the late night supply of alcohol for one or more of the following functions:

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

- 17.21 At the time of writing, East Herts has not adopted the provisions of the 2011 Act relating to a late night levy, nor is it currently intended to do so.

## **18.0 Public health and well-being**

- 18.1 It is against the background of warnings from Public Health Herts about the impact of alcohol abuse upon our populations' health and well-being that the Executive Member supported by the East Herts Licensing Committee recognised the need to incorporate public health and well-being concerns within its Statement of Licensing Policy and its decision-making process.
- 18.2 East Herts Council's Environmental Health services and the Licensing section already work closely together. The service 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.
- 18.3 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.
- 18.4 The Council has considered the potential role of Public Health within licensing and this Policy has considered the revised s.182 Guidance at length.
- 18.5 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.

- 18.6 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.
- 18.7 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 well-being considerations.

## **18.8 Cardiff Model data**

- 18.9 Public Health may also hold (or have access to) health data concerning individual premises – for example, ‘Cardiff Model’<sup>13</sup> data of alcohol-related admissions to hospital emergency departments. Such data may be of particular use to the Licensing Authority when it considers an application for review of an existing licence or certificate, and the Licensing Authority encourages responsible authorities who are bringing reviews to liaise with Public Health and examine whether any such data supports, or conflicts with, the grounds on which a review has been brought.
- 18.10 The Licensing Authority notes that there are limitations to such data – for example, the Cardiff Model generally only specifies the last premises attended by a casualty, and may not detail any other premises where they consumed alcohol earlier in the evening, or any alcohol consumed at home (a practice widely known as ‘pre-loading’). For this reason, the Licensing Authority will carefully examine any such data presented in support of a representation or review. It is considered unlikely that action will be taken based solely on Cardiff Model data – however, such data may act to reinforce other evidence presented in respect of a particular case,

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<sup>13</sup> <https://www.cardiff.ac.uk/crime-security-research-institute/publications/research-briefings/the-cardiff-model>

or may be indicative of an issue in a particular area requiring further investigation.

- 18.11 Health data relating to alcohol consumption by children will also be considered carefully by the Authority, as it may indicate a particular geographic area where children are gaining access to alcohol. Such data may be correlated with complaints and reports of underage sales to inform and influence future enforcement operations undertaken by the Licensing Authority and responsible authorities.

## **19.0 Planning permission**

- 19.1 Any premises which are the subject of an application for a licence should preferably have a permitted or lawful use under planning legislation already in place. If the premises do not have this, then it will need to be obtained separately before licensed activity can lawfully take place.

### **19.2 Expressing views through the planning process**

- 19.3 Another key route by which stakeholders can express their views is through the planning process, either when neighbourhood plans are being developed or when particular planning applications are considered. The mechanisms and procedures governing how interested parties can input to planning decisions is covered in the council's planning policies: <https://www.eastherts.gov.uk/planning>

### **19.4 Interplay between planning decision making and licensing decision making**

- 19.5 While the development control and planning consent processes are separate jurisdictions to licensing decision making there are links between them. The Council as a planning authority is a responsible authority under the Licensing Act 2003. Intelligence sharing and representations are routinely made between officers involved in processing applications under the two decision making regimes. The decision making processes and enforcement criteria under each regime, however, are different so that action taken in response to particular circumstances involving a given venue may not be the same under both regimes.

- 19.6 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.
- 19.7 Where representations have been made by the Planning Authority on grounds that the application will undermine the licensing objectives unless planning permission has been obtained, and we resolve to grant a premises licence or club premises certificate, it may be subject to a condition that it will be of no effect until the appropriate planning permission has been granted by the Local Planning Authority.
- 19.8 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.
- 19.9 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.

## **20.0 Festivals and outdoor events**

- 20.1 The Licensing Authority recognises the contribution that well-run outdoor events bring to local communities, and is pleased to support events which are run in a manner that will promote the licensing objectives.
- 20.2 The organisation of outdoor events of any size is a significant undertaking, with a multitude of issues which must be taken into account. Licensing is only one aspect of the regulation and control of such events.
- 20.3 Generally we would expect the organisers of all outdoor events to follow the advice contained in the "Purple Guide" when planning their event. This document contains guidance written by and for the events industry in

respect of safety and welfare aspects of event management, and replaced earlier guidance issued by the Health and Safety Executive.

- 20.4 For larger events, taking place under the authority of premises licences, it is recommended that organisers consider engaging professional advice and assistance, particularly with regards to issues which may affect public safety.
- 20.5 The Authority will expect the organisers of any large events (taking place under the authority of a premises licence) or events which include special risk factors to consult the East Herts Safety Advisory Group (SAG) while planning their event, and to implement any reasonable recommendations made by the group. The SAG is a multi-agency body, which includes representatives of the Licensing Authority, responsible authorities and other statutory bodies who have involvement in the organisation and safe running of events<sup>14</sup>.
- 20.6 Prior to applying for a licence, event organisers will need to secure permission from the appropriate landowner for the site on which they intend to hold their event. In the case of public land which the Council is responsible for managing, including parks and common land, approaches should be made to the Assets & Estates team within the Strategic Finance & Property service.
- 20.7 One of the major concerns arising from outdoor events is disturbance to local residents from noise associated with music entertainment at the event, or other noisy equipment such as generators, public announcement systems, fireworks, and so on. The Licensing Authority will expect to receive a comprehensive operating schedule from applicants, containing appropriate proposals to control such issues and promote the prevention of public nuisance licensing objective. Depending on the size and nature of the event it is likely this will need to include a comprehensive Event Management Plan (EMP) integrating a specific Noise Management Plan.
- 20.8 Where the nature of an event means an Event Management Plan, or other similar document, is required it is likely that the responsible authorities

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<sup>14</sup> Small scale events may still benefit from contacting the East Herts Safety Advisory Group: <https://www.eastherts.gov.uk/community-wellbeing/community-events>

will need the final version of these documents to be provided 6 weeks in advance of the event start date. This sort of time scale allows the responsible authority time to properly consider the documents, respond with any concerns and then those concerns to be addressed in good time. Late submission of complex and lengthy documents is likely to result in representations being made against applications.

- 20.9 To mitigate concerns, as far as, possible early engagement with those likely to be affected by an event is expected. Simply fulfilling the statutory obligation to advertise is likely to trigger representations and raise concerns more than if there has been early engagement. Please refer to the section of this Policy that deals with “Pre-application advice & engagement” for further details.

## **20.10 Use of multiple Temporary Event Notices for a single event**

- 20.11 It has become increasingly common for larger scale events where licensable activities are taking place to be covered by multiple Temporary Event Notices (TEN's).
- 20.12 Whilst this will often be perfectly legal, it is important that sufficient formal planning is carried out for such events in order to reassure the Police and Environmental Health that the event can take place in such a way that the licensing objectives are promoted.
- 20.13 It is also important that organisers take suitable steps to ensure that they can be confident that they will not be inadvertently breaching licensing laws when running events in this way.
- 20.14 Organisers should consider using the East Herts Safety Advisory Group and whether seeking pre-application advice would be worthwhile.

## **21.0 Circuses**

- 21.1 It is clear that authority is needed under the Licensing Act should a circus sell alcohol or provide late night refreshment.
- 21.2 In addition, The Legislative Reform (Entertainment Licensing) Order 2014 deregulated entertainment in travelling circuses provided that the following qualifying conditions are met:



- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- the entertainment takes place between 08.00 and 23.00 on the same day;
- the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- the travelling circus has not been located on the same site for more than 28 consecutive days.

21.3 The position is less clear in terms of regulated entertainment, and we are aware of extremes in approaches by Licensing Authorities across the country. It is this Authority's opinion that the incidental music to a circus performance is not licensable, clowns may not necessarily be playing a dramatic role qualifying as a theatrical performance, trapeze artistes are not engaged in indoor sports and film performances are rarely included.

21.4 Evidence nationally indicates that circuses are low risk, pose no significant risk to the licensing objectives, add value to the cultural activities of a town, and are regulated by other means including compliance with the Health and Safety at Work etc. Act 1974.

## **22.0 Garages and motorway service areas**

22.1 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 diesel (derv);
- the sale of motor vehicles; and
- the maintenance of motor vehicles.

22.2 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.

22.3 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.

- 22.4 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.
- 22.5 Where insufficient evidence exists to establish primary use, we will decide whether or not grant a licence and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.
- 22.6 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.
- 22.7 Where relevant representations have been made and a Licensing Sub-Committee will be the determining the application we shall treat it as an off-licence, as defined in this Policy.
- 22.8 Paragraph 5.23 of the statutory guidance issued under the Act makes it clear that the Licensing Authority 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.

## **23.0 Security and CCTV**

- 23.1 Under a mandatory licence condition, any person engaged to work at licensed premises who is carrying out a prescribed security activity, as specified under the Private Security Industry Act 2001, must be correctly

licensed to carry out that function by the Security Industry Authority, or otherwise authorised under an approved contractor scheme or similar.

- 23.2 The Licensing Authority will expect applicants for licences to consider whether they may need to employ security personnel when compiling their operating schedules. This expectation will not just apply to premises licensed for the supply and consumption of alcohol, but any premises which may potentially experience disorder.
- 23.3 Premises which are licensed for the supply of late night refreshment, located either in Town Centre locations or on primary dispersal routes from such locations, and which cater primarily for the night-time economy may in particular need to consider whether security personnel will be necessary, both to safeguard their premises against damage, and to prevent outbreaks of disorder among customers who may be intoxicated.
- 23.4 Where a premises experiences regular incidents of disorder and does not employ security personnel to guard against this, the Licensing Authority may consider the imposition of licence conditions mandating their provision, on receipt of an application to review a licence.
- 23.5 Where a premises has a policy of searching patrons prior to entry, searches should only be carried out by security personnel of the same gender as the customer who is being searched. This will mean that such premises will need to employ a minimum of one male and one female door supervisor.

## **23.6 CCTV**

- 23.7 The Licensing Authority will have regard to the Surveillance Camera Code of Practice<sup>15</sup>, in particular paragraph 1.15, which highlights that the blanket imposition of licence conditions requiring CCTV systems to be operated in licensed premises without strong justification would be contrary to the first principle of the code. The imposition of CCTV conditions will, like all other matters relating to authorisations under the Act, be considered on a case-by-case basis, taking into account the circumstances and individual merits of the case in question. The Licensing Authority may still impose conditions requiring the operation of CCTV, if it

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<sup>15</sup> <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice> (June 2013)

is considered necessary to meet an identified pressing need and for a specified purpose, in addition to being appropriate for the promotion of one or more of the licensing objectives.

23.8 In the absence of a condition requiring it, it will be for the licence-holder to decide whether to operate a CCTV system in their premises. The Code of Practice, while binding on public authorities, is voluntary for private operators, although adherence to the principles therein is encouraged.

23.9 Where CCTV is in use in licensed premises, the Licensing Authority will expect its use to comply with the provisions of the Data Protection Act. In particular, this will mean that:

- the licence-holder must register with the Information Commissioner as a Data Controller
- clear signage is displayed advising of the usage of CCTV
- the CCTV is under the control of and accessible only by management and supervisory staff, who are conversant in its usage
- the licence-holder has a clear policy on the retention of recorded images, and disposes of them after a set period (typically around 28 days) unless an incident is reported

23.10 To ensure the most effective use of CCTV, it is also encouraged that:

- the date and time on the system is correctly set
- the system is kept operational at all times while the premises are open to the public
- there is camera coverage of the key parts of the premises, including all entrances/exits, bars, checkouts and dancefloors
- where recordings are required by police to assist in an investigation, that these can be accessed and supplied within a reasonable period – a maximum of 24 hours from receipt of a request is suggested

23.11 Hertfordshire Constabulary's crime prevention officers can offer advice on the installation and setup of CCTV systems to ensure best evidential quality.

## **24.0 Drugs and new psychoactive substances**

24.1 The Licensing Authority expects all licensed premises to adopt suitable measures to detect and discourage persons from using controlled drugs (which for the purposes of this section means substances which are proscribed under the Misuse of Drugs Act 1971) while on those premises. Examples of such measures may include, but are not limited to, the following:

- Ensuring a highly visible staff presence throughout the premises
- Regular checks by staff of ancillary areas such as lobbies, toilets, cloakrooms and corridors
- Redesigning toilet facilities to remove horizontal surfaces, and niches and other areas where illicit items could be concealed
- Ensuring that all staff, and door staff in particular, are trained to recognise visible signs that a person is under the influence of an illegal substance, and to refuse such persons entry to the premises
- Operating robust 'search on entry' policies, with procedures in place to confiscate controlled drugs found during searches and hand these to police at the earliest opportunity
- Carrying out testing on surfaces within the premises to detect the presence of traces of controlled drugs
- Enforcing a zero tolerance policy to the use or supply of controlled drugs within the premises, ejecting or refusing entry to persons known to be linked to the use or supply of controlled drugs, and reporting to the police any person suspected of supplying controlled drugs

24.2 Where a licence holder believes that there may be an issue with the illegal use or supply of controlled drugs within their premises, they are strongly encouraged to contact Hertfordshire Constabulary for advice and assistance in remedying that issue. This may involve a degree of 'target hardening' – redesigning parts of the premises or operating procedures to more easily detect and discourage such practices. Where premises are co-operating with the Police to deal with such issues, the Licensing Authority is less likely to take action to remove or restrict the licence, than it would with premises which do not offer co-operation.

- 24.3 For the purposes of this part of the Policy, the Licensing Authority will regard new psychoactive substances (widely referred to as 'legal highs') in the same way as it does controlled drugs, and will expect that the measures taken in licensed premises to detect and discourage the use of controlled drugs will also extend to these substances, which generally mimic the effect of a controlled drug.
- 24.4 The Licensing Authority expects that licensed premises will not engage in, sanction nor condone the sale or supply of new psychoactive substances in or from their premises, and may seek to take enforcement action against premises that are found to be doing so.
- 24.5 The Licensing Authority recognises that Government has committed to strengthening the legislation around the supply and use of new psychoactive substances and welcomes such moves.

## **25.0 Modern slavery**

- 25.1 Modern slavery is a crime. The UK [Modern Slavery Act 2015](#) includes the following under the offence of modern slavery:
- Slavery, where ownership is exercised over a person
  - Servitude, where a person is obliged to provide services imposed by coercion
  - Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily
  - Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them
- 25.2 Modern slavery happens everywhere, including here in the UK. It operates in plain sight and can affect businesses without them even knowing. In the UK, estimates go as high as 136,000 when quantifying the number of hidden victims living in conditions of slavery. In the European hospitality sector, which includes bars and restaurants, a recent study found 110,000 victims of exploitation annually. Government agencies in the UK have specifically identified hospitality as a high-risk area for modern slavery.

- 25.3 Due to the nature of footfall seen in many licensed premises, employees may identify issues, which should be reported. However, it is also crucial that all businesses, including licensed premises, understand how they might be affected so that they can take steps to reduce the risk. Exploitation accounts for all situations that stray away from 'decent work', from labour market infringements and abuse, all the way to more severe forms of exploitation.

**Licensed premises might be unwitting hosts to modern slavery in two ways:**

1. Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.
2. Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.

## **25.4 Mitigating Exploitation Risks to Workers**

- 25.5 Licensed premises should be aware of and meeting their obligations under all relevant legislation, including the Modern Slavery Act 2015, The Conduct of Employment Agencies and Employment Businesses Regulations 2003 and the National Minimum Wage Act 1998.
- 25.6 Examples of labour market infringements that have been known to be experienced by employees of licensed premises include: 1) Long hours, 2) insufficient pay (e.g. non-payment of minimum wage), 3) poor working conditions e.g. denial of sick pay and other entitlements, 4) bogus self-employment; and 5) control by an unscrupulous third-party agency.
- 25.7 Other examples of labour market infringements include: 1) Lack of personal protective equipment (PPE); 2) Few or no breaks; 3) Demeaning treatment; 4) Retention of identity documents or valuable possessions, 5) Restriction of movement or confinement to the workplace; and 6) Threat of denunciation to authorities (mainly illegal migrant workers).
- 25.8 There are also specific examples of practice that sometimes occur within licensed premises, which can create vulnerability and increase the risk of exploitation of drivers and office staff. In certain sectors, the use of fixed

pay, part-time and/or zero-hour contracts is a common practice, which can lead to underemployment or workers being paid below minimum wage. It is important that licensed premises owners and managers take account of their own anti-slavery policies and practices, as well as those of subcontractors and third-party agencies.

25.9 Owners and managers of licensed premises are responsible for ensuring that their employees' rights are upheld. A licence holder can work to prevent labour exploitation and modern slavery by taking steps to mitigate the risks of exploitation and undertaking effective due diligence. Steps to take include the following:

1. Promoting awareness of worker rights. Specifically, providing **every worker with a written contract** in a language they understand detailing working hours, pay/overtime rates, deductions (if any), holiday and sick pay entitlements and accommodation arrangements (if relevant)
2. Ensuring **clear reporting channels for grievances and whistleblowing** are clear and that workers are made aware of these procedures (see Section 25.14: Identification and Reporting)
3. **Conducting internal checks and checks of subcontractors** i.e. check payroll to ensure worker's wages are paid directly to them, that workers are being paid the national minimum wage at a minimum, and that no workers have paid any fees related to their recruitment. Also speak to workers directly.
4. Committing to **uphold high ethical standards**.
5. Ensuring that **all worker communications are translated** into the languages that make up the licensed premise's workforce. (For more information on how to undertake these steps, see the Modern Slavery SME Toolkit)
6. **Raising awareness of the signs of exploitation with workers**. It is important to ensure that any independent contractors (e.g. self-employed beauticians) are in fact agreeing to a fair contract and where work, fare and contract termination are agreed by both parties.

## 25.10 Third-Party Due Diligence

25.11 Before working with a third-party agency, licensed premise owners/managers should always check that:



- The company is **licensed to provide temporary labour** to the relevant sector of your business.
- The company's directors are **not listed on the Employment Agency Standards Inspectorate's list** of people that have been prohibited from running an employment agency/business due to past misconduct.
- The company only **subcontracts with a licensed premise's authorisation** and conducts their own due diligence on subcontractors when we give permission to subcontract.
- The company has a clear **commitment to not charging recruitment fees** and to covering the cost of recruitment when sourcing workers from overseas.
- The company has an **accessible and transparent reporting mechanism** that all workers can use to report concerns or issues.
- The company **provides information to their workers** on what optional services they offer, how much they cost, and how the workers can refuse or cancel them without penalty.

25.12 In the course of working with a third-party provider of employees, licensed premise owners and managers should periodically review a sample of employee key documents to ensure required labour standards are being met. Key documents to be reviewed could include:

1. **Payslips** (i.e. to check that the number of hours match operator records, that all workers are being paid at least the NMW, that optional services are clearly indicated, and that correct taxes and national insurance contributions are being paid);
2. **Right to work checks.**

25.13 Additionally, licensed premise owners and managers are encouraged to speak with all workers directly, on occasion, to ascertain if any labour market infringements have been made

## 25.14 Identification and Reporting

25.15 Staff at licensed premises can have the power to identify and report any exploitation they encounter, whether experienced by them, a colleague, a

customer, or a client. A licence holder may ensure awareness of modern slavery by:

- Provide **regular training** to all staff on the indicators of modern slavery and how to report concerns.
- Establishing **strong relationships with local police and victims service providers**, such as the national Modern Slavery and Exploitation Helpline (0800 0121 700), in advance of any incident.

## 25.16 Reporting Protocols

25.17 Having **clear and straightforward protocols** for when an incident is discovered is crucial to ensure that victims get appropriate support. Where employees identify a potential victim, they can follow a specific internal procedure in order to protect the safety of that individual.

25.18 The procedure should **1) not be overly complex, 2) should involve senior level staff and 3) should account for when reporting should go immediately to the police** (i.e. if certain indicators are met, if the potential victim is in immediate danger, if the potential victim is a child).

**The Modern Slavery and Exploitation Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.**

## 26.0 Child Sexual Exploitation (CSE)

26.1 High-profile cases around the UK have acted to highlight the potential links between victims of child sexual exploitation and licensed premises. As licensing authorities have a statutory duty to ensure the protection of children from harm through the exercise of their licensing functions, it is important that licence-holders are aware of the potential for premises to be used by persons who are exploiting children for sexual purposes, and take appropriate measures to detect and discourage this.

26.2 Child sexual exploitation generally involves a young person being encouraged, coerced or forced into participating in a sexual relationship or activity by an adult. It frequently involves the victim being offered something in exchange for this, such as money, gifts, food, alcohol,

cigarettes, drugs, involvement in adult situations, or sometimes just attention. Victims may have been subject to a grooming process lasting for weeks, months or years.

- 26.3 There is no single model of sexual exploitation – different cases will all have different circumstances. Similarly victims can be very different. While some victims may have had troubled backgrounds, others may come from prosperous and loving families.
- 26.4 There are a number of indicators which may indicate possible child sexual exploitation. These include, but are not limited to:
- relationships which develop between a child and an adult;
  - children accompanied by a group of unrelated adults;
  - children regularly attending premises and meeting with a number of different adults, particularly if alcohol is being purchased for the child;
  - children outside of licensed premises who develop relationships with adults, particularly if alcohol is being purchased for the child;
  - children leaving the premises with unrelated adults, particularly with a group of adults;
  - children looking uncomfortable in the company of or leaving the premises with adults, or groups of adults.
- 26.5 It must be stated that not every instance of the behaviours listed above will indicate exploitation, and many interactions between children and adults will be perfectly innocent. However, if staff at licensed premises have reasonable grounds for suspicion (for example, if the child does not appear to know the adults they are with, or appears distressed) then they should be urged to report this.
- 26.6 The Licensing Authority expects licence-holders and applicants for new licences to be aware of the possibility of child sexual exploitation taking place in or around licensed premises, and to adopt suitable protective measures to assist in the detection and reporting of incidents of this. These may include:
- inclusion of child sexual exploitation issues within training programs for new and existing staff,

- written management procedures for identifying and reporting suspicious behaviour to police,
- frequent monitoring of all areas of the premises and immediate vicinity, including external areas, to detect behaviours of the types listed above.

26.7 Hertfordshire Safeguarding Children Board, in conjunction with Hertfordshire Constabulary, has produced information packs<sup>16</sup>, containing further relevant guidance to the management and staff of licensed premises, and of hotels. The Licensing Authority strongly recommends that licensed premises use these packs to raise awareness of child sexual exploitation among staff, and to formulate protocols for reporting any suspect behaviour, observed by their staff.

## **27.0 Film classification**

- 27.1 Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the Licensing Authority. Where recommendations have been made by both bodies, and the Licensing Authority has notified licence-holders of this, the Licensing Authority's recommendation will take precedence.
- 27.2 For the purposes of sections 20 and 74 of the Act, the Licensing Authority recognises the British Board of Film Classification (BBFC) as the film classification body, and will specify this body within the licences and certificates it issues.
- 27.3 The Licensing Authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or Licensing Authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 27.4 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case

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<sup>16</sup> <http://www.hertsdirect.org/services/healthsoc/childfam/childprotection/hertssafboard/childexplo/>

of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a Licensing Authority recommendation should be displayed at or near the entrance to the screening.

- 27.5 The Licensing Authority anticipates that the BBFC's recommendations will apply to the vast majority of films shown at licensed premises within the District. However in a small number of cases, the Licensing Authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the borough. Such situations can be approximately characterised in one of three groups:
- In cases where the Licensing Authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
  - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
  - In cases where the Licensing Authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 27.6 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The Licensing Authority is aware that some cinemas across the country have agreed schemes whereby the applicable Licensing Authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and very young children to special screenings of that film with only parents of such children in attendance.

- 27.7 It is recommended that any premises considering the provision of such screenings contacts the Licensing Authority to discuss the proposals firstly. The authority will typically expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.

## **27.8 Issue of recommendations by the authority**

- 27.9 When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, it is proposed that the authority will adhere to the BBFC's Classification Guidelines ([www.bbfc.co.uk](http://www.bbfc.co.uk)), and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 27.10 In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the Licensing Authority.

## **27.11 Alternate recommendations for parent and baby Screening**

- 27.12 Where the Licensing Authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Issues will be assessed on a film-by-film basis, but it is anticipated that scenes of strong violence and gore, sex and strong threat will lead to greater concern around viewing by children of that age than strong language, mild nudity and discriminatory content will.

27.13 Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

## **28.0 Promotion of Equality**

28.1 The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on 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 characteristics. The 2010 Act provides for a number of protected characteristics, as follows:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

28.2 The Licensing Authority expects that licensed premises will not discriminate against any person based solely on any of these characteristics – for example, refusing a person entry to a licensed premises on the basis of their race, gender or age.

28.3 The sole exception to this will be where such action is necessary to comply with legal requirements or licence conditions, particularly in respect of ensuring an individual's age in situations where licence-holders must restrict access to age-restricted goods or services to any person who is below the legal age for that good or service – for example, the sale of alcohol to under-18's, or admission of under 15's or under 18's to a film with a '15' or '18' certificate.

- 28.4 The Licensing Authority will also expect member's clubs to ensure that their membership rules do not result in discrimination against a person on the basis of a protected characteristic – for example, maintaining different membership classes for persons of different genders.

## **29.0 Other considerations**

- 29.1 Licensed premises are subject to many statutory requirements including fire safety, trading standards, food hygiene, health and safety, and planning. These different regulatory systems will be properly separated as described in the Guidance.
- 29.2 In addition, section 17 of the Crime and Disorder Act 1998 requires the Council when exercising its functions to do all it reasonably can to prevent crime and disorder.
- 29.3 By consulting widely prior to this policy statement being published the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.
- 29.4 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their operating schedule.
- 29.5 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Licensing Authority may, when appropriate, receive reports on:
- the needs of the local tourist economy;
  - the cultural strategy for the area;
  - the employment situation in the area and the need for new investment and employment opportunities where appropriate;
  - planning considerations which might affect licensed premises

## **29.6 Live music, dance and theatre**



- 29.7 The Licensing Authority will monitor the impact of its licensing decisions on the provision of regulated entertainment within the District, and particularly live music, dancing and plays.
- 29.8 Many events which consist solely of these activities will now fall outside of licensing requirements, following deregulation.
- 29.9 The Licensing Authority is aware of the Covenant on Economic, Social and Cultural Rights and the requirements of Article 15 which require that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. Care will be taken to ensure that only appropriate, proportionate and reasonable licensing conditions are imposed on these events.
- 29.10 Account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community of these activities.
- 29.11 When attaching conditions the Licensing Authority will generally seek to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature. However the Licensing Authority notes that on occasion it may have no choice but to impose such requirements in order to safeguard the licensing objectives – for example, requiring the installation of safety equipment to ensure the safety of persons attending an entertainment performance.

## **Appendix 1 - Consultation**

Prior to starting the consultation on the proposed revision of the Statement of Licensing Policy the Licensing Authority engaged with or created a number of reference groups to seek views and influence the contents of the Policy.

These included:

- A cross party Member reference group made up of East Herts Councillor's
- Responsible authorities group
- Licence holders group
- Hertford at Night group

All members of the Community Safety Partnership (CSP) and the Safety Advisory Group (SAG) were invited to attend meetings or share their opinions and concerns in other ways.

The draft revised Policy, which was formulated following the engagement detailed above, was put before the Member reference group for any additional comments, amendments or questions before the public consultation started.

The consultation on this Statement of 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 4 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
- Community Safety Partnership (CSP)
- Safety Advisory Group (SAG)

## **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.

Guidance means the guidance to Licensing authorities published by the Secretary of state under section 182 of the Licensing Act 2003.

Licensing Authority means East Herts Council.

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).

“the Act” means the Licensing Act 2003.

## **Appendix 3 – Useful resources**

The links below were accurate at the time of publication of the Policy

### **Age verification**

No ID No Sale campaign - [www.noidnosale.org](http://www.noidnosale.org)

### **Alcohol awareness**

Drinkaware - [www.drinkaware.co.uk](http://www.drinkaware.co.uk)

### **Alcohol promotions**

Code of Practice of the Naming, Packaging and Promotion of Alcoholic Drinks (Portman Group) - [www.portmangroup.org.uk](http://www.portmangroup.org.uk)

### **Child sexual exploitation**

Operation HALO (Hertfordshire Constabulary) -

<https://www.herts.police.uk/Information-and-services/Advice/Child-sexual-exploitation/Halo>

Say Something If You See Something resources (Hertfordshire Safeguarding Children's Board) -

[www.hertsdirect.org/services/healthsoc/childfam/childprotection/hertssafboard/childexplo/](http://www.hertsdirect.org/services/healthsoc/childfam/childprotection/hertssafboard/childexplo/)

### **Counter-terrorism**

Protecting Crowded Places from Terrorism (National Counter-Terrorism Security Office) - [www.gov.uk/government/collections/crowded-places](http://www.gov.uk/government/collections/crowded-places)

### **Crowd safety**

Managing Crowds Safely: a guide for organisers at events and venues (HSE Publications) - [www.hse.gov.uk](http://www.hse.gov.uk)

### **Film classification**

Classification guidelines (British Board of Film Classification) - [www.bbfc.co.uk](http://www.bbfc.co.uk)

## **Fire safety**

Fire safety advice documents (Department for Communities and Local Government) - [www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents](http://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents)

Hertfordshire Fire & Rescue Service - [Guidance for Event Organisers - Fire Protection \(hertfordshire.gov.uk\)](http://hertfordshire.gov.uk/Guidance-for-Event-Organisers-Fire-Protection)

## **Modern Slavery**

- The Modern Slavery Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.
- Blueprint training (<http://www.shivafoundation.org.uk/blueprint/training/>)
- Indicator list ([http://www.shivafoundation.org.uk/blueprintdocs/18\\_SF\\_SSB\\_Sec05\\_Indicator-List.pdf](http://www.shivafoundation.org.uk/blueprintdocs/18_SF_SSB_Sec05_Indicator-List.pdf))
- Example policies (<http://www.shivafoundation.org.uk/blueprint/policies-and-practices/>)

## **Noise control**

Guidelines on Community Noise (World Health Organisation) - [www.who.int](http://www.who.int)

Effective Management of Noise from Licensed Premises (British Beer and Pub Association) –

[www.beerandpub.com](http://www.beerandpub.com)

Code of Practice on Environmental Noise Control at Concerts (Noise Council) –

[www.cieh.org](http://www.cieh.org)

## **Outdoor events**

The Purple Guide to Health, Safety and Welfare at music and other events -

[www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk) (subscription required)

The 'Can Do' guide to Organising a Voluntary Event (Cabinet Office) -

[www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events](http://www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events)

East Herts Safety Advisory Group (SAG) -

<https://www.eastherts.gov.uk/community-wellbeing/community-events>

**Revised guidance issued under section 182 of the Licensing Act 2003 –**

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

## **Security and CCTV**

Security Industry Authority website - [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk)

Surveillance Camera Code of Practice (Surveillance Camera Commissioner) - [www.gov.uk/government/publications/surveillance-camera-code-of-practice](http://www.gov.uk/government/publications/surveillance-camera-code-of-practice)



## **Appendix 4 – Contact details**

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

Phone:  
01279 655261

Emails:  
(General enquiry): [community.protection@eastherts.gov.uk](mailto:community.protection@eastherts.gov.uk)  
(Complaint): [licensing.enforcement@eastherts.gov.uk](mailto:licensing.enforcement@eastherts.gov.uk)

Website:  
[www.eastherts.gov.uk](http://www.eastherts.gov.uk)

Many applications can be made online by following the links on the relevant webpages: <https://www.eastherts.gov.uk/licences-registration/alcohol-entertainment-late-night-refreshment>

Please note that, due to the complexity of the legislation that governs these activities, we can only give basic advice about which activities do and do not require authorisation, and about application processes.

If you are unsure as to the legality of a particular activity, or require more detailed information or advice than we are able to offer, we recommend that you consult an independent specialist advisor or a legal representative.

**Responsible authority contact details:**  
[https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Responsbile\\_Authorities.pdf](https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Responsbile_Authorities.pdf)

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## Appendix K

When deciding to grant or vary a premises licence under the Licensing Act 2003, we must do so subject to conditions which we consider are appropriate for the promotion of the licensing objectives.

In carrying out our licensing functions we must have regard to Guidance issued under the Act by the Secretary of State. Current Guidance frequently references types of conditions which relate to the four licensing objectives and which may be considered appropriate in particular circumstances but does not provide an exhaustive list. The Guidance states however, that it is important that conditions should not be applied universally and treated as standard conditions irrespective of circumstances. Under no circumstances should we regard this pool of conditions as standard conditions to be automatically imposed in all cases.

Conditions which are appropriate to promote the licensing objectives should emerge initially from the prospective licence holders risk assessment and be translated to form part of the operating schedule for the premises. This pool of model conditions has been produced to assist prospective licence holders where they consider that they would promote the licensing objectives in the circumstances of their application.

Once an application has been made, the Police, Environmental Health, other responsible authorities, and other parties are encouraged to engage with the applicant if they are considering making a representation to the application. This pool of model conditions will also assist these parties in identifying possible measures that could be suggested to mitigate their concerns.

**This conditions contained within this document should not be considered an exhaustive list of conditions which may be included on a licence or certificate. It does not restrict any applicant, responsible authority, or interested party from proposing any alternative conditions, nor would it restrict a Licensing Sub-Committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives.**

Where appropriate, conditions should specify who is responsible for its implementation and should state, for example, "The premises licence holder shall..." or "The designated premises supervisor will..."

For ease, the conditions have been split into themes, as follows:

1. Provision of CCTV
2. Staffing

3. Glassware
4. Door Supervisors
5. Admission, queuing and identification systems
6. Entertainment and noise
7. Sale and supply of alcohol
8. Outside areas and seating
9. Rubbish and litter
10. Policies, procedures and record keeping
11. Construction and use of the premises
12. Under 18s
13. Deliveries
14. Advertising
15. Town centre taxi marshals
16. Festivals and music events
17. For premises that are delivery only operating late at night

The conditions will be updated as required and the current version published on [www.eastherts.gov.uk](http://www.eastherts.gov.uk).

Comments on the content and use of the model conditions are welcomed. Please contact the licensing team on 01279 655261 or email [community.protection@eastherts.gov.uk](mailto:community.protection@eastherts.gov.uk).

**Key:** The second column in the table that follows indicates the types of premises to which the condition in the third column might be of most relevance.

<b>A</b>	<b>Restaurants</b>
<b>B</b>	<b>Public house, wine bar, Café-bar or other drinking establishment</b>
<b>C</b>	<b>Café</b>
<b>D</b>	<b>Hotel bars</b>
<b>E</b>	<b>Night-clubs (including SEV)</b>
<b>F</b>	<b>Off-licences</b>
<b>G</b>	<b>Pavement licences</b>
<b>H</b>	<b>Qualifying clubs</b>
<b>I</b>	<b>Take-aways (Food)</b>
<b>J</b>	<b>Other entertainment venues</b>
<b>K</b>	<b>Public house, wine bar, Café-bar or other drinking establishment within a Town Centre</b>
<b>L</b>	<b>Alcohol delivery service / Online distributors of alcohol</b>
<b>M</b>	<b>Festivals and Other outdoor events</b>
<b>O</b>	<b>Moveable vessel and structure</b>

<b>1. Provision of CCTV</b>		
<b>Number</b>	<b>Applicable to premises</b>	<b>Condition</b>
1.1	B, D, E, F J and K	The premises shall install and maintain a CCTV system. All entry, exit and point of sale areas will be covered by the cameras, and the images shall enable frontal identification of every person entering in any light condition. The system shall continually record whilst the premises is open for licensable activities and during all times when staff and customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available to a Police officer or an authorised officer of the licensing authority upon request throughout the preceding 31 day period, providing that such requests are in connection with the prevention or detection of crime.
1.2	B, D, E, F J and K	A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show a Police officer or an authorised officer of the licensing authority data or footage upon request.
1.3	B, D, E, F J and K	The premises shall keep a suitable store of necessary recording media (such as DVD's, SD cards, cloud based systems or similar) to enable footage to be recorded from the CCTV system and provided to an authorised officer of the licensing authority or Police officer upon demand.
1.4	ALL	All faults/defects in the CCTV system must be reported to Hertfordshire Constabulary within one day of the fault being discovered. The notification must be made to the Hertfordshire Constabulary non-emergency telephone number of 101 and a log number obtained from the Police and recorded in the premises' incident book. The Police Licensing Unit must also be notified as soon as reasonably practicable.
1.5	ALL	All faults with the CCTV system shall be repaired as soon as possible and in any case within two working days after which time, if the system is still inoperative no licensable activities shall take place without the agreement of the Police Licensing Unit and the licensing authority until the fault is rectified.

## 1. Provision of CCTV

1.6	ALL	A monitor on which CCTV pictures can be displayed will be installed in the reception area.
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## 2. Staffing

Number	Applicable to premises	Condition
2.1	A,B,C,D,E F, J, K and M	There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
2.2	B, E & J	A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.
2.3	E	An attendant shall be on duty in the cloakroom during the whole time that it is in use.
2.4	K	A Pubwatch radio must be made available for use by staff trained in its use at all times the premises are open to the public. The radio will be kept in good working order, monitored by a responsible member of staff, and used to report incidents of crime and disorder to the CCTV control room or to the Police. The radio must be carried by the person responsible for its use.
2.5	ALL except I & J	The designated premises supervisor shall attend and pass a formal training course on avoiding underage sales and provide evidence of attendance if requested.
2.6	F	The premises licence holder shall ensure that all tills in operation at the premises automatically provide age-related prompts to staff to check the age of the buyer when alcoholic products are passed through the till, or entered onto the till, for sale.
2.7	F and L	In addition to any other training, the premises licence holder shall ensure all staff are trained to prevent underage sales, to maintain the refusals book, enter sales correct on the tills so the prompts show when appropriate, and monitor staff to ensure their training is put into practise.
2.8	B, J, K and M	The premises licence holder shall ensure that at all times when the public are present on the licensed premises there is at least

## 2. Staffing

		<p>one competent person able to administer First Aid, also that an adequate and appropriate supply of First Aid equipment and materials is available on the premises. A record of the provision of any First Aid treatment shall be taken and maintained at the premises. This record must include:</p> <ul style="list-style-type: none"> <li>• the name of any person who was treated, or a description of the person if they are unable to communicate</li> <li>• the date and time of the treatment</li> <li>• the person providing the treatment</li> <li>• a description of the injury or ailment which requires treatment</li> <li>• details of the treatment provided, and</li> <li>• whether any emergency services were called to provide assistance</li> </ul>
2.9	B & E	At least one First Aider trained to deal with problems associated with alcohol and drugs will be on duty when the premises are open for licensable activities.
2.10	K	<p>1) The Designated Premises Supervisor must be employed at the premises and be responsible for its day to day management. When the DPS is away from the Premises – for example on holiday – a nominated deputy who holds a personal licence and whose details have been provided in writing to the Police Licensing Unit in advance shall fulfil this role.</p> <p>(2) The designated premises supervisor (or nominated deputy as defined above) is to be responsible for the bookings of all “significant events” at the Premises (as defined in condition 6.9)</p>
2.11	B, C, D, E, F, H, K	The premises licence holder shall ensure that all staff and licensed door supervisors receive training on checking customer identification, and in not serving those under the influence of alcohol and drugs. Records of such training shall be maintained at the premises and made available to a Police officer or an authorised officer of the licensing authority upon request.
2.12	E & K	All customers, promoters, performers, artists and DJ's must be searched prior to entry to a “significant event” (as defined in condition 6.9). The search must include (but is not limited to) the use of a metal search arch or use of a metal detecting wand, the searching of bags, and a full pat down search of each person with removal of jackets or coats.

### 3. Glassware

Number	Applicable to premises	Condition
3.1	B, E and K	No drinks shall be served in glass containers at any time.
3.2	B, C, D, E and K	Alcohol is to be served in polycarbonate, plastic or shatter-proof glasses [on specified days or events] [when notified in writing at least 28 days in advance by the Police Licensing Unit].
3.3	B, E and K	The designated premises supervisor shall ensure that tables are cleared of all bottles and glasses [on a regular basis][at least once every 60 minutes] during trading hours to avoid an accumulation of glassware.
3.4	B, E and K	A number of bottle bins shall be provided in designated places as agreed in writing with the Police Licensing Unit and/or an authorised officer of the licensing authority
3.5	K	No glass drinking vessels or containers (including bottles) of any sort may be provided to, or used by, customers on the premises unless agreed in writing with the Police Licensing Unit and the licensing authority.

### 4. Door supervisors

Number	Applicable to premises	Condition
4.1	B, D, E, I, J and K	A minimum of (X) SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.
4.2	B, D, E, I, J and K	At least (X) SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business.
4.3	B, E, J and K	All licensed door supervisors and staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests of a type which is compliant with the requirements of the current British Standard (BS EN 471).
4.4	B, D, E, J and K	Other than searches of pockets, bags and outer clothing, no door supervisor may search a customer of the opposite sex.



#### 4. Door supervisors

4.5	B, C, D, E and K	The Designated Premises Supervisor shall ensure there is a ratio of at least 1 door supervisor licensed by the Security Industry Authority for every 75 customers on duty at the premises at all times licensable activities are taking place (unless authorised by Police Licensing Unit otherwise in writing for a particular event).
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#### 5. Admission, queuing and identification systems

Number	Applicable to premises	Condition
5.1	E	No patrons shall be admitted or re-admitted to the premises after (insert time) unless they have passed through a metal detecting search arch and, if the search arch is activated or at the discretion of staff, then physically searched in accordance with a procedure agreed with the Police Licensing Unit, which will include a 'pat down search' and a full bag search.
5.2	B & E	All persons entering or re-entering the premises shall be searched by an SIA trained member of staff.
5.3	B, E & J	The designated queuing area shall be enclosed within appropriate barriers to ensure that the footway is kept clear.
5.4	B & E	There shall be no admittance or re-admittance to the premises after <b>(insert time)</b> hours.
5.5	B & E	Patrons permitted to temporarily leave and then re-enter the premises shall be limited to <b>(XX)</b> persons at any one time.
5.6	B, E, I & J	The premises licence holder or designated premises supervisor shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by licensed door supervisors so as to ensure that there is no public nuisance or obstruction to the public highway.
5.7	B, E, I & J	The number of persons permitted in the premises at any one time (including staff) shall not exceed <b>(X)</b> persons, and such number shall be prominently displayed by each entrance to the premises. The premises licence holder or designated premises supervisor shall ensure a suitable method of calculating the number of people present during licensable activities is in place and the results are securely recorded in a log-book for a period of at least 12 months.

## 5. Admission, queuing and identification systems

5.8	E	There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
5.9	D	In relation to the <i>specified function room</i> there shall be no admission after midnight other than to (1) residents of the hotel and their bona fide guests, or (2) persons attending the pre-booked function.
5.10	B, D & E	All functions in the <i>specified function room</i> shall be pre-booked or ticketed events.
5.11	B & E	No person who is subject of a court banning order or who is restricted access through a Pubwatch scheme will be allowed in the premises providing that the details of the person have been provided to the premises by the licensing authority or Hertfordshire Constabulary.
5.12	B & E	Any customer who behaves inappropriately will be barred from the premises and their details passed to Pubwatch.
5.13	E & H	The rules of admission to the premises shall be clearly and prominently displayed at each entrance to the Premises.
5.14	E	A clearly visible notice shall be placed at each entrance to the premises advising those attending that it is a condition of entry that customers agree to being searched and that the Police will be informed if anyone is found in possession of controlled substances or weapons.
5.15	B & E	An identification recognition system will be installed and used whilst the premises are open and fully maintained, and records made by the system retained for 31 days in a format to be made available to a Police officer on request
5.16	K	<p>(1) The Premises must employ the Scannet electronic identification system (or an alternative electronic identification system if agreed in writing with the Police Licensing Unit in advance). All customers must have their identity verified using the system before entry, except at times agreed in advance in writing by the Police Licensing Unit.</p> <p>(2) Any faults with the electronic identification system shall be repaired as soon as possible and in any case within two working days after which time, if the system is still inoperative no licensable activities shall take place until the fault is rectified or an alternative system agreed with the Police Licensing Unit.</p>

## 5. Admission, queuing and identification systems

		<p>(3) The premises licence holder must ensure that all data recorded on the Scannet (or alternative electronic identification) system is kept for at least 31 days and not deleted during that period.</p> <p>(4) Data recorded by the Scannet (or alternative electronic identification) system shall be made immediately available upon request by a Police officer providing that such request is in connection with the prevention or detection of crime.</p>
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## 6. Entertainment and noise

Number	Applicable to premises	Condition
6.1	B, E, H & J	A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any music amplification system and set so that no amplified noise shall be louder than <b>XX</b> dB(A)LAeq (5 mins) when measured at point <b>X</b> on the agreed plan [at any time between XXXX hours and XXXX hours].
6.2	B, E, H & J	The operational panel of the noise limiter shall then be secured to the satisfaction of an Environmental Health Officer or Licensing Authority authorised officer from East Herts Council. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement of an Environmental Health Officer from East Herts Council.
6.3	ALL	Music amplification systems shall not be located in the entrance lobby or outside the premises building. Music amplification systems must not be directed outwards towards any street or installed externally to the Premises
6.4	B, E, H & J	All windows and external doors shall be kept closed between <b>XXXX</b> hours and <b>XXXX</b> hours, or at any time when regulated

6. Entertainment and noise		
		entertainment takes place, except for the immediate access and egress of persons.
6.5	A, B, C, D, H, I & J	Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
6.6	B, E & J	<p>Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given.</p> <ul style="list-style-type: none"> <li>• dry ice and cryogenic fog</li> <li>• smoke machines and fog generators</li> <li>• pyrotechnics including fire works</li> <li>• firearms</li> <li>• lasers</li> <li>• explosives and highly flammable substances.</li> <li>• real flame.</li> <li>• strobe lighting.</li> </ul>
6.7	E	The <b>XX</b> area shall be designated as a “chill-out” area whilst music and dancing are permitted on the premises which shall include adequate ventilation or fresh air; ready access to free drinking water; suitable seating accommodation; and access to First Aid facilities.
6.8	B, F and K	28 days’ notice shall be given to the Police Licensing Unit of any events held which are organised by an outside promoter, including full details of the nature of the event and of the promoter, artists, DJs and MCs.
6.9	K	<p>(1) At least 14 days before any “significant event” is held at the Premises, the premises licence holder or Designated Premises Supervisor must serve on the Police Licensing Unit a Hertfordshire Constabulary approved Risk Assessment Form.</p> <p>(2) A “significant event” is an event that is:</p> <p>(a) promoted / advertised to the public at any time before the event, and</p> <p>(b) predominantly features “DJs” or “MCs” performing to a recorded backing track, and</p> <p>(c) is provided between the hours of 10pm and 4am.</p>

## 6. Entertainment and noise

6.10	A, B, C, D, I and K	On Monday to Saturday, the provision of late night refreshment which is available to take-away from the premises shall only be permitted between 23:00 and <b>XXXX</b> . On Sunday, the provision of late night refreshment which is available to take-away from the premises shall only be permitted between 23:00 and <b>XXXX</b> . Customers who have purchased late night refreshment to take-away must vacate the premises 15 minutes after the end of take-away service hours as permitted by this condition.
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## 7. Sale and supply of alcohol

Number	Applicable to premises	Condition
7.1	F	All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
7.2	F	Outside of the hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grills/screens or secured behind locked cabinet doors to the satisfaction of the Police Licensing Unit or the licensing authority.
7.3	F	No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.
7.4	F	No single cans or bottles of beer or cider shall be sold at the premises.
7.5	F	No sales of miniature or quarter bottles of spirits of any kind shall be permitted.
7.6	F	No more than <b>(XX)</b> % of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol.
7.7	F	There shall be no self-service of spirits on the premises.
7.8	F	Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
7.9	A & I	Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to, a substantial take-away meal.
7.10	A & C	The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a

7. Sale and supply of alcohol		
		person as ancillary to their meal.
7.11	A, B & C	The sale of alcohol shall only be by waiter service to seated customers, and there shall be no sales of alcohol at the bar.
7.12	B & E	Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises during the periods when alcohol is authorised for sale. <b>Note:</b> there is no definition of substantial but provided food by way of table service would be appropriate
7.13	D	With the exception of residents and their bona fide guests, no alcohol shall be consumed more than 30 minutes after the permitted hour for the supply of alcohol.
7.14	B, D, F & H	Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.
7.15	L	The Premises Licence holder shall ensure that no members of the public shall be admitted to the premises. All orders for alcohol shall only be accepted if they are made remotely.
7.16	L	The premises licence holder or designated premises supervisor shall ensure that orders for alcohol are dispatched to bona fide addresses only.
7.17	L	The premises licence holder shall advertise their age verification policy and inform customers before the sale is completed that age and identity verification may be required at delivery in accordance with the premises licence holder's age verification policy.

8. Outside areas and seating		
Number	Applicable to premises	Condition
8.1	A, B, C & G	Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables within an area owned or leased by the premises, or within an area licensed by a pavement licence.
8.2	A, B, C & G	Outside tables and chairs [in the beer garden] shall be rendered unusable by <b>XX</b> hours each day.
8.3	A, B, C & G	All tables and chairs [in the beer garden] shall be removed from

8. Outside areas and seating		
		the outside area by <b>XXXX</b> hours each day.
8.4	B, E & J	Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
8.5	A, B, C, D & E	The Licensee shall make arrangements to ensure so far as is reasonably practicable that no customers shall be permitted to remove from the Premises any open bottles, glasses or foodstuff for consumption or disposal outside the Premises.
8.6	A, B, C, D, E, H & J	Customers will not be permitted to drink outside the premises save for in any seated area authorised under a pavement licence.
8.7	B, C, D, E, J, K	<p>(1) No more than <b>XX</b> customers are permitted in the outside [smoking] area at any one time (unless a different number is agreed in writing in advance with the Police Licensing Unit in consultation with an Environmental Health Officer from East Herts Council).</p> <p>(2) At least <b>XX</b> door supervisors must monitor the smoking area in person when the Premises is open for licensable activities (unless a different number or ratio of licensed door supervisors to customers is agreed in writing in advance with the Police Licensing Unit).</p> <p>(3) The Designated Premises Supervisor shall ensure that at all "significant events" (as defined in condition 6.9) at least <b>XX</b> licensed door supervisors are tasked with specific responsibility for marshalling the public areas of the Premises to detect and deter the use of illegal drugs.</p> <p>(4) The structure and control of the smoking area (including walls, fences, barriers, lighting and CCTV cameras) is to be of a type and design approved in writing by the Planning Authority.</p> <p>(5) No customers shall be permitted to take food or drink into the smoking area.</p>

9. Rubbish and litter		
Number	Applicable	Condition

9. Rubbish and litter		
	to premises	
9.1	ALL	No rubbish, including bottles, shall be disposed of in outside receptacles or outside areas between <b>XXXX</b> hours and <b>XXXX</b> hours.
9.2	ALL	The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge or <b>XX</b> metres from the premises (to be specified where the highway boundary is a significant distance from the front of the premises), shall be swept and or washed to keep it free from all litter and other deposits occurring as part of the business. This is to be done at regular intervals of <b>XX</b> hours between <b>XXXX</b> and <b>XXXX</b> hours and a log of cleaning kept for 3 months. Any Litter and sweepings collected must be stored in accordance with the approved refuse storage arrangements.
9.3	A, B & E	No glass waste including bottles shall be handled externally after <b>(insert time)</b> with the exception of the collection of empty glasses and bottles from outside drinking/smoking areas and streets in the vicinity of the premises
9.4	ALL	All litter to include discarded flyers, cigarettes, fast food packaging and any other litter, whether caused by the venue or not, shall be cleaned from an area of <b>XX</b> metres in all directions from the front of the Premises at regular intervals of (insert time) hours. All waste collected is to be disposed by the Premises of as trade waste. The details of all cleaning undertaken under this condition are to be recorded and maintained at the premises for 12 months.
9.5	ALL	Flame retardant ashtrays will be available in the smoking area during the times the premises are open and taken away when the premises are closed

10. Policies, procedures and record keeping		
Number	Applicable to premises	Condition
10.1	B, E & F	A log (which may be electronically recorded) shall be kept detailing all refused sales of alcohol. The log should include the



## 10. Policies, procedures and record keeping

		date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the licensing authority at all times whilst the premises is open.
10.2	B, E & J	<p>An incident log shall be kept at the premises for at least 12 months, and made available on request to an authorised officer of the licensing authority or the Police Licensing Unit, which will record the following:</p> <ul style="list-style-type: none"> <li>(a) all crimes reported to the venue, or by the venue to the Police</li> <li>(b) all ejections of patrons</li> <li>(c) any complaints received</li> <li>(d) any incidents of disorder</li> <li>(e) seizures of drugs, offensive weapons, fraudulent ID or other items</li> <li>(f) any failures or faults in the CCTV system or searching equipment or scanning equipment</li> <li>(g) any refusal of the sale of alcohol</li> <li>(h) any visit by a responsible authority or emergency service</li> <li>(i) the times on duty, and the licence number, of all licensed door supervisors employed by the premises.</li> <li>(j) assaults or other injuries whether or not police or medical assistance is required</li> <li>(k) all times when CCTV and electronic identification system records have been supplied to Police and licensing authority officers</li> <li>(l) records of reasonable requests from authorised officers in accordance with condition [110].</li> </ul>
10.3	B, E & J	There shall be a dispersal policy for the premises agreed with the Police Licensing Unit and approved by an authorised officer of the licensing authority.
10.4	B, E & F	There shall be a policy agreed with the Police Licensing Unit and approved by an authorised officer of the licensing authority for the premises on the handling of fraudulent identification used to obtain the sale of alcohol.
10.5	B, E & J	There shall be a policy agreed with the Police Licensing Unit and approved by an authorised officer of the licensing authority for the premises relating to illegal drugs found on persons or on the premises
10.6	B, E & J	There shall be a policy agreed with the Police Licensing Unit and approved by an authorised officer of the licensing authority for

<b>10. Policies, procedures and record keeping</b>		
		the premises relating to any unlawful weapons being used by customers.
10.7	ALL	The premises will demonstrate a written policy on the training of all staff regardless of their role in the prevention and reporting of exploitation of vulnerable persons.
10.8	B, C, D, E, H, K	The Designated Premises Supervisor shall be responsible for implementing a dispersal management plan agreed (and revised from time to time) with the Police Licensing Unit and the licensing authority. They will also ensure that licensed door supervisors remain on duty outside the premises for 30 minutes after the premises close to assist with dispersal of persons from the premises and the vicinity of the premises.
10.9	B, C, D, E, H, K	The Designated Premises Supervisor shall maintain a register/log of licensed door supervisors indicating the number of licensed door supervisors on duty, their identity, contact details including addresses and phone numbers and the times they were on duty. A copy should be available immediately upon request to the Police Licensing Unit or an authorised officer of the licensing authority.
10.10	ALL	All assaults resulting in physical injury to a customer or member of staff must be reported immediately to the Police contact centre (999 or 101 telephone numbers).
10.11	B, C, D, E, H, J, & K	Any person found with illegal drugs must be reported to the Police immediately via 101 or 999 (depending on the circumstances).
10.12	B, C, D, E, H, J, & K	The Premises Licence Holder and Designated Premises Supervisor are to co-operate with pre-arranged Police operations involving the searching of customers at entry for weapons and drugs.
10.13	B, C, D, E, H, J, & K	Whilst licensable activities are taking place, the toilets at the premises must be checked at least hourly for illegal drug use or supply. A written log of all checks must be kept at the premises for at 31 days and made available for immediate inspection on the request of the Police Licensing Unit or an authorised officer of the licensing authority.
10.14	ALL	The Premises must implement a "Challenge 25" policy whereby all customers who appear to be under 25 must produce photographic identification in the form of a passport, driving licence or Proof of Age Scheme (P.A.S.S) approved identification

## 10. Policies, procedures and record keeping

		before being allowed to enter the Premises whilst licensable activities are taking place.
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## 11. Construction and use of the premises

Number	Applicable to premises	Condition
11.1	ALL	The Licence [or Club Premises Certificate] will have no effect until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of the relevant responsible authorities, at which time this condition will be removed from the Licence [Certificate].
11.2	F & I	The premises will have an <b>[intruder] [panic]</b> alarm installed to the satisfaction of the Police Licensing Unit, such alarm to be properly maintained and regularly tested and staff trained in its use.
11.3	ALL	The Premises Licence Holder will arrange for a crime prevention audit to be conducted by Hertfordshire Constabulary and/or an authorised officer of the Licensing Authority, and the recommendations of the audit to be implemented within <b>XXXX</b> months.
11.4	B, D, E & H	Kegs, bottles, barrels, crates and other similar items are to be securely stored.

## 12. Under 18s

Number	Applicable to premises	Condition
12.1	B, E & J	Entry by children under the age of 18 to [the premises] [a specified part of the premises] is prohibited whilst the following licensable activities take place: [list activities]
12.2	B, E & J	Entry by children under the age of 18 to [the premises] [a specified part of the premises] is prohibited between <b>XXXX</b>

<b>12. Under 18s</b>		
		hours and <b>XXXX</b> hours.
12.3	B, E & J	Entry by children under the age of XX to [the premises] [a specified part of the premises] is prohibited unless accompanied by an adult over the age of 18.
12.4	B, E & J	No events solely for those under 18 will be permitted on the premises.
12.5	E & J	The Premises Licence Holder or designated premises supervisor must ensure that there is a minimum of one member of staff on duty for every fifty children in the Premises at any one time to assist in the evacuation of children in an emergency. Such numbers of staff may include Licensed Door Supervisors.
12.6	E & J	The Premises Licence Holder or designated premises supervisor shall ensure that adequate arrangements, including transport, are implemented for ensuring the well-being of children at the conclusion of any regulated entertainment under this licence.
12.7	E & J	The Premises Licence Holder or designated premises supervisor shall ensure that adequate arrangements are implemented to prevent the consumption of alcohol or unlawful substances, or the carrying of any offensive items, on the premises by children.

<b>13. Deliveries</b>		
<b>Number</b>	<b>Applicable to premises</b>	<b>Condition</b>
13.1	ALL	All deliveries to the premises must be made via the entrance marked on the premises plan.
13.2	ALL	No deliveries may be made to the premises between <b>XXXX</b> hours and <b>XXXX</b> hours.

<b>14. Advertising</b>		
<b>Number</b>	<b>Applicable to premises</b>	<b>Condition</b>
14.1	ALL	No licensable activities shall be advertised by posters, stickers, banners or other printed means which are displayed to the public or at any other premises or other location except for the licensed premises. This condition does not exclude the handling

## 14. Advertising

		out of leaflets by a distributor acting under the authority of a consent to distribute printed matter which has been issued by East Herts Council, but does prohibit such items being left unattended on or display at any location except for within the licensed Premises.
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## 15. Taxi marshals

Number	Applicable to premises	Condition
15.1	K	The Premises Licence Holder will make a contribution, in terms agreed with the licensing authority, to the <b>[enter location]</b> taxi marshalling scheme.

## 16. Festivals and music events

Number	Applicable to premises	Condition
16.1	M	The premises licence is limited to one event per calendar year held in <b>[insert month]</b> consisting of <b>[insert number of days]</b> consecutive days only.
16.2	M	The premises licence holder shall produce an Event Management Plan, Fire Risk Assessment, and Crowd Management Plan (including arrangements for access and egress) for the event. The Event Management Plan shall contain the following <ul style="list-style-type: none"> <li>• a traffic management plan</li> <li>• the evacuation procedure</li> </ul>
16.3	M	The Event Management Plan, Fire Risk Assessment, and Crowd Management Plan, shall be submitted to Hertfordshire Fire & Rescue Service, Hertfordshire Constabulary, Environmental Health and the licensing authority for approval each year at least <b>[insert minimum time period]</b> prior to the start of each event. Copies of this documentation shall be retained on site while licensable activities are being provided, and shall be made available to any of the responsible authorities, as defined in the Licensing Act 2003, upon request.

<b>16. Festivals and music events</b>		
16.4	M	No licensable activities shall be permitted to take place under this licence unless the Event Management Plan, Fire Risk Assessment, and Crowd Management Plan for that event have been approved by Hertfordshire Fire & Rescue Service, Hertfordshire Constabulary, Environmental Health and the licensing authority. Any deviation from this documentation during the event shall only be made in exceptional circumstances, and the details shall be recorded in the event log with detailed reasons at the time. These changes must be raised at the next available Event Liaison Team meeting.
16.5	M	The event will use and maintain an event log. This will be kept up to date by Event Management and will be used to record all significant policy decisions made during the event by staff. This log will be available at every Event Liaison Team meeting, and will be available for inspection by the responsible authorities, as defined in the Licensing Act 2003, at any time.
16.6	M	There shall be a written drugs policy in place for the event. This policy shall be agreed between the licence holder and the Police Licensing Unit in writing and this policy shall be implemented whilst licensable activity is taking place. This event will include reference to psychoactive substances and must ensure a zero tolerance policy in this area. This policy must be agreed at least 14 days prior to the start of each event.
16.7	M	There shall be a written ejection policy in place for the event. This policy shall be agreed between the licence holder and the Police Licensing Unit in writing and this policy shall be implemented whilst licensable activity is taking place. This policy must be agreed at least 14 days prior to the start of each event.
16.8	M	The premises licence holder shall ensure that customers will not be allowed to bring their own alcohol on to the site.
16.9	M	The premises licence holder shall ensure that customers do not bring glass bottles onto the site.
16.10	M	Contact telephone numbers for the designated premises supervisor, event managers and site managers shall be provided to Hertfordshire Fire & Rescue Service, the Police Licensing Unit, Environmental Health and the licensing authority before the start of each annual event.
16.11	M	No staff member while on duty and / or in uniform will

<b>16. Festivals and music events</b>		
		consume alcohol or drugs on site or be under the influence of alcohol or drugs at any time whilst working.
16.12	M	All accidents, however minor, will be recorded in the on-site accident book and be reported to the event management team where applicable within 24 hours.
16.13	M	<p>The premises licence holder shall publish a message on the event website at least 1 month prior to the event containing the following information;</p> <ul style="list-style-type: none"> <li>(a) Challenge 25 Policy for entry to the event and for bar service whilst licensable activities are taking place.</li> <li>(b) No alcohol permitted to be brought onto the site and searches will be made on entry</li> <li>(c) No glass drinking vessels and bottles allowed on site</li> <li>(d) Disabled access and facilities information</li> <li>(e) Details of medical facilities</li> </ul>
16.14	M	The premises licence holder shall ensure that there are measures in place to accurately record and monitor entry numbers to the site. Upon request by a responsible authority, as defined in the Licensing Act 2003, the holder of the premises licence or an agent on behalf of and under the authority of the licence holder shall provide precise information regarding the number of people present on the site at the given time.
16.15	M	The premises licence holder shall ensure that all members of staff and SIA personnel have received training commensurate to their role, and have been fully briefed prior to the start of the event on the information contained within the Event Management Plan documents relevant to their role.
16.16	M	<p>The premises licence holder shall have procedures in place to;</p> <ul style="list-style-type: none"> <li>(a) Manage the occupancy levels within areas to enable a safe and quick evacuation in the event of an emergency; and</li> <li>(b) Allow unrestricted and unobstructed access for emergency vehicles.</li> </ul>
16.17	M & O	<p>The licence holder shall ensure that all members of staff involved in the sale of alcohol receive training with regards to age restricted sales. This training must include the following:</p> <ul style="list-style-type: none"> <li>• The licensing objectives.</li> <li>• Recognising signs of drunkenness and recognising intoxication through drugs.</li> <li>• Challenge 25 and appropriate forms of identification.</li> <li>• Refusals logs including when and how to use them.</li> </ul>

<b>16. Festivals and music events</b>		
		This training must be documented, signed by any person involved in the sale of alcohol on site to state that they understand the training, and kept for a minimum of 6 months following the event. No person shall sell alcohol until they have received the training and signed the training document.
16.18	M & O	Any person involved in the sale or supply of alcohol shall have a lanyard or similar item which is to be worn on their person detailing the training they have received for easy reference.
16.19	M	Signage advising customers that Challenge 25 is in operation shall be prominently displayed at each bar.
16.20	M & O	No supply of alcohol shall take place at any bar unless a personal licence holder is present in a supervisory capacity.
16.21	M & O	Each bar shall have on display a document showing details of the bar. These details shall be the name of the bar manager, their personal licence number, and the hours of operation.
16.22	M	All bar managers shall have access to a radio link with the event management team and security teams.
16.23	M	All personal licence holders shall be made aware of the licence conditions. Personal licence holders shall sign a declaration to confirm that they have been received a copy of the licence conditions. This shall be documented and a copy of the conditions shall be made available at each bar. The signed declaration shall be made available to the Police Licensing Unit or the Licensing Authority upon request.
16.24	M	There shall be on site at all times a person nominated by the licence holder to liaise with Hertfordshire Constabulary and the Licensing Authority in order to deal with any issues arising as a result of Licensing checks performed at the event.
16.25	M & O	A sign shall be placed at each bar encouraging persons to drink responsibly.
16.26	M	There shall be a fence around the full perimeter of the licensable area. All fencing used shall have no gaps greater than 30 cm in the bottom and shall be at least 2 meters high. The only exemption to this is where there are entrances and exits, or existing fence lines in existence which are deemed suitable both by the event organisers and the Chief Officer of Police.
16.27	M & O	All staff shall be issued with a wristband, lanyard, or similar, which identifies them as staff working at the event.
16.28	M	The specific number of volunteers, stewards, marshals and



## 16. Festivals and music events

		frontline SIA staff shall be recorded in the Event Management Plan. They will be based on a capacity of staff and customers for the entire licensable area. The numbers of staff will reflect the different challenges of the individual days various events and will not be generic.
16.29	M	<p>The licence holder shall maintain a register giving details of each and every person employed in the role of security and shall provide upon request by any Police Officer or authorised officer of the licensing authority, the following details:-</p> <ul style="list-style-type: none"> <li>(a) The licence number, name, date of birth and residential address of that person;</li> <li>(b) The time at which he/she commenced that period of duty</li> <li>(c) The time at which he/she finished the period of duty</li> <li>(d) If that person is not an employee of the licence holder, the name of the person by whom that person is employed or through whom the services of that person were engaged;</li> </ul> <p>The register shall be made available to a Police officer or the Licensing Authority on request. This register may be in paper or digital format.</p>
16.30	M	Every entry and exit point to the venue shall be supervised by SIA licensed security personnel.
16.31	M	All security persons shall have access to a radio to communicate to other staff on site.
16.32	M & O	[Local residents][Adjoining residents][All residents within <i>identified streets</i> ] [Residents of the following properties] shall be provided with appropriate contact telephone numbers for the event organisers, or relevant event staff, prior to each event
16.33	M	The premises licence holder shall ensure that bag searches are carried out as customers enter the event.
16.34	M	The premises licence holder shall ensure that any person appearing to be under the influence of illegal drugs shall be refused entry.
16.35	M	Any person deemed unfit due to drink or drugs at the event shall be asked to leave the event after organisers have considered that it is safe for them to leave the site.
16.36	M	Last entry to customers shall be <b>XXXX</b> hours. There shall be no admittance to customers after this time except in an exceptional circumstance. In the event a circumstance is deemed exceptional each entry will be recorded and the

<b>16. Festivals and music events</b>		
		rationale for this admittance documented in the event log.
16.37	M	There shall be no entry or re-entry into the site after [insert time] hours in any circumstance.
16.38	M	The licence holder shall ensure that patrols of the site including the car park area are performed by security staff of the site whilst the site is closed to the public.
16.39	M	A response team staffed entirely of SIA licensed personnel shall be available for deployment during the event. This team will be in possession of body-worn cameras. All footage captured by these cameras footage will be made available to a Police officer upon request. This team will not be used for any other function.
16.40	M	There shall be an area within the licensable area dedicated to dealing with vulnerable adults. There shall always be on duty at this location a person nominated as in charge. Staff working in this area shall have access to a radio connecting with the event management.
16.41	M	A Medical Team will be set up on-site with trained and experienced staff available to care for ill, intoxicated or vulnerable adults until they are ready to leave safely.
16.42	M	There shall be a facility on site to deal with persons taken unwell or injured during the course of the event. This facility shall be open at all times that the site is open to members of the public. An SIA accredited person shall be present at all times that the facility is open to members of the public. The medical facility shall have access to a radio connecting to the site control. The numbers of medical personnel will be set and recorded in the event management plan taking into account any statutory guidance available at the time of the event.

<b>17. For premises that are delivery only operating late at night</b>		
<b>Number</b>	<b>Applicable to premises</b>	<b>Condition</b>
17.1	I	No members of the public shall be permitted to be in the premises while the premises are being used for licensable activities.
17.2	I	All late night refreshment provided under this licence shall be

## 17. For premises that are delivery only operating late at night

		for consumption off the premises only and shall be provided wrapped or packed in such a way so that it is supplied not for immediate consumption.
17.3	I	Customers are not permitted to collect food from the premises .The Premises Licence holder shall ensure that all orders taken by the premises shall be delivered to customers at a bona fide address.
17.4	I	The premises licence holder shall ensure that no external signage or advertisements shall be illuminated between the hours of <b>XXXX</b> and <b>XXXX</b> .
17.5	I	The premises licence holder shall ensure that all glazed windows and doors have internal blinds so that light from the premises is not emitted and that these blinds are pulled down over all areas of glazing at 23:00 until the start of business again the next working day.
17.6	I	Signs shall be clearly displayed at the premises stating that the business is closed from <b>XXXX</b> hours until the start of business again the next working day with the exception of remote delivery orders.
17.8	I	The Premises Licence holder shall ensure that any extract unit at the premises will be turned off at 23:00 hours and shall not be turned on again until the business reopens the following day.
17.9	I	The Premises Licence holder shall ensure that all windows and doors shall be closed at 23:00 hours and remain closed until the business reopens the following day, except for the immediate access or egress of staff.
17.10	I	Delivery vehicles shall switch off their engines whilst stationary and collecting orders for delivery. Delivery vehicle horns shall not be used at any time, except in accordance with the Highway Code.

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## **East Herts Council Report**

### **Licensing Committee**

**Date of meeting:** 23 June 2021

**Report by:** Rosalyn Morris and Claire Mabbutt -  
**Licensing** Enforcement Officers

**Report title:** Review and revision of the Licensing  
Records Points Scheme

**Ward(s) affected:** All

#### **Summary**

- The Licensing Records Points Scheme (LRPS) has made up part of the East Herts Taxi policy for many years. It has allowed Officers to issue Licensing Record Points (LRP) to drivers who have fallen below expected standards and failed to comply with certain requirements.
- Over the years there have been a number of changes to the legislation and guidance that the Government has issued to local authorities so as part of this review those matters will be considered.

#### **RECOMMENDATIONS FOR LICENSING COMMITTEE: That**

- A. Members review and comment on the proposals detailed in this report; and**
- B. Officers are instructed to carry out an 8 week public consultation regarding the proposed changes.**

## **1.0 Proposal(s)**

- 1.1 That the report is received by Members of the Licensing Committee.

## **2.0 Background**

- 2.1 East Herts Council is responsible for the regulation of the Hackney Carriage and Private Hire trade within the boundaries of the district of East Herts.
- 2.2 It has been given the powers to implement its own policies, conditions and schemes to ensure that the public are kept safe.
- 2.3 The policies, conditions and schemes should be reviewed regularly and updated as and when necessary to ensure that they remain effective.
- 2.4 The introduction of the LRPS was to work alongside the other enforcement options available to officers, providing a formalised stepped enforcement plan. The scheme acts as a record of the licence holders behaviour and conduct so as to ascertain whether they are a fit and proper person to continue to hold a licence with East Herts Council.

## **3.0 Reason(s)**

- 3.1 The current scheme does not only deal with the misdemeanours that occur regularly such as drivers not wearing their badges, but deals with serious issues such as drivers using a vehicle while uninsured which could be dealt with under the relevant section of the legislation by way of prosecution. By reviewing the scheme a decision can be reached on if the scheme should be used solely for those everyday misdemeanours or whether it should be used to

cover all aspects of the legislation in addition to using our statutory powers.

- 3.2 The existing scheme did not make it clear how the number of points would be determined where there was a range of points available. The intention was to allow a stepped approach when dealing with certain matters but this was not documented within the scheme itself.
- 3.3 The proposed scheme shows clearly that there is a stepped approach to the issuing of points, for example on the 1<sup>st</sup> occasion of a breach of the policy the driver may receive 3 licensing record points. If the driver is subsequently found to be doing the same again, within a set time period, they would then be issued with a further 6 licensing record points and so on.
- 3.4 The new scheme includes the most common areas that licence holders breach rather than just including the sections from the relevant pieces of legislation. Breaches of the legislation carry their own penalties which are usually a far better deterrent than the use of Licensing Record Points.
- 3.5 Section 9.3 of the Department for Transport, Statutory Taxi and Private Hire Vehicle Standards states that licensing authorities should ensure that drivers are aware of the policies that they must adhere to and that they are properly informed of what is expected of them and the repercussions for failing to do so.
- 3.6 The use of a points-based system will allow for minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the Head of Housing and Health, in consultation with the Chair of the Licensing Committee and The Service Manager- Licensing and Enforcement. This has the benefit of consistency in

enforcement and is consistent with other delegations in relation to taxi licensing.

- 3.7 The revision of the LRPS will help the authority target compliance and enforcement activity which will provide a further source of intelligence when considering the renewal of licenses and any additional training that may be required.
- 3.8 **Appendix A** shows the current Licensing Record Point Scheme which is administered by officers.
- 3.9 **Appendix B** shows the proposed revised Licensing Record Points Scheme.
- 3.10 Officers are seeking members' comments regarding the proposed revised LRPS before putting the document out for trade and public consultation.
- 3.11 The consultation will consist of as a minimum:
- Consultation page created on East Herts website;
  - Direct contact with every holder of an East Herts issued driver, vehicle or operator licence;
  - Every neighbouring authority responsible for issuing hackney carriage and private hire licences;
  - Representatives of the Night Time Economy;
  - Residents and community groups;
  - Care homes, hospices, hospitals and similar within East Herts;
  - All local and county councillors;
  - Use of the council's social media accounts to publicise the consultation.
- 3.12 The results of that consultation will be brought back to Licensing Committee for consideration on 13<sup>th</sup> October 2021.



## **4.0 Options**

- 4.1 Cease to operate a LRPS.
- 4.2 Continue to operate the existing LRPS.
- 4.3 Consult on the proposed scheme without amendments.
- 4.3 Make amendments to the proposed scheme and consult.

## **5.0 Risks**

- 5.1 Policies, conditions and schemes that are not reviewed regularly or updated as and when necessary so that they remain effective will leave the authority open to legal challenges.
- 5.2 Failure to address gaps within the current scheme could be detrimental to the authority's defence of any legal challenge.
- 5.3 If the authority does not have robust policies and procedures in place then it is unable to limit, as far as is possible, the risks to the public.

## **6.0 Implications/Consultations**

### **Community Safety**

See paragraph 5.3

### **Data Protection**

No changes are proposed to how data will be held or handled so no additional implications.

### **Equalities**

None as these are standards which apply to all licence holders.

## **Environmental Sustainability**

None

## **Financial**

None as implementing any changes will be possible within existing budgets or fees can be adjusted to balance any shortfall.

## **Health and Safety**

None

## **Human Resources**

None

## **Human Rights**

None

## **Legal**

None

## **Specific Wards**

No

### **7.0 Background papers, appendices and other relevant material**

7.1 **Appendix A** – Current Licensing Record Point Scheme.

7.2 **Appendix B** – Proposed revised Licensing Record Point Scheme.

7.3 Department for Transport, Statutory Taxi and Private Hire Vehicle Standards:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf)

**Contact Member**

Councillor Peter Boylan, Executive Member for Neighbourhoods.

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### LICENSING RECORD POINTS SCHEME

The Licensing Record Points Scheme will operate as follows:

1. The Council's Licensing Enforcement Policy will be fully considered by the enforcing Officer when determining the manner in which any breach of legislation or the requirements of this Policy are dealt with. Where it is decided that the use of the licensing record points system is appropriate, the points will be issued in accordance with this appendix. If this scheme allows a range of points for the particular incident, the enforcing Officer will determine the appropriate number of points proportionate to the offence.
2. Before points are issued there must be, in the enforcing Officers opinion, sufficient evidence to prove the offence or breach of licensing requirements.
3. A maximum of twelve points will be issued on any one occasion. This means that if on any occasion when it is proposed to impose points, a licence holder has committed more than one offence or breach of licence conditions, no more than twelve points will be imposed.
4. Points issued to either a proprietor, driver or operator will be confirmed in writing within ten working days from the decision to impose points.
5. When issued, the points will remain "live" for a period of two years from the date they are imposed so that only points accumulated in a rolling twenty four month period will be taken into account. If a driver, proprietor or operator accumulates twelve or more points within a period of two years from the date they are imposed, he/she will be required to attend a Licensing Sub-Committee, where the appropriate action will be decided in accordance with Policy.

6. Where a driver is brought before a Licensing Sub-Committee, the options available to them will include suspension or revocation of the licence, where appropriate. If the Licensing Sub-Committee does not feel that the matter warrants suspension or revocation of the licence, they may extend the period for which the points are to remain "live" or instruct that a written warning is issued with regards to future conduct.
7. Periods of suspension of a licence will be dependent on the nature of the breaches and the compliance history of the licence holder.
8. Once the matter has been dealt with, the points will be removed if a suspension or revocation is imposed. However, if the "live" period is extended or a written warning given the points will remain "live" for the normal two-year period, or for such extended period as imposed by the Sub-Committee.
9. A driver will retain the right to be represented at any meeting with the Licensing Sub-Committee, either legally or otherwise, and to state any mitigating circumstances he/she deems relevant.
10. Even though points have been issued by an Authorised Officer of the Council, if it is subsequently found that the driver has previously been issued with points, or has been formally cautioned or convicted, for similar offences, the Council reserve the right to cancel the points and deal with the matter in accordance with the Licensing Enforcement Policy.
11. The points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by Policy.

12. Where licensing points are issued a licence holder has ten working days, from the date of the letter notifying of the decision to issue points, to appeal that decision or the number of points given. Appeals must be made in writing to either: [licensing.enforcement@eastherts.gov.uk](mailto:licensing.enforcement@eastherts.gov.uk) or Licensing Enforcement, East Herts Council, Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ.

Appeals will be decided by the Head of Housing & Health (or in his/her absence another Head of Service at East Herts Council) and the results will be notified to the appellant in writing.

#### **POINTS RELATING TO OFFENCES IN RESPECT OF LEGISLATION**

<b>Town Police Clauses Act 1847</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
40	Giving false information on a hackney carriage licence application	5-10
44	Failure to notify change of address of a hackney carriage licence	2
45	Plying for hire without a hackney carriage licence	8-12
47	Driving a hackney carriage without a hackney carriage driver's licence	8-12
47	Lending or parting with a hackney carriage driver's licence	4
47	Proprietor employing an unlicensed hackney carriage driver	8
48	Failure of a proprietor to hold a hackney carriage driver's licence	6
48	Failure of a proprietor to produce a hackney carriage driver's licence	3
52	Failure to display a hackney carriage plate	4
53	Refusal to take a fare without a reasonable excuse	6-12
54	Charging more than the agreed fare	6-12
55	Obtaining more than the legal fare (including failure to refund)	6-12
56	Travelling less than the lawful distance for an agreed fare	6
57	Failure to wait after a deposit to wait has been paid	6
58	Charging more than the legal fare	12
59	Carrying persons other than the hirer without the hirer's consent	8
60	Driving a hackney carriage without the proprietor's consent	6-12
60	Allowing a person to drive a hackney carriage without the proprietor's consent	4
62	Driver leaving a hackney carriage unattended on a rank	2-6
64	Hackney carriage driver obstructing other hackney carriages	3

## POINTS RELATING TO OFFENCES IN RESPECT OF LEGISLATION

<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
46(1)(a)	Using an unlicensed private hire vehicle	12
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	8
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	8
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	8
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a vehicle licence	3
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	6-12
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3
50(3)	Failure to report an accident to the Council within seventy two hours	6
50(4)	Failure to produce the vehicle licence and insurance upon request	8-12
53(3)	Failure to produce a driver's licence upon request	3
54(2)	Failure to wear a private hire driver's badge	4-6
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(4)	Failure of a private hire operator to produce his licence on request	4
57	Making a false statement or withholding information to obtain a hackney carriage or private hire driver's licence	10
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	6-12
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	6
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	6
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement	6
67	Charging more than the meter fare when hackney carriage is used as a private hire vehicle	6
69	Unnecessarily prolonging a journey	6-12
71	Interfering with a taxi-meter with intent to mislead	12
73(1)(a)	Obstruction of an Authorised Officer of the Council or a Police Officer	12
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Police Officer	8-12
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Police Officer	6



<b>Equality Act 2010</b>		
Section	Offence	Points
168(2a)	Refusal to carry a guide, hearing or other assistance dog in a hackney carriage without a valid certificate of exemption	8-12
168(2b)	Charging an additional cost for the carrying of an assistance dog in a hackney carriage	8-12
170(1)	Private Hire operator refusing or failing to accept a booking because a disabled passenger will be accompanied by an assistance dog	8-12
170(2)	Private hire operator charging an additional cost for the carrying of an assistance dog	8-12
170(3)	Private hire driver failing or refusing to carry out a booking accepted by the operator because a disabled passenger will be accompanied by an assistance dog	8-12

<b>Hackney Carriage and Private Hire Licensing Policy</b>		
Section or Appendix	Breach of policy requirement	Points
	Failure to report a change of name or address to the Licensing Service by drivers and proprietors.	2
	Failure to produce an updated DVLA licence (or backing sheet) within 30 days of a change of name, address, photo card photograph, or addition of DVLA penalty points.	2-5
	Failure to adhere to the Dress Code for Licensed Drivers	2
	Failure to wear a driver's badge	4-6
	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	2-6
	Failure to ensure the safety of passengers	4
	Concealing or defacing a vehicle licence plate	4
	Failure to attend on time for a pre-arranged booking without reasonable cause	3
	Conveying a greater number of passengers than permitted	6
	Failure to give reasonable assistance with passenger's luggage	3
	Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked	6-12
	Operating a vehicle that is not clean and tidy	2
	Driving without the consent of the proprietor	5
	Drinking or eating in the vehicle whilst carrying passengers	3
	Smoking in a licensed vehicle at any time	4
	Cause excessive noise from any radio or sound-reproducing equipment	2
	Operating the horn as a means of signalling that the vehicle has arrived	3
	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
	Using a non-hands free mobile telephone whilst driving	4
	Failure to advise of a relevant medical condition	4
	Failure to provide a receipt for a fare when requested	6-12
	Failure to operate the meter from the commencement of the	2

	journey and/or charging more than the fixed charge for hire of hackney carriages	
	Failure to notify the Council of any amendment to the details of a licence within fourteen days	6
	Failure to produce a licence upon request	3
	Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	4
	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	3
	Failure to surrender a driver's licence, badge or plate upon request	2
	Failure of a licence holder to disclose convictions within seven days of conviction	6-12
	Failure to take found property to the Police within forty eight hours of finding	12
	Failure to report an accident within seventy two hours	3
	Carrying an animal other than one belonging to the passenger(s)	3
	Carrying an animal not safely restrained	2
	Failure to comply with the requirements for the safe carrying of a wheelchair	3
	Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	6
	Operating a vehicle which is not maintained in a sound and roadworthy condition	2-6
	Failure to carry an approved fire extinguisher	6-12
	Failure to carry an approved first aid kit	3
	Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3
	Modifying a vehicle without the consent of the Council	3
	Failure to display or maintain external licence plates as issued by the Council	3
	Hackney carriage vehicle signage not in accordance with the Council's requirements	4
	Affixing or displaying a roof sign on a private hire vehicle	4
	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the Policy requirements or has not been approved by the Council	4
	Taxi-meter does not conform to the Council's requirements	6
	Trailer does not comply with the Council's requirements	3
	Operating an LPG vehicle which does not comply with the Council's LPG vehicle requirements	3
	Operating a vehicle which does not comply with the Council's requirements in relation to tinted windows	4
	Driving with no insurance or inadequate insurance for the vehicle	12
	Allowing a vehicle to be used for hire by a person who does not hold a current driver's licence	8
	Permitting the vehicle to be used for any illegal or immoral purposes	6-12
	Failure of a private hire operator to provide a prompt, efficient	3

	and reliable service	
	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3
	Failure of a private hire operator to ensure that vehicles attend bookings punctually	4
	Failure of a private hire operator to keep the operating premises in accordance with the Council's requirements	3
	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	6
	Failure of a private hire operator to keep and display public liability insurance for the operating premises if the public are allowed access	4
	Failure of a private hire operator to ensure that every driver employed by him has a private hire licence and badge	4
	Failure of a private hire operator to keep a copy of the Council's Hackney Carriage and Private Hire Licensing Policy to be made available for inspection by passengers upon request	4
	Payment for a licensing fee using a cheque that is subsequently dishonoured.	2
	Displaying a taxi roof light or plate on a vehicle while it is not licensed as a taxi.	2-6
	Any other cause not covered by above	2-12

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### East Herts Council Penalty Point Scheme

#### 1. Introduction

- 1.1 The protection of the public, safeguarding children and vulnerable persons and the prevention of crime are the most important factors in the licensing regime.
- 1.2 The key consideration of the Council and the overriding objective in the licensing of hackney carriage and private hire drivers and vehicles and private hire operators is the safety of the travelling public.
- 1.3 The aim of a Licensing Record Point Scheme (LRPS) is to work in conjunction with other enforcement measures to provide a stepped enforcement process for licence holders. It bridges the gap between the warning and suspension/revocation options provided by the legislation and creates a record of a licence holder's conduct; thereby enabling the Council to make an informed decision as to whether a licence holder is a fit and proper person to hold a licence. The primary objective of the Scheme is to improve levels of compliance and standards within the trade to ensure the safety of the travelling public.

#### 2. Relevant legislation

- 2.1 Hackney carriage and private hire drivers and vehicles and private hire operators are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council's Byelaws and the Rules, Regulations and Conditions set by East Herts Licensing Committee. The purpose of the legislation and regulations is to ensure that applicants are 'fit and proper' to hold a licence and that they continue to remain 'fit and proper' for the duration of the licence period. It is the council's ongoing responsibility to ensure that the required standards are continually met.

#### 3. General Principles

- 3.1 The scheme applies to all hackney carriage and private hire drivers and vehicles and private hire operators.
- 3.2 Where an offence or breach of the rules is committed or alleged, or a complaint received, the investigation process set out in this document will

be followed and may result in the issue of licensing record points and/or other appropriate action.

- 3.3 The licensing record point process will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, regulations and its own Policy.
- 3.4 On occasions it may be determined not to award points but to proceed immediately to the revocation of a licence on the grounds that the Council considers that the licence holder is not fit and proper to hold a licence. In such cases the right of appeal will be direct to the Magistrates' Court.
- 3.5 Points issued under this licensing records point scheme will remain live for 24 months from the date they are issued.
- 3.6 The licensing records points issued will be at the discretion of the investigating officer and in accordance with the licensing record points' table.
- 3.7 The issuing of points against a driver who is an employee will not necessarily result in the issuing of points to their employer. However, points may be issued to one or more parties for a single contravention if the circumstances warrant such action being taken i.e. where there is joint responsibility for the contravention.
- 3.8 Licence holders may see the record of their licensing record points at any time. Vehicle proprietors and licensed operators may make a written request to view the licensing record points of their employees; any such request must give full reasons for the request. All such requests are subject to approval by the Service Manager- Licensing & Enforcement.
- 3.9 The Council may as part of its investigations into an alleged offence/complaint or similar matter request a Police National Computer check (PNC) to ensure that it has all the evidence necessary to properly investigate the matter; this evidence will be made available to all involved officers to assist them in reaching a decision. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and may result in a licence, previously granted, being revoked.

#### 4. Investigation and Appeal Procedure

4.1 The Council will deal with all genuine complaints or witnessed/alleged breaches of the legislation, licence conditions and/or policy as follows –

- a. On receipt of a complaint or where there is an alleged or witnessed breach of the Council's conditions or other relevant statutory provisions, a member of the Licensing Team will assess whether there is a case to answer.
- b. If it is considered there is a case to answer, a member of the Licensing Team will investigate the facts which may include interviewing the relevant individuals under caution.
- c. Upon completion of the investigation, licensing record points may be applied. Notification that points have been given will be sent in writing to the licence holder and, where appropriate, a copy will be sent to their vehicle proprietor or operator within 10 working days of the decision.
- d. The award of points can be appealed to the Service Manager- Licensing & Enforcement and this should be done within 10 working days of being notified of the award of points. The appellant may submit documentary evidence to support their appeal. Appeals must be made in writing to [licensing.enforcement@eastherts.gov.uk](mailto:licensing.enforcement@eastherts.gov.uk) or Licensing Enforcement, East Herts Council, Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ.
- e. The Service Manager- Licensing & Enforcement will then consider the matter and confirm his decision in writing to the licence holder within 10 working days.
- f. Where the Service Manager- Licensing & Enforcement has issued the points being appealed the appeal will be decided by the Head of Housing and Health and the route of appeal and time frames remain the same as above.
- g. The appeal determination is final and there is no further right of appeal. Please note – it is important to exercise the right of appeal if the you do not believe the points should have been awarded and you wish to challenge the evidence that resulted in the award of points. If further points are awarded and the 12 point threshold is reached,

the impositions of points cannot be challenged or revisited at a later date. Points must be challenged in line with the process set out above. It is important to note that the Service Manager- Licensing & Enforcement and the Head of Housing and Health, in addition to dismissing or upholding the appeal, have the discretion to award a lesser or greater number of points than displayed on the Licensing Records Points Table. In these circumstances the reasons for varying the points awarded will be documented.

4.2 In cases where a licence holder has reached the threshold of 12 or more points in a rolling 2 year period the matter of ongoing fitness and propriety will be considered. Submission from the licence holder regarding their fitness and propriety will be requested before a memo is compiled containing all the facts. Before going to the decision maker the memo will be provided to the licence holder so that they can highlight any factual errors. The memo will then be passed to the Head of Housing and Health who will determine the matter in consultation with the Chair of the Licensing Committee.

4.3 If a licence is suspended or revoked there is a right of appeal to the Magistrates Court. Appeals must be made in writing to the Clerk of the Court, Stevenage Magistrates Court, C/O Luton Magistrates' Court, Stuart Street, Luton, LU1 5BL within 21 days of having been notified of the decision. Where an appeal has been made, the implementation of any suspension or revocation will be held over until the appeal has been determined unless the licence has been revoked with immediate effect.

#### Licensing Record Points Table

Matters marked with a \* are direct contraventions of either the Town Police Clauses Act 1847 or of the Local Government (Miscellaneous Provisions) Act 1976 and may result in prosecution in addition to any licensing record points incurred.

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
1*	Giving false, misleading or withholding information to obtain a hackney carriage / private hire licence.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	Failure to notify the	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>



No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	licensing authority of any motoring or criminal convictions during the period of the licence. (Within 48 hours of receiving such conviction).				
3	Failure to notify the council of having been arrested (for any matter, whether subsequently charged or not), cautioned, or charged for an offence or being subject to a criminal investigation within 48 hours of the said action.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4	Failure to notify the licensing authority of any serious injury, illness or change in medical circumstances that may affect your ability to drive or the safe transportation of passengers (including eyesight) within 48 hours.	12	<input checked="" type="checkbox"/>		
5	Failure to notify the licensing authority of a DVLA notifiable condition.	12	<input checked="" type="checkbox"/>		
6	Driver not holding a current/ valid DVLA driving licence.	12	<input checked="" type="checkbox"/>		
7*	Employing or permitting an unlicensed driver to drive a licensed vehicle.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8*	Driving an East Herts licensed vehicle whilst not in possession of a valid East Herts driver licence. (Including allowing an unlicensed driver to drive a licensed vehicle).	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
9	Failure to maintain adequate vehicle insurance cover. (i.e. hire and reward / public hire).	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10	Fighting and / or aggressive behaviour towards the public, other licensed drivers or authorised officers of the council.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
11*	Operating / using an unlicensed vehicle as a hackney carriage/ private hire vehicle. Using a vehicle without insurance.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
12	Operating / using a vehicle without any or the correct type of insurance.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13	Driver in possession of illegal drugs while in charge of a licensed vehicle or evidence of drugs or alcohol in the vehicle.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
14	Driver found under the influence of drink and / or drugs while in charge of any vehicle.	12	<input checked="" type="checkbox"/>		
15*	Refusal to accept a booking or failure to carry an assistance dog without a valid certificate of exemption. Or charging an additional cost for the carrying of an assistance dog.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
16*	Failure to ensure that all assisted devices to promote mobility, such as wheel chairs, walking aids, specialist buggies are	12	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	carried safely in a licensed vehicle.				
17*	Refusal to accept a booking or failure to carry assisted devices to promote mobility. Or charging an additional cost for the carrying of these devices.	12	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
18	Carrying more passengers than stated on the vehicle licence.	12	<input checked="" type="checkbox"/>		
19	Failure to ensure the safety of passengers.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
20	Permitting the vehicle to be used for any illegal or immoral purposes.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
21*	Operating a private hire vehicle without a private hire operator's licence.	12			<input checked="" type="checkbox"/>
22	Failing to behave in a civil and orderly manner, being verbally abusive or aggressive to any member of the public, other licensed driver or authorised officers of the council or bringing the trade into disrepute.	9	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
23	Collusion or interfering with evidence, victims or witnesses, when officers of the council are carrying out an investigation.	9	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
24*	Lending or parting with a hackney carriage/private hire driver licence.	9	<input checked="" type="checkbox"/>		
25	Using a vehicle with illegal tyres.	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

<b>No.</b>	<b>Offence/ Breach of condition</b>	<b>No of Points</b>	<b>Driver</b>	<b>Vehicle owner</b>	<b>Operator</b>
26	Using a mechanically unfit or unsound vehicle or with any defects (breaks, seat belts, steering, suspension, doors, windscreen, bodywork, lights, wipers, washers, exhaust, horn, battery, tyres or other relevant defects that may warrant a failure at with MOT or council vehicle inspection.	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
27	Presenting a vehicle for testing that is in an unsafe or dangerous condition.	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
28*	Failure to return any licence to the licensing authority upon expiry, suspension, revocation or upon request by an authorised officer of the council or police officer.	7	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
29*	Failing to provide relevant information or pay the relevant fee (including dishonoured cheques).	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
30*	Failures to co-operate, give information, assistance, comply with a requirement or obstruct an authorised officer of the council or police officer or any other clearly identifiable person nominated by the council.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
31	Late application for the renewal of a licence.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
32*	Driver allowing a customer to smoke /vape or similar in a licensed vehicle.	6	<input checked="" type="checkbox"/>		

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
33*	Driving whilst using a mobile phone or other hand held device. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6+FPN 12+FPN	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		
34*	Unreasonable prolongation of journeys in distance or time or any other misconduct regarding the charging of fares.	6	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
35	Refusal to accept hiring without reasonable cause (N.B. a reasonable excuse can include drunk or rude customers).	6	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
36	Failure of private hire operator / driver to honour a booking without a reasonable excuse.	6	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
37	Unacceptable standard of driving, witnessed by an authorised officer of the council or a police officer.	6	<input checked="" type="checkbox"/>		
38*	Failure to present a hackney carriage or private hire vehicle for inspection upon request.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
39	Concealing or defacing a vehicle licence plate.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
40	Failing to deal with lost property in an appropriate manner. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 12	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
41	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not	6		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	been approved by the council.				
42*	Illegal ranking.	6	<input checked="" type="checkbox"/>		
43	Failure to comply with the Highway Code/ conform to statutory road signs.	6	<input checked="" type="checkbox"/>		
44	Failure to produce relevant documents (i.e. medical certificates, DBS, MOT, VCC, insurance documentation) upon expiry of current document.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
45*	Failure to produce relevant documents (i.e. medical certificates, DBS, MOT, VCC, insurance documentation) within a set timescale, when requested by an authorised officer of the council or police officer.  Continued failure to produce documents as requested- for every 14 days that elapse.  In addition to receiving licensing record points a licence may also be suspended until such a time that the outstanding document is received by an officer or until the licence expiry date.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
		4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
46*	Failure to report within 72 hours an accident or damage to a licensed vehicle, which would cause	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	the vehicle to breach licence conditions. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
47*	Failure to comply with the regulations governing the wearing of seat belts. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	4 8	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		
48*	Failure to display the external/ internal licence plate(s) or signs as required by the council or displaying them incorrectly.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
49	Dropping off or picking up in an inappropriate place such as to cause an obstruction or nuisance to other road users.	4	<input checked="" type="checkbox"/>		
50	Illegal or inappropriate parking such as to cause an obstruction to pedestrians and / or other road users.	4	<input checked="" type="checkbox"/>		
51*	Failure to attend or attend on time for a pre-arranged appointment at the request of the council without reasonable cause.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
52*	Failure of a private hire operator to keep proper records of all bookings and driver and vehicle licences, or failure to produce them upon request by an authorised officer of the council or a police officer within reasonable time / or specified time.	4			<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
53*	Failure to notify in writing the council of a change of address within 7 calendar days. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	3 6	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
54*	Failure to notify the council of a change of any contact details (i.e. email address, telephone number) where such failure results in the council being unable to contact you directly. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3 6 9	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
55*	Failure to display "no smoking" signage in the vehicle or at the operating base.	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
56*	Driver smoking / vaping / similar whilst in a licensed vehicle. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3+FPN 9+ FPN 12+Prosecution	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		
57*	Smoking or allowing smoking in an operator's premises. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3+FPN 9+ FPN 12+Prosecution			<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
58	Unsatisfactory condition of vehicle- interior or exterior.	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
59	Driver eating or drinking in the vehicle while passengers are on board.	3	<input checked="" type="checkbox"/>		
60	Driver allowing noise from a radio or other similar equipment to be a source	3	<input checked="" type="checkbox"/>		



No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	of nuisance or annoyance to any person inside or outside the vehicle.				
61	Driver sounding the horn to signal that the vehicle has arrived and so causing a potential disturbance.	3	<input checked="" type="checkbox"/>		
62	Failure to give reasonable assistance with passenger luggage.	3	<input checked="" type="checkbox"/>		
63	Failure to carry an approved operational fire extinguisher.	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
64	Failure to carry first aid kit (items contained within the box must be in date).	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
65*	Failure to notify the council of the transfer of a vehicle licence.	3		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
66*	Failure to wear your drivers badge whilst on duty in a licensed vehicle. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	3 6	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		
67	Failure to carry evidence of insurance cover in the vehicle whilst on duty or to provide proof of insurance cover when requested. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	3 6	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
68*	Failure to provide a receipt for a fare when requested.	3	<input checked="" type="checkbox"/>		
69*	Failure of a proprietor / private hire operator to request and keep a copy of all drivers' licenses associated with their business.	3		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

<b>No.</b>	<b>Offence/ Breach of condition</b>	<b>No of Points</b>	<b>Driver</b>	<b>Vehicle owner</b>	<b>Operator</b>
70	Failure of private hire operator to ensure that the office staff act in a civil and courteous manner at all times.	3			<input checked="" type="checkbox"/>
71	Failure to comply with any other licence conditions / byelaws set by the council. Or instruction by an authorised officer.	3 per breach	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

### **Private Hire Offences**

<b>No.</b>	<b>Offence/ Breach of condition</b>	<b>No of Points</b>	<b>Driver</b>	<b>Vehicle owner</b>	<b>Operator</b>
72*	Driver plying for hire. (Including accepting a fare that is not pre-booked).	12	<input checked="" type="checkbox"/>		
73*	A private hire driver using a hackney carriage vehicle without a hackney carriage driver licence.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
74	Failure of private hire operator to ensure that all vehicles operated by them are adequately insured.	9			<input checked="" type="checkbox"/>
75	Driver calling out or influencing persons to travel in the vehicle for gain without prior appointment.	9	<input checked="" type="checkbox"/>		
76	Drivers parking in a position or location which gives the appearance of being for hire, whilst not on a pre-booking.	6	<input checked="" type="checkbox"/>		
77	Displaying any features or using a vehicle in which its appearance may suggest that it is a Hackney Carriage.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
78*	Permitting a private hire vehicle to wait on a hackney carriage	6	<input checked="" type="checkbox"/>		

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	rank.				
79	Affixing or displaying a roof sign on a private hire vehicle.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

### Hackney Carriage Offences

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
80*	Failure to ensure that all assisted devices to promote mobility, such as wheel chairs, walking aids, specialist buggies being carried in a licensed vehicle have been correctly loaded, secured and unloaded.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
81*	A designated wheelchair accessible vehicle refusing or failing to comply with S165 of The Equality Act 2010.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
82*	Making an additional charge for carrying an assisted device to promote mobility. See point 80 above.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
83	Using a non-calibrated or non-approved taxi meter.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
84	Failure to affix a roof sign to a hackney carriage vehicle.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
85*	Driver leaving car unattended on a rank appointed by the council.	4	<input checked="" type="checkbox"/>		
86	Hackney carriage driver obstructing other hackney carriages.	4	<input checked="" type="checkbox"/>		
87	Failure to display table of fares.	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
88	Failure to proceed to another rank when at the time of arrival the rank is full.	3	<input checked="" type="checkbox"/>		

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## East Herts Council Report Template

### Licensing Committee

**Date of Meeting:** 23 June 2021

**Report by:** Claire Mabbutt (Licensing Enforcement Officer)

**Report title:** Licensing Annual Report 2020-21

**Ward(s) affected:** All

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### Summary

#### RECOMMENDATIONS FOR LICENSING COMMITTEE:

**That Members review and comment on the Licensing activity from 2020/2021.**

#### **1.0 Proposal(s)**

- 1.1 That the report is received by Members of the Licensing Committee.

#### **2.0 Background**

- 2.1 The council's Licensing and Enforcement Team covers the licensing of taxi drivers and operators, licensed premises and temporary events notices, along with more infrequent applications relating to, among other things, scrap metal dealing and gambling.
- 2.2 This report presents data for the last financial year on processing and enforcement, delegated decisions 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.

### 3.0 Reason(s)

3.1 During the last financial year the enforcement team has undertaken 95 actions which are divided between visits, inspections and investigations. These have been analysed further and are recorded as:

Type	2019/20 totals	2020/21 <sup>1</sup> totals
Taxi inspections and investigations	37	54
Taxi complaints	38	14
Licensing Act 2003 complaints	40	5
Licensing Act 2003 premises visits	23	0
Checks of statutory notices	64	22
Gambling visits/complaints	13	0
Invoice visits/chase ups	41	0
Charity collection complaints	1	0
<b>Total actions</b>	<b>255</b>	<b>95</b>

3.2 All complaints have been fully investigated and have resulted in the appropriate action being taken in line with policy.

3.3 Members requested that further detail be provided in relation to any trends in the types of complaints received.

3.4 The above figures show a decrease in the number of complaints regarding licensed premises when compared to 2019/20, this is largely due to COVID restrictions being in place

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<sup>1</sup> Up to and including 31 March 2021.

and premises being closed.

- 3.5 The enforcement team's work involves ensuring that all documentation for taxi drivers and vehicles is up-to-date and therefore ensuring licences are valid. During the financial year to date 94 documents have not been produced before the expiry date on record. This is a small increase over last year (8%) although proactive work by the team has seen the number of expired documents decline.
- 3.6 Under the licensing points system a total of 25 points have been issued to 5 licence holders. The majority of these points were issued as a result of drivers failing to produce documents in time. This is a decrease over last year but this is the result of a change in approach rather than an increase in non-compliance.
- 3.7 The figures for the quarterly performance indicators for licensing in 2020/2021 are detailed in the table below and compared to that of 2019/2020.

<b>Performance indicator – cumulative (reported quarterly) within the year unless otherwise stated</b>	<b>2019/20</b>	<b>2020/2021</b>	<b>Target</b>
Percentage of valid personal licences processed within 2 weeks	100%	98 %	85%
Percentage of valid temporary event notices processed within 72 hours	90%	90 %	90%
Percentage of applications for new and variation of premises licences processed within 2 calendar months (from date of validation to issue date)	90%	100%	99%
Percentage of driver's licences issued within 30 working days of validation	94%	85%	95%

3.8 Further details regarding decision making, project and policy work and licensing matters dealt with by Environmental Health can be found at **Appendix A**.

3.9 Performance data and year on year comparison figures can be found in **Appendix B**.

## **6.0 Implications/Consultations**

### **Community Safety**

No

### **Data Protection**

No

### **Equalities**

No

### **Environmental Sustainability**

No

### **Financial**

No

### **Health and Safety**

No

### **Human Resources**

No

### **Human Rights**

No

### **Legal**

No



## Specific Wards

No

### 7.0 Background papers, appendices and other relevant material

- 7.1 Licensing Committee 2019-2020 activity report from the meeting held on 25 November 2020:  
<http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=120&MId=3772&Ver=4&J=4>
- 7.2 **Appendix A** - Further details regarding decision making, project and policy work and licensing matters dealt with by Environmental Health
- 7.3 **Appendix B** – Performance data from 1 April 2020 to 31 March 2021. Year on Year comparison figures for applications and granted licences, notices and other permissions.

### Contact Member

Councillor Peter Boylan, Executive Member for Neighbourhoods.  
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### Contact Officer

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**Licensing Activity report: 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021****1. Context**

The council's Licensing and Enforcement Team covers the licensing of taxi drivers and operators, licensed premises and temporary events notices, along with more infrequent applications relating to, among other things, scrap metal handling and gambling.

***Licensing matters managed by the Licensing and Enforcement Team*****2. Taxis**

The activity over the period in question has been as follows:

New applications	15
New applicants who have attended training	15
Resits of knowledge test	5
Existing drivers who have attended update training	0 Postponed due to COVID
Decisions taken by Service Manager – Licensing and Enforcement under delegated powers	6
Decisions taken by Head of Housing and Health under delegation in consultation with the Chairman of the Licensing Committee	12
Appeals against licensing points – decision by Head of Housing and Health	1 (12 Licensing Record Points issued and reduced to 7 on appeal)
Upheld	n/a
Dismissed	n/a
Appeals of decision – decision by court	1 Taxi matter (Revocation)
Upheld <i>council not successful in defending its decision</i>	1
Dismissed <i>council successful in defending its decision</i>	0
Prosecution sought	0
Successful	0
Unsuccessful	0

Judicial reviews	0
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There is a strong desire among both Members and officers to build on the council's work to promote high quality taxi licensing. In July 2020 the DfT statutory taxi and private hire vehicle standards were published. Appropriate changes have been implemented from the 1<sup>st</sup> June 2021 following the publishing of the DfT Standards document. These will be kept under review throughout the year to ensure they are robust and fit for purpose.

### 3. Premises

During the 2020/21 financial year 7 applications were decided by Licensing Sub-Committees. There were a further 4 cancelled hearings and 1 postponed hearing. The details of the matters brought before Licensing Sub-Committees are shown below.

<b>Premises/Person</b>	<b>Location</b>	<b>Type of application</b>	<b>Resolved</b>
Lomo Restaurant	Hertford	Premises Licence Variation	Granted with amendments
Hadham Brewery	Little Hadham	New Premises Licence	Granted with amendments
Premium Alcohol Delivery	Ware	New Premises Licence	Granted with amendments
French And Day Ltd	Ware	New Premises Licence	Granted with amendments
Waterbridge	Watton at Stone	New Premises Licence	Refused
Stone Valley South	Great Amwell	New Premises Licence	Granted with amendments

Rush Green Service Station	Hertford	Premises Licence Variation	Granted with amendments
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In addition to those matters that were brought before a Licensing Sub-Committee 3 others received representations. Officers of the Licensing Authority mediated between the respective parties and satisfactory solutions were found resulting in representations being withdrawn and applications being granted without the need for a Licensing Sub-Committee to be held.

Since the last annual report, and in response to a request from Members, a protocol for site visits has been established. This has operated successfully and the feedback is that it has assisted Members to make more informed decisions regarding the often complex licensing applications which come before Licensing Sub-Committees.

#### **4. Temporary Event Notices**

The authority received 100 TEN's by premises users. Only 1 TEN received an objection from the Police. As Members are aware only the Police and Environmental Health can object to TEN's. Often informal agreement is reached with premises users, TEN's are modified or even withdrawn meaning that a hearing is not required. On six occasions objection notices have been received but the concerns have been resolved between the parties meaning that hearings can be dispensed with.

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**Licensing Act 2003**

<b>Premises Licence Applications</b>	<b>19/20</b>	<b>20/21</b>
New	23	28
Variation	18	16
Minor Variation	17	11
Transfer of premises licence	14	25
Change of designated premises supervisor	81	50
Interim Authority notice	0	0
Review	1	0
Suspended	8	0

<b>Club Premises Certificates Applications</b>	<b>19/20</b>	<b>20/21</b>
New	0	0
Variation	1	0
Minor Variation	0	0
Transfer of premises licence	0	0
Interim Authority notice	0	0
Review	0	0
Cancelled/surrendered	0	0
Suspended	0	0

<b>Personal Alcohol Licences Applications</b>	<b>19/20</b>	<b>20/21</b>
New	75	49
Amendments (change of address etc)	49	1
Refused	1	0

<b>Temporary Event Notices Received</b>	<b>19/20</b>	<b>20/21</b>
TENs received	813	100
Objections (Police or Environmental Health)	2	1
Refused	1	0

## GAMBLING ACT 2005

<b>New Applications</b>	<b>19 /20</b>	<b>20/21</b>
Club Machine Permits	0	0
Small Society Lotteries	36	22
Betting Premises Licence (Betting shops)	0	0
Licensed Premises Gaming Machine Permit	2	0
Notification of Gaming Machines	2	1

## CHARITY COLLECTIONS

<b>New Applications</b>	<b>19 /20</b>	<b>20/21</b>
House To House	16	15
Street Collections	65	8

This figure does not include direct debit collections or those charities with a National dispensation to collect who simply notify us of their intention to collect in East Herts.

## DISTRIBUTION OF FREE LITERATURE

	<b>19/20</b>	<b>20/21</b>
New Applications	16	0
Currently issued	28	0

## TAXIS

<b>Dual Drivers</b>	<b>19/20</b>	<b>20/21</b>
New	14	6
Renewed	176	34

<b>Private Hire Drivers</b>	<b>19/20</b>	<b>20/21</b>
New	15	9
Renewed	26	18

<b>Private Hire Operators</b>	<b>19/20</b>	<b>20/21</b>
New	3	3
Renewed	0	11

<b>Hackney Carriage Vehicles</b>	<b>19/20</b>	<b>20/21</b>
New	30	21
Renewed	199	180
Change of vehicle	88	37



<b>Private Hire Vehicles</b>	<b>18/19</b>	<b>20/21</b>
New	16	12
Renewed	46	33
Change of vehicle	11	4

	<b>18/19</b>	<b>20/21</b>
Courtesy vehicles*	21	19

\*vehicles temporarily replacing those damaged in accidents.

### **PAVEMENT LICENCES (Since 23<sup>rd</sup> June 2020)**

	<b>20/21</b>
New Applications	23
Refused	4
Invalid	6
Total Issued	13

### **TOTALS NUMBERS OF LICENCES**

<b>Type of Licence</b>	<b>06/06/2019</b>	<b>30/12/2020</b>	<b>18/02/21</b>	<b>01/03/21</b>
Premises Licence	497	538	547	553
Club Premises Certificates	36	35	36	35
Personal Alcohol Licences	1983	2080	2087	2088
Betting Premises Licence	15	15	15	15
Dual Drivers	305	271	268	266
Hackney Carriage Vehicles	251	219	208	206
Private Hire Drivers	70	58	58	55
Private Hire Vehicles	66	40	41	40
Private Hire Operators	43	37	36	35

Figures regarding licensed vehicle numbers are routinely recorded so figures are available from 2013.

<b>Date</b>	<b>Number of Hackney Carriage vehicles</b>	<b>Number of Private Hire vehicles</b>
June 2013	250	46
June 2014	254	44
June 2015	257	57
June 2016	257	56
June 2017	266	58

<b>Date</b>	<b>Number of Hackney Carriage vehicles</b>	<b>Number of Private Hire vehicles</b>
December 2017	265	62
June 2019	251	66
February 2020	254	61
December 2020	219	40
February 2021	208	41
March 2021	206	40

**Note:** Due to the pandemic measures were put in place to protect the livelihood of drivers that were unable to work due to covid. These measures included:

- Hackney Carriage vehicle licences that expired during the pandemic to be relicensed at a later date as exceptions to the diminishing limit on the number of Hackney Carriage vehicles issued;
- Drivers whose licences expired during the pandemic to be allowed to apply for a new licence at a later date without having to fulfill all the requirements of a new application (exempt from having to take the knowledge test having previously passed it).

Strict criteria were put in place with the exemptions to ensure standards and safeguarding are maintained.

As such whilst an increasing number of driver and vehicle licences have not been renewed these numbers are likely to bounce back as restrictions ease.

### **LICENSING RECORD POINTS ISSUED**

	<b>19/20</b>	<b>20/21</b>
Points issued	42	25
Number of drivers issued points	19	5
Percentage of licence holders issued points*	5.5%	1.5%

\* Based on 344 drivers in 19/20 & 321 drivers in 20/21