

Licensing Committee Meeting

**Online Meeting, Virtual Meeting Platform
Wednesday, 11 November 2020 at 18:00**

The Licensing Committee deals with policy issues relating to licensing matters and applications and appeals concerning hackney carriage and private hire vehicles and drivers and other appeals.

Information for Members of the Public

Access to information and meetings

You have the right of access to all meetings of the Council, its Committees and Cabinet which may be conducted remotely such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

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Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

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The Council welcomes contributions in the form of written representations from members of the public at most public meetings. One single contribution to each meeting of no longer than 500 words may be made by each person which must be submitted via the form accessed by this link, before noon on the working day before the meeting date: [Licensing Have Your Say!](#)

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COLCHESTER BOROUGH COUNCIL
Licensing Committee
Wednesday, 11 November 2020 at 18:00

Member:

Councillor Dave Harris
Councillor Mike Hogg

Chair
Deputy Chair

Councillor Lyn Barton
Councillor Roger Buston
Councillor Helen Chuah
Councillor Simon Crow
Councillor John Elliot
Councillor Patricia Moore
Councillor Beverley Oxford
Councillor Barbara Wood
Councillor Tim Young

Substitutes:

All members of the Council who are not Cabinet members or members of this Panel.

AGENDA - Part A
(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief.

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

3 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

4 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

5 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 30 September 2020 are a correct record.

Licensing Committee Minutes 30 September 2020

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6 Have Your Say! (Virtual Meetings)

Members of the public may make representations to the meeting. Each representation may be no longer than three minutes (500 words). Members of the public may register their wish to address the meeting by registering online by 12.00 noon on the working day before the meeting date. In addition a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

7 Statutory Taxi & Private Hire Vehicle Standards

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The Committee will consider a report examining the implications for the Council's Hackney Carriage and Private Hire Licensing Policy of the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020.

8 Caravans and Park Homes Update

65 - 66

The Committee will consider a report providing an update on the licensing of caravan sites following the lifting of the provisions put in place as a result of the pandemic.

9 Review of the Statement of Licensing Policy

67 - 126

The Committee will be requested to approve the draft Statement of Licensing Policy, following a period of public consultation, and recommend its adoption to full Council.

10 Licensing Committee Work Programme 2020-2021

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The Committee will consider a report setting out the current Work Programme 2020-2021 for the Licensing Committee, providing details of the reports that are scheduled for each meeting during the municipal year.

11 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Part B

(not open to the public including the press)

Licensing Committee
Wednesday, 30 September 2020

Present: Councillor Barton, Councillor Buston, Councillor Chuah, Councillor Elliott, Councillor Harris, Councillor Hogg, Councillor B. Oxford, Councillor Wood, Councillor T. Young.

Substitutes: None

110. Declarations of Interest

Councillor Hogg declared a non-pecuniary interest in agenda item 8, as he is a trustee of a building that shows films, and he is the holder of a personal licence issued under the Licensing Act 2003. Councillor Chuah declared a non-pecuniary interest in agenda item 8, as she is a trustee of a venue that holds a premises licence issued under the Licensing Act 2003.

111. Minutes of previous meeting

RESOLVED that the minutes of the meeting held on 11 August 2020 were confirmed as a correct record.

112. Have Your Say!

Justin Plane attended the meeting to address the Committee. He informed that Committee that he was the proprietor of a private hire company known as T&J Executive Car Services. Mr Pane asked the Committee three questions, firstly why no refund was offered on a pro-rata basis for drivers who wished to retire or give up their licence for another reason. Secondly, he enquired why it was required to pay a fee of £50 up front for a vehicle test once the vehicle was over six years old, but that no refund of this fee was given if the test was no longer needed. Thirdly in the light of the difficulties that were likely to be faced by vehicle proprietors in the years ahead, he suggested that the current policy requiring licensed vehicles to be less than five years old from the date of first registration at the time they were submitted for licensing be reconsidered. He pointed out that it was possible to purchase a four year old vehicle with two hundred thousand miles on the clock and get it licensed by Colchester Borough Council, but it was not possible to buy a six year old vehicle with only a few thousand miles on the clock and get this licensed, no matter how well the vehicle had been maintained. Mr Plane cited other Local Authorities who allowed older vehicles to be issued with a licence and made the point that this made purchasing vehicles much cheaper for proprietors licensed by those Authorities.

Councillor Harris explained to Mr Plane that the setting and charging of fees was beyond the gift of this Committee and he therefore could not address some of the points that Mr Plane had raised, but he invited Officers to comment.

Jon Ruder, Licensing and Food Safety Manager, addressed the points raised by Mr Plane, and explained that the Committee was planning to review the Taxi and Private Hire Licensing Policy at its meeting in November, and consideration would be given to the points that he had raised in relation to vehicle ages when this happened. With regard to the issue of refunding application fees and vehicle test fees, Jon was not able to fully address these points in the meeting, but would respond fully to Mr Plane in writing afterwards.

Councillor Harris confirmed that it was planned to review the Hackney Carriage and Private Hire Licensing Policy at the next meeting of the Committee, and explained that Members could discuss and suggest amendments to the Policy at this time.

Councillor Buston addressed Mr Plane on the points that he had made in relation to fees, and explained that the Council was not allowed to make a profit out of the issuing of licences, and the fee that was charged to the applicant was simply to cover the cost of providing the service when issuing the licence.

113. Changes to the Hackney Carriage and Private Hire Licensing Policy

Sarah White, Senior Licensing Officer attended to present the report and assist the Committee with their enquiries. The Committee were advised that the Policy had been considered at its last meeting on 11 August 2020 when changes to the proposed Policy had been approved on the basis that no representations had been received following the public consultation. Since that meeting, a valid representation concerning the requirement to have an annual Disclosure and Barring Service (DBS) check for second vehicle proprietors had been discovered. Members were therefore being asked to re-consider the elements of the draft Policy to which the representation related, namely the requirement for second proprietors to have an annual DBS check. The Committee were advised that since the previous meeting, the Department for Transport had released their statutory guidance to Local Authorities which did recommend that an annual DBS check was carried out on any additional vehicle proprietor.

Councillor Buston explained that although he could see the point that was being made in the representation, he nonetheless considered that the guidance that was being issued to Local Authorities was very sensible, and concerned with the protection of the travelling public. He therefore endorsed the changes that were being proposed to the Policy.

RESOLVED that the following amendments be made to the Council's Hackney Carriage and Private Hire Licensing Policy and the amended Policy be proposed to Council for formal adoption;

- 5.2 The application process to be amended to require hackney carriage proprietors, including joint owners, to provide the following information, in

addition to the information already provided in relation to the vehicle being licensed –

- A current Passport or Birth Certificate
- Evidence that they may legally work in the UK
 - Please note - If circumstances come to light during the lifetime of the licence that they no longer have a right to work in the UK, the licence will be revoked.
- A basic Disclosure and Barring Service Check accompanied by a list of all previous convictions and any other relevant material information. The disclosure must be less than three months old when the application is made. Thereafter a DBS must be submitted every year. If they are also a licensed driver with the Council this requirement would not apply.
- Proof of completion of safeguarding training.

5.3 The following test be included at Paragraph 2.3 of the Policy and used when deciding the suitability of an individual –

Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arising suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence.

5.4 The minimum age for vehicle proprietors be set at 18 years or over.

114. Film Classification Policy

Sarah White, Senior Licensing Officer attended to present the report and assist the Committee with their enquiries. The Committee heard that they were being asked to approve a policy which would allow the Licensing Committee to provide a rating for previously unrated films. It was intended that the films would be rated in accordance with the extensive guidance provided by the British Board of Film Classification (BBFC). The Committee were advised that the Council had never been requested to provide a rating in the past, but had received an enquiry about a potential request to provide a film rating, and it was therefore considered prudent to put in place a policy that allowed this to happen.

In response to an enquiry from Councillor Harris, Sarah confirmed that if a request to provide a film rating was received in the future, this would be dealt with by a Sub-Committee of the Licensing Committee which would be set up in the normal way. Members of the Sub-Committee would receive an Officers report on the film highlighting anything in the film considered relevant to the rating process, and they would then view the film and provide a rating in accordance with the BBFC guidance. With regard to the operation of the Sub-Committee, Matthew Evans, Democratic Services Officer, confirmed that Members of the Licensing Committee who were not

on the Sub-Committee would be able to attend the meeting in order to gain experience of the process and in order to facilitate the future rating of films.

Councillor Young declared a non-pecuniary interest in this item as his partner worked at the Curzon cinema in Colchester. With regard to the proposed policy, he counselled caution by the Licensing Authority when considering film ratings, and cited examples of a film which had, in his opinion, been over zealously restricted by other Local Authorities in the past. In addressing these concerns, Jon Ruder confirmed that any rating to be undertaken would be supported by a detailed Officers report and the comprehensive guidance issued by the BBFC which had been developed over a number of years. Jon assured the Committee that he would look into training that may be available for them prior to any rating being carried out.

Councillor Hogg enquired whether there was a right of appeal of any decision taken by the Sub-Committee if the applicant was not satisfied with a rating given to a film. Sarah White confirmed that each case would be considered on its own merits, and there was no right of appeal of any rating decision taken by the Sub-Committee apart from applying to Judicially Review the decision.

RESOLVED that the draft policy and procedure be approved as part of the Licensing Act 2003 policy subject to public consultation.

115. Statement of Licensing Policy – Licensing Act 2003

Jon Ruder, Licensing and Food Safety Manager, attended to present the report and assist the Committee with their enquiries. The Committee heard that it was a statutory requirement that the Statement of Licensing Policy under the Licensing Act 2003 was reviewed every five years and that a new Policy was due to be implemented on 1 January 2021. Given the current circumstances, the decision had been taken to carry out a 'light touch' review of the existing Policy, and Jon highlighted some of the changes that had been made to include reference to the Colchester Business Improvement District (BID), and an improved monitoring system adopted by the Pub Watch Group. He confirmed that some additions had also been made to the policy to help address child sexual exploitation, working to prevent terrorism and the promotion of equality and diversity. The proposed Policy also referenced tax and right to work checks and the expectation placed on businesses with regard to controlling litter outside their premises. Finally, the Policy had been updated to include additional information about designated premises supervisors, and what was expected of businesses to address some of the issues that had been experienced. The Committee heard that following a period of consultation, the draft Policy would be referred back to them with a request that it be recommended to Council for adoption, and that the Policy would be reviewed in much more detail over the coming year.

Councillor Oxford queried whether or not the issue of tables and chairs permits taking up too much space on the pavement was addressed within the proposed Policy, and Jon Ruder confirmed that although tables and chairs permits were mentioned in the proposed draft Policy, they were dealt with under their own

separate regime, and this regime addressed the concerns raised. Jon requested that Members contact him direct if they were aware of any problems, and he would deal with these.

Councillor Buston commented that the review of the Statement of Licensing Policy was one of the most significant pieces of work undertaken by the Committee, and the Policy itself was a continual work in progress which required constant revision. He stated that the Policy document underpinned every decision taken by the Committee, and affirmed that the overriding purpose of the Policy was to ensure public protection.

Councillor Harris enquired as to the extent of the proposed consultation, and Jon Ruder confirmed that the proposed draft Statement of Licensing Policy would be circulated among all local businesses, together with the BID and all the responsible authorities, Colchester Borough Council and Parish Councillors, and notification of the consultation would also be placed on Colchester Borough Council's website. Councillor Harris requested clarification of the acronym "DISC" was that was referred to in the draft document, and expressed his pleasure that littering had not been included in the draft Policy. He also noted that elements of the separate Sexual Entertainment Venue Policy had now been incorporated into the Statement of Licensing Policy, and Jon Ruder confirmed that this was to ensure that the overlapping elements of the two regimes were adequately linked in Policy. Sarah White added that it was only a requirement for a premises to obtain a Sex Establishment Licence if they carried out sexual entertainment on more than twelve occasions per year in a licensed premises, and it was therefore important that the Policy was clear on this point.

RESOLVED That the draft Statement of Licensing Policy be approved for consultation purposes.

116. Licensing Committee Work Programme 2020-2021

Matthew Evans, Democratic Services Officer, introduced the work programme 2020-2021.

RESOLVED that the contents of the work programme be noted.

11 November 2020

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|----------------|---|--------|-----------------------|
| Report of | Licensing, Food & Safety Manager | Author | Jon Ruder ☎ 282840 |
| Title | Statutory Taxi & Private Hire Vehicle Standards | | |
| Wards affected | Not applicable | | |

1. Executive Summary

- 1.1 This report examines the implications for the Council's Hackney Carriage and Private Hire Licensing Policy of the Statutory Taxi & Private Hire Vehicle Standards issued by the Department of Transport in July 2020.

2. Recommended Decision

- 2.1 That the actions identified in Section 7 of this report be further investigated and a report brought to the next meeting of the Committee setting out any changes necessary to the Policy and a timetable for their introduction.

3. Reasons for the Decision

- 3.1 The Statutory Taxi & Private Hire Vehicle Standards is statutory guidance and sets out the core minimum standards that are required to regulate better the hackney carriage and private hire sector. The Department of Transport therefore expects the recommendations within the document to be implemented unless there is a compelling reason not to do so.

4. Alternative Options

- 4.1 Failure to adopt the standards will mean the Council is not compliant with the minimum standards set by the Department of Transport and a compelling case for this position will need to be made.

5. Background Information

- 5.1 The Department of Trade issued the Statutory Taxi & Private Hire Vehicle Standards in July 2020 with the intention of establishing minimum standards to better regulate the trade. Whilst the focus is on the protection of children and vulnerable adults, it is believed that all passengers will benefit from the recommendations contained within the document.
- 5.2 The Government have taken this action because there is evidence to support the view that taxis and private hire vehicles are a high risk environment; this can be seen in the abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve licensed drivers.
- 5.3 The full document is attached at Appendix 1 for the attention of the Committee. It sets out a framework of policies to which the Council must have regard, under section 177(4) of the Policing and Crime Act 2017.
- 5.4 In the interests of transparency the Council is required to publish its consideration of the measures contained within the Statutory Taxi & Private Hire Vehicle Standards (Statutory Standards), and the policies and delivery plans that stem from these.

6. Situation in Colchester

- 6.1 The Council has already implemented a number of the recommended provisions in its Hackney Carriage and Private Hire Licensing Policy (the Policy). This policy came into force in January 2019.
- 6.2 This report sets out the recommendations made, or in some cases the recommended stance the Council should take, in the Statutory Standards document; the Council's current position; and where appropriate identifies any further work or changes that need to be made to the Council's Policy.

7. Proposed changes

Administering the Licensing Regime

7.1 Licensing policies

Recommendation – the Council makes publicly available a cohesive policy document that brings together all its procedures on taxi and private hire licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards. This Policy should be reviewed every five years with interim reviews being carried out should there be significant issues arising in the area; performance should be reviewed annually.

Council position – The Council's Policy meets all the requirements set out in the Statutory Standards.

Action to be taken – to submit a report annually to the Licensing Committee setting out action taken over the course of the year in relation to the Policy. It is suggested that this annual report be aligned with the Municipal Year.

7.2 Duration of licences

Recommendation - the Council engages with the Police to ensure the use of the Common Law Disclosure Powers where the Police believes a licence holder presents a risk to the travelling public.

Council position – The use of the Common Law Disclosure process is well established in Colchester.

Recommendation – Short term licences should only be used when the Council thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where the licence is only required to meet a short term demand. Probationary licences should not be issued.

Council position – Probationary Licences are currently included in the Council's Policy but have not been used since the new Policy came into effect in January 2019. The Policy does not currently allow the issue of licences for less than the current standard lengths of 3 years for driver and 5 years for operators.

Action to be taken - This provision for provisional licences should be removed from the Policy and replaced by the ability to grant licences for less than three years where it is appropriate to do so having regard to the merits of the case.

7.3 Whistleblowing

Recommendation – that the Council should ensure that has an effective whistle blowing policy and that all staff are aware of it.

Council position – there is a Council wide whistle blowing policy in place which is available for all staff to access on the Council's intranet.

7.4 Consultation at the local level

Recommendation – that the Council should engage with the trade and its potential customers – i.e. user groups representing the disabled, women's groups, business interests etc. when considering making changes to alter the licensing regime.

Council position – the Council already consults widely when making changes to the Policy and will continue to do so bearing in mind the requirements set out.

Recommendation – that the Council should engage with neighbouring areas to identify any concerns and issues that might arise from a proposed change.

Council position – the Council is part of the Joint Licensing Officer Forum for Essex, and the Licensing Manager is currently the Chairman of this group. This provides a forum to discuss any changes and potential implications.

7.5 Changing licensing policy and requirements

Recommendation – Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to all those already licensed. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

Council position – the Council takes a pragmatic approach to such changes usually rolling out changes which effect existing licence holders over a period of time and consulting with licence holders on any major policy change; these practices will continue.

Action to be taken – where a subjective change is made to the Policy, e.g. amending the convictions policy, the Council will consider whether changes should be made retrospectively having regard to the merits of each case.

Gathering and Sharing Information

7.6 Disclosure and Barring Service (DBS)

Recommendation - The Council must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not be disclosed on a DBS certificate. Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of the certificate online at any time. The DBS will search regularly to see if any relevant new information has been received since the certificate was issued; conviction information will be sort on a weekly basis, non-conviction information will be sought every nine months. The Council would be able to request large numbers of status checks on a daily basis.

Council position – the Council currently uses a third party to carry out the DBS checks on its behalf.

Action to be taken – further investigation of the DBS update service is necessary before any recommendation can be made on this matter.

7.7 Common Law Police Disclosure

Recommendation – the Council should maintain a close relationship with the Police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

Council position – The use of the Common Law Disclosure process is well established in Colchester.

7.8 Licensee Self Reporting

Recommendation – that licence holders should be required to notify the Council within 48 hours of an arrest and release, charge and conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the Council as to whether the licence holder is fit to continue to hold a licence. The Council should consider what, if any action, in terms of the licence should be taken based on the balance of probabilities.

A failure of a licence holder to disclose and arrest might be seen as behaviour that questions the honesty and therefore the suitability of the licence holder regardless of the outcome of the initial investigation

Council position – The Council's Policy already requires notification within 7 days and appropriate measures are in place to deal with this information. The Council's penalty point system gives penalty points, in addition to conviction points given for the offence,

for failure to notify the Council to encourage licence holders to report; penalty points are not applied where the Council is notified.

Action to be taken – the Policy requires amendment to reflect the requirement to disclose matters within 48 hours.

7.9 Referrals to the Disclosure and Barring Service and the Police

Recommendation – A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.

Council position – the Council does not currently have a process in place to do this.

Action to be taken – to put in place a process to ensure referrals to the DBS are made where necessary.

7.10 Working with the Police

Recommendation – Action taken by the Council as a result of information received should be fed back to the Police.

Council position – the Council has a good working relationship with the Police which has been strengthened in recent years with joint working in some areas. This working relationship assists with the flow of information.

7.11 Sharing licensing Information with other licensing authorities

Recommendation – Applicants and license holders should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be obliged to disclose if they have had an application refused or a licence revoked or suspended by any other licensing authority

Council position – this information is requested as part of the Council's application process.

Recommendation – Tools such as the NR3 should be used to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.

Council position – the Council is proposing to use this service and further work is required to facilitate the upload of data.

7.12 Multi Agency Safeguarding Hub (MASH)

Recommendation – The Council should operate or establish a means to facilitate the objectives of MASH - the sharing of necessary and relevant information between stakeholders

Council position – a member of the Licensing Team is one of the Council's safeguarding officers and is therefore able to make referrals to the appropriate bodies where necessary.

7.13 Complaints against licensees

Recommendation – the Council should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.

Council position – All complaints are recorded on the Council's record management system enabling a comprehensive picture of the licence holder to be developed and retained throughout the life of the licence. The Council has a variety of options available to it and a stepped enforcement approach through the penalty point system.

Recommendation – The Council should produce guidance for passengers on making complaints directly to the Council that should be available on the website. Ways to make a complaint to the Council should be displayed in all licensed vehicles. The Council must ensure that drivers are aware of the requirement to display information on how to complain and take appropriate sanctions against those who do not comply with this requirement.

Council position – The Council has a complaint form on its website enabling the public to raise these concerns directly with the Council.

Action to be taken – to put together guidance on making a complaint which can be placed on the website and displayed in licensed vehicles. This information would include details of the Council's dedicated safeguarding complaint telephone line and email address.

7.14 Overseas convictions

Recommendation – the Council should seek or require applicants to provide where possible criminal records information or a Certificate of Good Character from overseas to properly assess risk and support the decision-making process.

Council position – the Council used to require a certificate of good character but because it was found that these were difficult to obtain the requirement was removed in favour of the requirement for a criminal record check or equivalent documentation from the county involved.

Action to be taken – to reinstate the requirement for a Certificate of Good Character alongside the Council's existing requirements.

Decision Making

7.15 Administration of the licensing framework

Recommendation – there should be a clear Scheme of Delegation for discharge of the Council's functions.

Council position – a Scheme of Delegation from the Council to the Licensing Committee and from the Committee to officers is in place.

7.16 Training decision makers

Recommendation – All individuals that determine whether a licence is issued should be required to undertake sufficient training.

Council position – The Council has a member training programme to meet the needs of both experienced members of the Licensing Committee and members new to it. The training offered makes use of case study material and provides an opportunity to discuss real cases in which the Council has been involved.

7.17 The Regulatory Structure

Recommendation – that the Council operates with a Regulatory Committee to determine licensing matters and that individual cases are determined by a panel of elected, and suitably trained Councillors drawn from this larger committee. To facilitate the effective discharge of functions, less contentious matters can be delegated to appropriately authorised Council Officers via a transparent Scheme of Delegation. The Council should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.

Council position – the Council has the appropriate regulatory structure in place. The Scheme of Delegation is kept under review to ensure it remains fit for purpose and meets the demands of the Service.

7.18 Fit and Proper Test

Recommendation – in determining whether an individual is fit and proper use the following question “without prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their conditions, to travel alone in a vehicle driven by this person at any time of day or night”. Decisions should be made on the balance of probability and can take into consideration conduct that has not resulted in a criminal conviction

Council Position – the Council sets out the tests it applies to determine fit and proper, including this test, in its Policy. Decisions are made on the balance of probability and taking into consideration, where appropriate, other matters.

7.19 Criminal Convictions and rehabilitation

Recommendation – Each case must be considered on its own merits but the Council should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable group, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, the Council should have a clear policy for the consideration of criminal records. The Council must ensure that applicants have fair and impartial consideration of their application.

Council Position – The Council's Convictions Policy sets out the stance to be taken in relation to criminal convictions and rehabilitation and the implications for the granting of a licence.

Driver Licensing

7.20 Criminality checks for drivers

Recommendation – In the interests of public safety, the Council should not, as part of its policy, issue a licence to any individual that appears on either the children or adult barred list in addition.

Council Position – the Council conducts these checks by way of a third party.

Action to be taken – the process will be amended to require updates every six months. Further investigation is necessary in relation to checking the barred lists.

7.21 Safeguarding awareness

Recommendation – the Council should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training.

Council position – the Council provided safeguarding training for all its drivers in 2019 and is moving to an online training course for all new drivers which must be completed before they are able to obtain their licence.

Action to be taken – to finalise arrangements for the online safeguarding training.

7.22 County Lines exploitation

Recommendation – Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.

Council position – the training provided by the Council and the training going forward will provide guidance on the identification of county lines exploitation.

7.23 Language Proficiency

Recommendation – the Council's test of a driver's language proficiency should test both oral and written skills to ensure a driver's ability to understand both written documents relating to the protection of children and vulnerable adults and their ability to communicate with passengers to identify possible signs of exploitation.

Council position – the Council's current English test covers both written and oral assessment.

Vehicle Licensing

7.24 Criminality checks for vehicle proprietors

Recommendation – the Council should require a basic disclosure from the DBS for vehicle proprietors and ensure that this check is undertaken annually. Where this is not possible because the applicant/licence holder has been resident overseas for a period the Council should carry out other checks in line with process for drivers set out above.

Council position – the requirement to carry out a basic DBS is included in the Policy but other elements of the recommendation are not included.

Action to be taken – – the Policy requires amendment to bring it fully into line with the requirements of the Statutory Standards.

7.25 In-vehicle visual and audio recording – CCTV

Recommendation – the Council should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

Council position – the Council has stated its commitment to CCTV in the Policy and it has been the subject of two consultations with the trade.

Action to be taken - The outcome of the most recent consultation is to be reported to the Committee in due course following further investigation work.

7.26 Stretched limousines

Recommendation – the Council should include within its policy the ability to licence stretched limousines (where they carry less than nine passengers) to ensure that such vehicles are brought within the scope of the private hire licensing regime and the safety benefits that this provides. This should include the ability to licence those vehicles which have space for more than eight passengers where the number of passenger seats is hard to determine. In these cases, the Council should consider the matter on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers.

Council position – the Policy includes the ability to licence stretched limousines including those capable of carrying more than 8 passengers; the relevant safeguards regarding numbers are in place.

Private hire vehicle operator licensing

7.28 Criminality checks for private hire operators

Recommended – that the Council should request a basic disclosure from the DBS and that the check is undertaken annually. A private hire operator licence may be applied for by a company or partnership; the Council should therefore apply the fit and proper test to each of the directors or partners in that company or partnership. Private hire operators should therefore be required to advise the Council of any change in its directors or partners. Where it is not possible to obtain a DBS because the applicant/licence holder has been resident overseas for a period, the Council should carry out other checks in line with process for drivers set out above.

Council position – the requirement to carry out a basic DBS is included in the Policy.

Action to be taken – the Policy needs to be amended to reflect the need for an annual check and to put in place arrangements where a DBS is not possible. The Policy also needs to be updated to reflect the fit and proper test for all directors/partners.

7.29 Booking and dispatch staff

Recommendation – the Council should as a condition of granting an operator licence require that a register of all staff that will take bookings or dispatch vehicles is kept. Operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on their register of booking and dispatch staff, carry out such checks on new staff, and that this is compatible with their policy on employing ex-offenders. Operators may outsource the booking and dispatch functions but cannot pass on the obligation to protect children and vulnerable adults. Operators are required to evidence that comparable protections are applied by the company to which they outsource these functions.

Council position – that Policy contains a number of these provision.

Action to be taken – the Policy requires amendment to bring it fully into line with the requirements of the statutory standards.

7.30 Record Keeping

Recommendation - The Council should requires operators to record, for each booking, the name of the passenger, the time of the request, the pick-up point, the destination, the name of the driver, the driver's licence number, the vehicle registration number of the vehicle' the name of any individual that responded to the booking request, the name of any individual that dispatched the vehicle. Booking records should be retained for a minimum of six months.

Council position – the Policy requires operators to keep most of this information.

Action to be taken – to amend the Policy to bring it fully into line with the requirements of the statutory standards.

7.31 Use of passenger carrying vehicles (PCV) licensed drivers

Recommendation – the use of a driver who holds a PCV licence and the use of a public service vehicle such as a minibus to undertaken a private hire booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker who must be made aware that the a PCV licensed driver is not subject to the same level of checks as a private hire driver and is not required to have an enhanced DBS.

Council position – the Policy does not currently cover this point.

Action to be taken – to amend the Policy to bring it fully into line with the requirements of the statutory standards.

Enforcing the Licensing Regime

7.32 Joint authorisation of enforcement officers

Recommendation – that the Council should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by other authorities when they cross over boundaries.

Council position – this has been the subject of discussion in the past in the light of cross border working but no action has been taken.

Action to be taken – that the matter be put forward for consideration in the first instance to the Joint Licensing Officers Forum for Essex.

7.33 Setting expectations and monitoring

Recommendation – the Council should ensure that drivers are aware of the policies they must adhere to and are properly informed of what is expected of them and the repercussions for failing to do so. The provision of a clear, simple and well publicised process for the public to make complaints will enable the Council to target compliance and enforcement activities.

Council Position – the Policy sets out the expectations for licence holders and the convictions and penalty point systems set out the repercussions of failing to adhere to the Policy requirements.

Action to be taken - to put together guidance on making a complaint which can be placed on the website and displayed in licensed vehicles.

7.34 Suspension and revocation of driver licences

Recommendation – the Council may suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt. Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date. A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made; a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used. A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration.

Council position - the Policy reflects this guidance in relation to suspensions and revocations.

8. Strategic Plan References

- 8.1 The Policy aims to contribute to the Council's vision of the Borough by ensuring that the licensed trade plays a significant role not only in the Borough's transport strategy but also in helping to promote Colchester and thereby enhancing our reputation as a destination and encouraging further investment.

9. Standard references

- 9.1 There are no known financial, publicity, equality, diversity and human rights implications, risk management, health & safety and community safety, and environmental and sustainability implications in relation to this report.



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

"It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride."

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

"Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction."

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#).

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

- 4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

- 4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.
- 4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.
- 4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.
- 4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.
- 4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

- 5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

- 5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.
- 5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:
- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
 - Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.
- 5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.
- 5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.
- 5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

- 7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

- 7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.
- 7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.
- 7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.
- 7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

- 8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

- 8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.
- 8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately
- 8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

- 8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

- 8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

- 8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

- 8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

- 8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

- 9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

- 9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

- 9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere to and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.
- 9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

- 9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

- 9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.
- 9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.
- 9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

| Information included | Type of check | | | |
|---|---------------|--------------------|--------------------|--|
| | Basic check | Standard DBS check | Enhanced DBS check | Enhanced DBS (including barred list) check |
| Unspent convictions | Yes | Yes | Yes | Yes |
| Unspent cautions ¹ | Yes | Yes | Yes | Yes |
| Spent convictions ² | No | Yes | Yes | Yes |
| Spent cautions ^{1 & 2} | No | Yes | Yes | Yes |
| Additional police Information ³ | No | No | Yes | Yes |
| Barred list(s) Information ⁴ | No | No | No | Yes |

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

11 November 2020

| | | | |
|----------------|----------------------------------|--------|-----------|
| Report of | Licensing, Food & Safety Manager | Author | Jon Ruder |
| Title | Caravan and Park Homes Update | | ☎ 282840 |
| Wards affected | Not applicable | | |

1. Executive Summary

- 1.1 This report provides the Committee with an update on the licensing of caravan sites following the lifting of the provisions put in place as a result of the pandemic.

2. Recommended Decision

- 2.1 That the information contained within the report be noted.

3. Reasons for the Decision

- 3.1 The report is an update on the current position.

4. Alternative Options

- 4.1 Not applicable.

5. Current situation

- 5.1 On 23 March 2020 the Government directed all non-essential premises, which included caravan parks/sites for commercial use, to close with immediate effect. The Guidance did however allow some people to remain where their primary residence was unavailable. As a result, a small number of people were resident on sites in the Borough.
- 5.2 As restrictions have eased, site owners have been advised that people should no longer be resident unless they are able to provide evidence of their legitimate reason to do so e.g. being unable to return to a home overseas. Where evidence has not been provided Park owners should be taking steps to move them on.
- 5.3 The Council is satisfied that the appropriate measures have been taken at all but one of the sites in the Borough; discussions are ongoing with the remaining site. At the current time 26 people have a legitimate right to remain on a site because of their current circumstances. Action has been taken to remove 22 others. The Council will continue to keep the matter under review to ensure compliance with the legislation.

6 Standard references

- 6.1 There are no references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications; and environmental and sustainability implications.

11 November 2020

| | | | |
|----------------|--|--------|-----------|
| Report of | Licensing, Food and Safety Manager | Author | Jon Ruder |
| Title | Review of the Statement of Licensing Policy // Results of Consultation | | |
| Wards affected | All | | |

1. Executive Summary

- 1.1 The report seeks the Committee's approval of the draft Statement of Licensing Policy, following a period of public consultation, and recommends its adoption to full Council.

2. Recommended Decisions

- 2.1 That any comments received following the consultation exercise, undertaken for the five-year review of the Statement of Licensing Policy, be considered.
- 2.2 That the Policy, attached at Appendix 1 to the report, be approved with any necessary amendments, and its adoption be recommended to full Council.

3. Reasons for Recommended Decision

- 3.1 Under the Licensing Act 2003, the Council needs to review and readopt a Statement of Licensing Policy every five years.

4. Alternative Options

- 4.1 There is no alternative option and the Policy must be reviewed and readopted in order to be compliant with the current Licensing Act 2003 legislation.

5. Supporting Information

- 5.1 The Committee, at its last meeting, approved the Draft Statement of Licensing Policy for the purposes of consultation. The consultation process ran between 8 October and 6 November 2020 and at the point of writing this report no responses have been received. The Committee will be aware that a light touch was taken to the review of the Policy in the light of the challenges posed by the Pandemic; a large number of responses to the consultation were not expected because of this.

6. Strategic Plan References

- 6.1 The proposed draft review of the Statement of Licensing Policy attempts to strike a difficult but reasonable and proportionate balance between the different and often competing aspirations of licensed businesses and residents. This Policy recognises the importance of widening the choice and appeal of licensed premises and the development of cultural, social and community activities while at the same time offering reasonable and proportionate protections to local residents, visitors and other businesses.

7. Publicity Considerations

- 7.1 The Policy will be available to view and download from the Council's website.

8. Financial Considerations

- 8.1 There may be costs incurred in defending any action brought against the Council by persons wishing to challenge the Statement of Licensing Policy by way of a Judicial Review. However, by carrying out the required consultation in accordance with the law and the Section 182 Guidance, the risk of such action is minimised.

9. Equality, Diversity and Human Rights Implications

- 9.1 The draft revised Statement of Licensing Policy has been developed in accordance with and taken account of, all relevant legislation and national and local strategies.

10. Community Safety Implications

- 10.1 The Licensing Policy is a key part of the controls on the sale of alcohol and as such it will contribute towards improving overall community safety.

11. Health and Safety Implications

- 11.1 There is no known direct public health and safety issues which might arise from the adoption of the draft revised Licensing Policy. Act 2003.

12. Risk Management Implications

- 12.1 A flexible yet robust revised Statement of Licensing Policy will continue to provide both the Council and the Licensing Authority with a sound basis for decision making in relation to licensed premises and a secure platform from which to promote the four licensing objectives as outlined in the Licensing Act 2003.

13. Environmental and Sustainability References

- 13.1 There are no known environmental and sustainability considerations arising from the adoption of the revised Policy.



Statement of Licensing Policy

2021–2026

Colchester Borough Council

January 2021

Welcome to the latest edition of Colchester's Statement of Licensing Policy.

We are proud of Colchester's continuing reputation as a safe and vibrant, welcoming and prosperous Borough. We want to make sure that Colchester continues to offer a diverse range of high quality and well managed venues and experiences; valued by those who live and work here and those who originate to visit.

The strength of Colchester's night and daytime economy is largely attributable to the variety it offers residents and visitors alike. We recognise that as a result, the Policy must be flexible to respond to the different demands placed upon it to ensure it meets the needs of both large corporate chains and individual tea rooms, live music venues and local shops.

We remain mindful of the balance that has to be struck between the sometimes competing needs of our residents and those of our business community. Residents have a fundamental human right to the peaceful enjoyment of their property and possessions which must be balanced against the legitimate needs of business, encouraging responsible and positive investment and economic growth.

The background to this review of the Licensing Policy has been the global pandemic. This has had a significant impact on the licensed trade in the Borough and at the time of writing this premises are working to adapt their trade to meet the necessary requirements and new demands placed upon them. In view of this and the expected inevitable impact on the trade in the post pandemic period, the Council has determined to take a light touch approach to the review of its Licensing Policy to maintain an element of stability at this time. The Council will look to review the Policy again at a later date to ensure that it continues to meet the needs of residents and businesses alike.

Colchester Borough Council, Essex Police and our partner agencies on the Licensing Enforcement Group are committed to working in partnership to provide a responsive licensing approach. We commend the policy to you and sincerely believe that it will continue to make a positive difference.

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Colchester is Britain's oldest recorded town with a unique history and heritage. It is also a vibrant, thriving, prosperous and welcoming town and the existence of a large University and Garrison contribute to its overall diversity. The Borough is home to more than 190,000 residents living in communities based not only in and around the town centre but in the coastal, rural and riverside areas of the Borough. The population will continue to rise with continued development and the regeneration of key areas of the Borough.

The evening and night time economy in the Borough, is predominantly centred in the town of Colchester. The unique geography of the town centre means that the vast majority of licensed venues are located within the area circled by the old roman wall; within this area and close by are a number of residential communities. The number of residents living in the town centre continues to rise with the conversion of former commercial premises to domestic accommodation. The challenge for the Council as the Licensing Authority is to balance the sometimes opposing demands of this sector with those of residents.

Introduction

1.1 This Statement of Licensing Policy (hereafter referred to as the 'Licensing Policy') is published under Section 5 of the Licensing Act 2003 and states how the Council as the Licensing Authority will exercise its licensing functions in order to promote the four licensing objectives which are:

- **The prevention of crime and disorder**
- **The prevention of public nuisance**
- **Public safety**
- **The protection of children from harm**

1.2 Unless otherwise stated this Licensing Policy will not depart from the Secretary of State's Section 182 Guidance (as amended) (hereafter referred to as 'the Guidance'). Therefore to reduce repetition if matters are detailed in the Guidance they may not be included in this Policy.

1.3 The aim of this Licensing Policy is to ensure desirable destinations for a wide range of age groups and uses. Premises that will extend the diversity of entertainment and attract a wider range of participants are encouraged rather than premises mainly or exclusively focused on the sale of alcohol. The Licensing Authority believes that achieving this will promote the licensing objectives as well as support other important Council strategies.

1.4 The Licensing Policy is integral in managing the role licensed premises play throughout the Borough. A key aim of the policy is to ensure that licensed premises have a positive impact on their locality and where any premises do cause problems, these are addressed swiftly and in the most appropriate manner. This Policy aims to develop a more inclusive night time economy, ensure high standards of management

for licensed premises, and promote high-quality premises that can contribute positively to their locality.

Links to Other Strategies, Policies and Initiatives

1.5 The key aim of the Licensing Policy is to promote the licensing objectives. However, it is recognised that there are a number of other policies which are helping to shape the Borough and this Policy integrates, as far as is reasonably practicable, with other key Council policies to ensure the promotion of the Council's strategic plan.

The Strategic Plan

1.6 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies. It sets out the Council's role in making Colchester a place where people want to live, learn, work and visit. The priorities are -

Growth – ensuring all residents benefit from the growth of the borough
Responsibility – encouraging everyone to do their bit to making our borough even better
Opportunity – promoting and improving Colchester and its environment
Wellbeing – making Colchester an even better place to live and supporting those who need most help

1.7 The Council is committed to achieving the goals set out in its Strategic Plan to create a vibrant, prosperous, thriving and welcoming town. This Policy aims to contribute to this vision through the promotion of a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability and growth. Licensed premises have a key role to play in the economy of Colchester as an employer, in regeneration, and in attracting people to the Borough. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy.

Community Safety Team and the Safer Colchester Partnership

1.8 This policy is closely aligned with the work of the Safer Colchester Partnership enhancing and supporting its work. There is a significant degree of overlap in the work of Community Safety and Licensing around the areas of alcohol and public safety and in particular addressing antisocial behavior, alcohol and drug related crime, and identifying hidden harms. The standards set out within the Policy are designed to address these priorities and by their application to licensed venues the Policy will contribute to the overall aims of the Safer Colchester Partnership.

SOS Bus

1.9 The Town Centre benefits from the operation of the SOS bus and support mini bus which operates in Colchester High Street every Friday and Saturday night. The

bus at provides a safe haven at the centre of the night time economy for any vulnerable person or anyone who is at risk. The bus could not operate without a team of trained volunteers. . Its operation demonstrably reduces demand for accident and emergency attendances and helps reduce the negative impact of the night time economy on business, residents and the town in general. This Policy supports the work of the SOS staff and recognizes the essential role it plays in making the Borough vibrant, prosperous, thriving and welcoming. The SOS bus relies on voluntary contributions to fund its operation. The Council welcomes the financial contributions made and support given by members of the licensed trade which help to ensure the continued operation of the SOS bus and therefore its mitigation of the problems that can occur in the night time economy.

Our Colchester Business Improvement District

1.10 Our Colchester Business Improvement District (BID) represents more than 400 businesses in the town centre and aims to make Colchester a better place to live, work and visit. The BID promotes collaborative working for the benefit of Colchester and its businesses. It has worked to identify and address the concerns of local business and has carried out proactive work such as the provision of the DISC system and targeted campaigns aimed at the night time economy.

Local Development Framework

1.11 The Council's adopted Local Plan emphasizes the importance of the Town Centre and regeneration. Planning policies direct development towards the most accessible and sustainable locations and plans for the provision of transport, employment and community facilities to support the growth areas of the Borough. This Policy supports these development aims; it recognizes the need to ensure that licensed premises are suitable for the area in which they are situated and encourages a diverse range of entertainment facilities to meet the needs of growing communities.

Contributing to the promotion of Public Health

1.12 The Council recognizes there is no public health licensing objective and therefore cannot conduct its licensing function in order to promote public health. However, it also recognizes the impact of alcohol misuse in the Borough, and it is hoped that through the implementation of this Policy the promotion of the four licensing objectives will in turn have a positive effect on preventing alcohol misuse. For example, by ensuring licensed premises refuse sales of alcohol to children, or those attempting to purchase it on behalf of children, this will impact positively on a reduction in child alcohol-related health problems. Additionally, by preventing the use of illegal drugs on licensed premises, it is hoped this might reducedrug related harm. Through ensuring the responsible selling of alcohol, this may impact on reducing a person's drinking at harmful or hazardous levels. The Council, through its Licensing Enforcement Group (LEG), receives information on admissions to A&E and ambulance call outs and this information is used in profiling premises and areas of the borough. However, it is accepted that any such positive impact will be as a

coincidence of the Licensing Authority conducting its licensing function under the Act to promote the licensing objectives.

Pubwatch

1.13 The Council encourages participation in the town centre Pubwatch scheme. The Council encourages licensees to participate in Pubwatch, or for them to seek to establish new ones where none currently exist, and endeavours to provide as much support as possible to any members of the trade looking to work together with neighbouring residents and businesses to ensure the promotion of the licensing objectives. By acting together Pubwatch can be a powerful group to affect change in the night time economy addressing not only issues of concern but also acting together raise the profile of the town as a vibrant, prosperous, thriving, and welcoming night time destination.

1.14 Pubwatch operates the Disc system, funded by the Colchester BID to boost the town's night-time economy and make the town safer place for visitors. Members of Pubwatch are able to publish news, documents, alerts and events. Essex Police allows information on individuals who have been banned from businesses to be shared with other Disc members. The Licensing Authority recommends the adoption of the Disc system to those wishing to operate a late night venue in the town centre

Working to Prevent the Threat of Terrorism

1.15 Terror attacks have previously been targeted at bars, pubs and nightclubs in the UK. All premises are expected to have regard to the National Counter Terrorism Security Office (NaCTSO) publication 'Counter Terrorism Protective Security Advice for Bars, Pubs and Nightclubs'.

Tackling Child Sexual Exploitation

1.16 The Licensing Authority acknowledges that is the view of the Government that the use of licensed premises by children should be encouraged where appropriate. Therefore this Policy seeks to rebalance and diversify licensed premises away from those premises concentrating solely or largely on the sale of alcohol, to premises that provide a range of offerings to encourage a wide variety of users.

1.17 The Licensing Authority is committed to protecting children from harm and the Council recognises that the misuse of alcohol often contributes to the parental neglect of children and domestic abuse and violence within families and is a key factor in the criminal and sexual exploitation of children.

1.18 The Council seeks to proactively work through the Licensing Enforcement Group and PubWatch to share intelligence and encourages premises to do all they can to ensure they and their staff recognise the signs of

child exploitations and provide intelligence for the appropriate authorities about concerns, including perpetrators who may be operating in their areas.

Promotion of equality

1.19 When drafting this Policy, the Equality Act 2010 (the Act) has been considered and applied. The Act protects people from discrimination, harassment and victimisation on the basis of their ‘protected characteristics’. These are sex (gender), gender reassignment, race, disability, sexual orientation, age, religion or belief (or lack of religion or belief), pregnancy and maternity, and marriage or civil partnership.

1.20 Section 149 of the Act, ‘the Public Sector Equality Duty’, requires the Council to have ‘due regard’ in everything they do to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not. The Licensing Authority will therefore ensure that premises are licensed in a manner consistent with the responsibilities under the Act to deliver the best equality outcomes for the Borough.

Consideration of need

1.21 The Licensing Authority is not able to take into account need or the commercial demand when exercising any licensing function; this is a matter for the market.

Integration with Planning

1.22 The use of premises for the sale or provision of alcohol, regulated entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation.

1.23 The planning and licensing regimes involve consideration of different (albeit related) matters. The Licensing Sub-Committee is not bound by the decision made by a Planning Committee and vice versa. Where the hours granted by planning are different to the licensing hours, the licensee must observe the earlier closing time. Premises operating in breach of their planning permission may be liable to prosecution or other enforcement under planning law.

1.24 The grant or variation of a licence does not negate the requirement for the licensee to ensure that relevant planning permission (or building control approval) is in place prior to the premises operating. Applications for premises licences should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority. It is strongly recommended that applicants contact the Planning Authority in advance of making a licensing application to seek advice on the planning constraints in respect of their

premises and so ensure that in operating the premises planning and licensing requirements are compatible.

Duplication with other Regulatory Regimes

1.25 In exercising its licensing functions, the Licensing Authority will seek to avoid duplication with any other existing legislation and regulatory regimes that already place obligations on employers and operators e.g. the Management of Health and Safety at Work Regulations 1999, the Regulatory Reform (Fire Safety) Order 2005, or the Environmental Protection Act 1990.

Responsible Authorities

1.26 **Responsible authorities are public bodies that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence /club premises certificate. The responsible authorities and their contact details are set out on the Council's website.**

1.27 **The Licensing Authority recognises the Quality Assurance and Safeguarding Service, Children and Families at Essex County Council as the body competent to advise it on the protection of children from harm.**

Pavement Permits

1.28 **If you wish to provide tables and chairs on the public highway you must hold a pavement permits issued by Colchester Borough Council; details of how to apply and the limitations on hours and other restrictions that might be imposed can be found on the Council's website.**

1.29 **If you wish to carry out any licensable activities in this area, including the sale of alcohol where a temporary bar is provided in the area, it must be included in the plan attached to the Premises Licence or Club Premises Certificate. You are expected to have specific regard to the impact upon the licensing objectives that the operation of an area licensed under a Pavement Permit will have.**

Protection of Privacy and Data

1.30 **The information provided as part of licence applications will be processed and held in accordance with the Licensing, Food and Safety Team Privacy Policy which can be found at <https://www.colchester.gov.uk/privacy-policy/licensing-food-safety-team-privacy-policy/>**

Right to Work

1.31 **Applicants for premises licences, transfer of premises and personal**

licences must demonstrate that they have the right to work in the United Kingdom and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. This applies for individual applicants and applications from partnerships which are not limited liability partnerships.

Consultation and Implementation of the Policy

1.31 In accordance with Section 5(3) of the Act, the Licensing Authority carried out consultation on the proposed Policy between 1 October and 31 October 2020.

1.32 This Statement of Licensing Policy will take effect on 1 January 2021 and will remain in force for a period of not more than five years from this date. The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation in accordance with the Act. Minor amendments which do not affect the substance of the policy may be made without consultation.

2. Guide to the Licensing Policy

2.1 This Licensing Policy sets out the relevant information on how licence applications will be determined and how licensed premises are expected to operate, as well as explaining how licensing integrates with other related strategies for the Borough.

2.2 The aims of this Licensing Policy are to pursue and promote the licensing objectives by encouraging:

- Desirable destinations for a wide range of age groups
- Licensed premises suitable for the area within which they are located
- Diversity of entertainment throughout the town centre that appeals to a wider audience
- A wide range of uses of premises

2.3 Licensed premises are an integral part of town and wider Borough and can have a major effect on the Council's aspirations for the Borough. Therefore, when relevant to the promotion of the licensing objectives, the Licensing Authority will aim to support the aspirations to ensure premises are only licensed that are an asset to their locality and respect the character and identity of the area, contributing positively to the locality in which they are situated and to the Borough. Where licensed premises fail to promote the licensing objectives, the Licensing Authority will take appropriate steps to address any such licence related issues.

2.4 This Policy is a key tool in ensuring the different circumstances of our identified areas are taken into account when considering licence applications. After careful consideration and having regard to evidential data, the Council has set out additional measures that it wishes to see considered by applicants when making applications in the Town Centre Zone and also its expectations in relation to the management of premises.

2.5 Residents can play a significant role in contributing to the effective implementation of this Licensing Policy. The impact of licensed premises will naturally be most felt at a local level and it is important that residents and businesses have an active involvement in the licensing process and understand how they can do this.

2.6 The Licensing Authority considers it extremely important that licensed premises operate as good neighbours within their community. Licence holders are encouraged to engage with local residents and businesses prior to submitting applications and for the duration of their licence to ensure that any problems can be dealt with promptly and to ensure the promotion of the licensing objectives on an ongoing basis.

2.7 This Policy contains a number of Key Factors, which are the primary issues it expects to be considered by licensees when identifying the steps they intend to take to promote the licensing objectives in respect of their licensed premises:

Key Factors

- KF1 What we aim to encourage** – desirable destinations for a wide range of groups and uses
- KF2 The location of licensed premises** – venues in the right place
- KF3 Hours for licensed premises** – operating at the right hours
- KF4 Standards to promote the licensing objectives** – excellent management
- KF5 Off sales of alcohol** - operating to the highest standards

Operation of the Policy

2.8 This Policy sets out the Licensing Authority's vision for the regulation of licensed premises throughout the Borough and outlines the minimum standards expected in order to ensure the promotion of the licensing objectives. Applicants are advised that where their application falls outside the guidance set out in the policy in relation to times and activities etc. they will be required to demonstrate that their proposals will not undermine the licensing objectives.

2.9 Every application will be treated in accordance with the Act, the Section 182 Guidance and this Licensing Policy. The applicant is expected to consider all relevant sections of the Policy and the potential impact upon the licensing objectives relevant to them.

2.10 The Licensing Policy is applicable to all premises providing any licensable activity. Applicants are expected to consider all the matters relevant to their application; these include key factors and where appropriate special guidance in relation to the Town Centre Zone.

2.11 Where there is no relevant representation, the licence must be granted as applied for subject to the mandatory conditions and those specified in the operating schedule.

2.12 If there is a relevant representation, the application will be considered on its own merits against the guidance contained within the policy and steps taken which are appropriate and proportionate to promote the licensing objectives.

2.13 There is a greater chance of a representation being made (and therefore a hearing) where the Key Factors contained in this Policy are not addressed.

2.14 The Licensing Authority will always consider the circumstances of the case and whether granting the application will undermine the licensing objectives.

2.15 In considering conditions to be attached to licences and certificates, the Licensing Authority will ensure that conditions must:

- be specific for the premises;
- not duplicate existing provisions;
- be capable of being met;
- be appropriate and proportionate for the promotion of the licensing objectives: and
- be tailored to the individual style and characteristics of the premises and events concerned.

2.16 It is acknowledged that conditions can only be imposed that seek to manage the behaviour of customers when they are on the premises and within the control of the licensee or in the immediate vicinity of the premises.

2.17 Licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control, and licensing law will always be part of a holistic approach to the management of the evening and night time economy in the Borough.

2.18 Where, following relevant representations and a hearing, the Licensing Authority is not satisfied that amendments to the application and/or the imposition of conditions will ensure the promotion of the licensing objectives the application will be refused. The amendments that will be taken into consideration include –

- excluding licensable activities
- amendments to the times for licensable activities
- a reduction in the licensable area

3 Key Factors

3.1 The key factors set out in the Policy are intended to address the principle issues related to licensed premises. Licensed premises and activities can play an important role in ensuring that the Borough is vibrant, prosperous, thriving and welcoming. However, if premises are not managed responsibly they can also impact negatively on an area by causing a wide variety of problems.

3.2 Our aim is to promote an 'inclusive' evening and night time economy throughout the Borough to ensure people of all ages can participate in and enjoy a range of activities. These Key Factors are designed to ensure that all licensed premises throughout the Borough operate to promote the four licensing objectives in order to ensure they contribute positively to the Borough. The Key Factors are:

KF1 What we aim to encourage

KF2 The location of licensed premises

KF3 Hours for licensed premises

KF4 Standards to promote the licensing objectives

KF5 Off sales of alcohol

3.3 A key aim is to ensure the diversity of licensed premises and particularly avoid premises simply focused on the consumption of alcohol. Where relevant representations are made applicants wishing to operate premises that facilitate quick drinking through a lack of seats (vertical drinking), loud music, and particularly those which aim to attract a particular audience to the exclusion or detriment of other groups will need to be able to demonstrate through appropriate measures that their application will not have an adverse impact on the licensing objectives; the reliance on continuing good practice is unlikely to be sufficient where such applications for new or material variations are sought.

3.4 We will also ensure that due consideration is given to the proximity of licensed premises not only to local residents and businesses, but also in relation to other licensed premises to ensure they are located in a position that does not adversely affect their ability to ensure the promotion of the licensing objectives.

3.5 While it is recognized that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided, the Licensing Authority will consider restricting hours to ensure the promotion of the licensing objectives, subject to relevant representations being made in relation to the hours applied for, should the Licensing Authority deem this appropriate and proportionate following a hearing.

3.6 Where no relevant representations are received against an application for a Premises Licence or Club Premises Certificate, it shall be granted automatically subject to mandatory conditions under the Licensing Act and conditions consistent with the licensee's operating schedule.

3.7 Failure to address the Key Factors contained within the Policy may increase the possibility of representations being made against applications, particularly by Responsible Authorities.

3.8 Every application will be treated in accordance with the Act, the Guidance and this Licensing Policy. The licensee is expected to consider the Key Factors and the potential impact upon the licensing objectives relevant to them. The Licensing Policy is applicable to all premises providing any licensable activity, and it is important that all premises have regard to it and can demonstrate this. In particular premises located within the Town Centre Zone should have regard to both the provisions set out in Paragraph 3.14 and those set out in 9.5.

3.9 The Licensing Authority expects licensees to have due consideration to the Standards to Promote the licensing objectives (Key Factor 4) when determining how they operate their premises. However, it is a matter for them to propose the measures they consider appropriate with respect to their individual circumstances.

3.10 The Licensing Authority expects licensees to implement all measures they consider appropriate to promote the licensing objectives with respect to their individual circumstances. The Standards may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to consideration of those measures outlined in the Licensing Policy. It is proper that they address all issues they consider appropriate to promote the licensing objectives.

3.11 The Licensing Authority expects licence holders to operate their premises in accordance with the application and commitments made to the Committee in order to obtain the grant of the licence. Where evidence indicates that this is not the case premises licence holders may expect an application will be made to Review the licence. Applicants wishing to operate a restaurant will be expected to provide evidence of the premises operation as such when requested by the Licensing Authority; such evidence to include, but not limited to, wet and dry and door entry figures.

3.12 The Council will actively support and encourage premises that seek to meet the harmonization of the day and nighttime economy.

KF1 - What we aim to encourage

3.13 The aim is to ensure desirable destinations that cater to a wide range of age groups and uses. Premises that are encouraged are:

Those that will extend the diversity of entertainment and attract a wider range of participants and in particular venues that offer diversity within the night time economy such as late night cinema, without the sale of alcohol, and live music venues. Venues that offer original material, are encouraged particularly to provide a range of live performances and styles of music, provided that such entertainment does not undermine the licensing objectives.

Family friendly venues, where people with children can attend, are encouraged.

Quieter and Smaller 'local-style' venues able to promote a sense of community and familiarity for customers.

Wind-down or chill-out venues that enable people to begin or end their nights out in a quieter venue where customers can sit down in a relaxed environment, particularly without alcohol.

Restaurants and Cafés as well as other less alcohol-dominated venues.

Theatres and Cinemas

3.14 Subject to compliance with the other policies the types of licensed premises set out in the Matrix below will generally be considered acceptable, unless relevant representations are made and/or the Licensing Authority considers that the application will undermine the licensing objectives. The Council wishes to see wider diversity in the night time economy and in particular wishes to encourage premises whose primary purpose is not the sale of alcohol.

Please note

- **The times given in the Matrix above are for licensable activities.**
- **In the case of premises which encompass two or more uses it is incumbent on the applicant to state the primary use of the premises; this use must be supported by the management plan/operating schedule.**
- **Any applicant who wishes to operate outside the times given in the Matrix will need to demonstrate that its operation supports the Key Factors without undermining the Licensing Objectives. This must be shown in the operating schedule and must demonstrate that there will be no derogation in the licensing objectives, including from departing customers. Reliance on continuing good practice is unlikely to be sufficient where such applications for new or material variations are sought.**

| Primary Function | Residential | Mixed Commercial and Residential | Commercial |
|-------------------------------------|--|---|--------------------|
| Nightclub | No | No | No |
| Restaurant | Yes until midnight | Yes until 00.30 | Yes until 01.00 |
| Late Night Takeaways * | Yes until 22.00 | Yes until midnight | Yes until 01.00 |
| Pub ** Bar | Yes until 23.00, midnight Friday and Saturday | Yes until midnight | Yes until 02.00 |
| Non-Alcohol Led – e.g.Theatres etc. | Yes until 23.00 | Yes until midnight | Yes until 01.00 |
| Off-licence | Yes until 22.00 | Yes until midnight | Yes until midnight |
| Members' Club | Yes until 23.00 | Yes until midnight | Yes until 02.00 |
| Village and Community Halls | Yes until 23.00, midnight Friday and Saturday | Yes until midnight | Yes until 02.00 |
| Wine Bars ** | Yes until 23.00 midnight Friday and Saturday | Yes until midnight | Yes until 02.00 |
| Sports Clubs | Yes until 23.00 | Yes until 00.30 | Yes until 01.00 |
| Coffee Shops | Yes until 23.00 | Yes until midnight | Yes until 02.00 |
| Caravan/Camping/Holiday Parks | Consideration will be given to the licensable activities to be provided when determining an appropriate time | | |
| Garages/Service Stations | Consideration will be given to the licensable activities to be provided when determining an appropriate time | | |

*premises with limited or no seating and primarily focused on the sale of hot food to take away including delivery

** premises where customers are generally seated, the density of the premises is lower and the age spread of the customer base is wider

KF2 - The location of licensed premises

3.15 The Licensing Authority considers the following as key issues in relation to the location of licensed premises:

- The proposed operation of the premises having regard:

to the licensable activities applied for,
the size, structure and proposed capacity,
the type/nature of the business

- The proximity of the premises to local residents.
- The proximity of the premises to other local businesses that could be affected
- The general character of the surrounding area including crime and antisocial behaviour levels
- The availability of transport to and from the premises

3.16 Consideration will be given to the capacity for vertical drinking at the premises. Vertical drinking has been linked with encouraging binge drinking and an increased potential for violence and antisocial behaviour.

3.17 Additionally, a number of premises closing simultaneously would lead to larger numbers leaving at the same time thereby increasing the risk of disorder and disturbance, as well as creating spikes in demand for taxis and other sources of transport.

3.18 There is the need to balance the needs of residents with that of the night time economy. Licensees should consider how their premises could impact upon the needs of local residents and businesses. Particular consideration is expected to be given to:

Prevention of noise or vibration escaping from the premises due to volume of music or plant and machinery noise

Prevention of noise disturbance from people entering and leaving the premises (e.g. queue management, dispersal policy)

Prevention of disturbance by people outside the premises (e.g. smoking areas)

Litter from the premises (This issue is considered particularly relevant in respect of late night takeaways and smoking-related litter outside of licensed premises)

Disturbance caused by deliveries and collections at the premises including waste and bottle collection

3.19 Consideration should be given to the effective availability of transport in relation to the premises including the proximity of public transport in order to ensure customers are able to get home safely and without causing disturbance.

KF3 - Hours for licensed premises

3.20 The Licensing Authority considers that measures must be taken to address the causes of crime and disorder and public nuisance linked to the night time economy.

3.21 The Licensing Authority will have particular regard to the hours applied for and considers that later hours will typically be more sensitive and higher risk in causing problems, especially related to drunkenness and particularly after midnight. Consequently, the Licensing Authority expects a higher level of control measures to be implemented at the premises when an application is made for later hours.

3.22 The Licensing Authority will have particular consideration to the location of premises and their likely effect on the locality when considering whether the hours requested are appropriate to the area and consistent with promoting the four licensing objectives (see the Matrix in paragraph 3.14). Opening hours will not generally be regulated but each application will be considered on its own merits and in particularly noise sensitive locations it may be appropriate to consider the opening hours of a premises.

3.23 Where relevant representations are made, premises that are considered to meet the criteria 'What we aim to encourage' will normally be given greater freedom to operate than premises that could be considered more likely to have a detrimental impact upon the licensing objectives, such as youth-oriented, alcohol- driven premises.

3.24 It is expected that hours for licensed premises will be particularly relevant having consideration to the location of the premises. Consequently, the hours applied for licensable activities should be appropriate with regard to the nature of the location of the premises. It is recognized that in spite of the quality of the operation of the business, where patrons are out of the control of the licensee, the lateness of the terminal hour for the premises will often be a contributory factor in the potential for disturbance.

3.25 The Licensing Authority will not consider the fact that other premises in the vicinity already have later hours as a justification for granting similar or extended hours and each application will be considered on its individual merits.

3.26 Where the Licensing Authority's discretion is engaged, premises applying for early morning daytime hours to sell alcohol will be given particular consideration in relation to their proximity to schools, play areas, nurseries, children's centres and other youth amenities to protect children from harm, as well as groups (such as persons who are alcohol-dependent) who could become more vulnerable or present a greater risk of crime, disorder and public safety issues as a result of excessive alcohol consumption or who may be drawn to particular premises if they are licensed to sell alcohol at earlier times. Where its discretion is engaged, the licensing authority may give consideration to the general demand for alcohol treatment in an area as a proxy indicator of problems.

KF4 – Standards to promote the licensing objectives

3.26 An application for a new premises licence application, provisional statement, or a variation to an existing licence, must contain an operating schedule which identifies robust proposals to promote the licensing objectives.

3.27 Where no relevant representation is received against an application, conditions consistent with the steps proposed in the operating schedule will be attached to the licence (in addition to the mandatory conditions).

3.28 We have identified the standards we expect licensees to consider when preparing their operating schedules in order to promote the four objectives. However, it is a matter for them to consider and propose the measures they regard as appropriate to promote the licensing objectives with respect to the individual circumstances of their application and having regard to their comprehensive risk assessment of the operation of their premises. These measures are not exhaustive and the Licensing Authority will have regard to any relevant issues raised in any representation that may fall outside the standards.

3.29 All relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in this Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives. They may also wish to liaise with the responsible authorities and local residents or businesses in considering whether any additional issues may be relevant.

3.30 All persons, including responsible authorities, should also consider these standards in relation to making any representation against an application.

3.31 Where there are relevant representations in respect of an application, these standards will be applied by the Licensing Authority to ensure licensed premises operate in the manner expected, where appropriate, by the Licensing Policy.

3.32 When it is considered by the Licensing Authority to be appropriate and proportionate in order to promote the licensing objectives, the policy is to attach conditions in accordance with the standards to promote the licensing objectives outlined in this Policy

3.33 While the standards have been separated under distinct titles of the four licensing objectives, many of them will be relevant for the promotion of multiple objectives. Where a measure may address more than one licensing objective it need only be included once.

KF5 Off-sales of alcohol

3.34 The Council has a Public Space Protection Orders (PSPO) in place for the Town Centre to help address and prevent numerous problems caused by public consumption of alcohol which are having a detrimental impact on the quality of life of those in the locality. Street drinking can be a major cause of antisocial behaviour, often involving underage persons, which gives rise to disorder, concerns over public safety and harm to children. Additionally, it is widely reported that consumption of alcohol by persons on the way to on-licensed premises gives rise to problems of drunken and disorderly behaviour. Licensees should ensure all staff are aware of the PSPO when situated within the designated area and reinforce the No Street Drinking warning at point of sale

3.35 In the light of the above therefore applicants are expected to demonstrate that there will be no derogation in the licensing objectives and that the operation of the premises will support the Key Factors. The Licensing Authority will give particular consideration to the hours requested for sales of alcohol. Persons who are alcohol-dependent may be drawn to particular premises if there are licensed to sell alcohol at earlier times than other premises. Additionally, if there are issues related to late night disorder, the hours for alcohol sales from the premises may be restricted.

3.36 Other conditions may be imposed directed at avoiding problematic street drinking in the vicinity of the premises. Another particular concern will be irresponsible drink promotions that do not follow best practice, would appeal to underage drinkers or street drinkers, or encourage excessive consumption.

3.37 There has in recent years been a significant rise in applications to the Licensing Authority seeking to permit off sales from the premises before 08.00. In light of the factors set out in 3.35 above the Licensing Authority does not wish to see the sale of alcohol before 08.00 and therefore **where the licensing authority's discretion is engaged, premises applying for early morning daytime hours to sell alcohol will be given particular consideration in relation to their proximity to schools, play areas, nurseries, children's centres and other youth amenities to protect children from harm, as well as groups (such as persons who are alcohol-dependent) who could become more vulnerable or present a greater risk of crime, disorder and public safety issues as a result of excessive alcohol consumption or who may be drawn to particular premises if they are licensed to sell alcohol at earlier times. Where its discretion is engaged, the licensing authority may give consideration to the general demand for alcohol treatment in an area as a proxy indicator of problems.**

4 The Prevention of Crime and Disorder

4.1 The Licensing Authority expects licensees to risk assess their premises and implement all measures they consider appropriate to promote the Prevention of Crime and Disorder licensing objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation, to every premises, but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to considering only those measures outlined in the Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

CD1 Implementation of effective security measures at the premises

It is expected that there should be a defined policy that documents the security measures in place for the premises. A defined policy should ensure a consistent approach and explain the standards expected of staff. It is expected that premises hold security review meetings on a regular basis to help identify and resolve issues and ensure that staff are fully aware of important issues. Relevant issues could include the prevention of thefts, or identifying problematic individuals.

CD2 The effective management of queues outside the premises

Queues should be managed effectively to prevent any nuisance or disorderly behaviour. There should be a consistent approach to the management of customers waiting to enter the premises and licensees are expected to demonstrate how they will manage queues to the premises.

CD3 The control of entry to and exit from the premises, including assessing the need for door supervisors

Consideration should be given to how capacity will be controlled and how already drunk or disorderly individuals will be prevented from being admitted. A relevant consideration will be whether security staff will be employed at the premises. It is expected that the need for security staff will be determined by documented risk assessment.

Where door supervisors are provided, it is expected that licensees have consideration of the following:

- High-visibility identification – It is expected that door supervisors shall be easily identifiable by wearing high-visibility clothing.
- Appropriate number of staff – Door supervisors should be employed at specified times with regard to the individual circumstances of the premises. The need for door staff should also be regularly reviewed and risk-assessed and appropriate security employed.
- The role of door supervisors in ensuring effective dispersal of patrons from the premises at the end of the night – Door supervisors should be instructed to encourage persons leaving the premises do so without causing

disturbance and in an orderly fashion.

- Consideration of SIA-approved contractor scheme companies – The objective of the SIA's Approved Contractor scheme is to raise performance standards. Approved contractors are demonstrably committed to customer service and the compulsory licensing of their staff, ensuring that every private security operative deployed on a premises will be working within the law.
- Holding security briefings at the start and end of duty.
- Maintaining a register of door supervisors on duty.

CD4 Operation of a documented policy in respect of searching patrons entering the premises.

Consideration should be given to whether searches of customers entering the premises are required. It is expected that the need for searches will be determined by risk assessment.

Any search policy is expected to include provision for the following circumstances:

- Records maintained of searches and seized items – Records should be maintained of any searches where prohibited items are seized and removed. Records should be made available to the Police.
- Circumstances under which searches will be conducted – Risk assessments should be conducted to consider when searches are appropriate.
- Location of where searches will take place – Areas should be covered by CCTV and not in isolated areas.
- Use of detection devices to detect weapons and drugs and when and where they will be used – Consideration for appropriate detection devices should be risk- assessed and employed as appropriate.
- Putting procedures in place for the seizure and retention of recovered drugs and other prohibited items – Items recovered should be kept in a secure location and the Police notified.

CD5 Designing out crime in the layout of the premises

Consideration should be had to best-practice advice such as the 'Licensed Property: Security by Design' (BBPA) or at www.securedbydesign.com (ACPO).

CD6 Comprehensive risk assessments for activities at the premises

Risk assessments should be regularly reviewed and any appropriate action implemented immediately. Risks identified should be recorded and updated when appropriate. Consideration should be given to the risks associated with the activities of the business, the clientele, the Key Factors in this Licensing Policy, the nature of the area the premises is located, as well as any appropriate individual circumstances.

CD7 Use of town link radio service at the premises and the Disc system

Late-night premises in the town centre are expected to consider subscribing to the

town link radio service which enables the rapid dissemination of information on criminal activity throughout the town centre and the Disc system which enables members of Pubwatch to publish news, documents, alerts and events.

CD8 Implementation of documented reporting procedures at the premises

Important and relevant incidents that occur at the premises should be recorded. Such records should be made available upon request by a Responsible Authority.

Recordable incidents could include:

- Accidents
- Lost and found property
- Refused sales of alcohol
- Thefts
- Banned and ejected persons
- Other incidents
- Injuries
- Allegations against staff.

CD9 Ensuring responsible management of externally promoted events at the premises

Promoters should be required to complete the promoter pro-forma and notification be given to Essex Police and the Licensing Authority no later than 28 days before the event.

CD10 Provision of comprehensive documented staff training

Documented staff training should be conducted relevant to the prevention of crime and disorder issues on the premises, to include (but not limited to):

- Age restrictions in respect of products
- Responsible Alcohol Service, including recognizing signs of drunkenness, refusal skills, drugs awareness
- Company policies and reporting procedures (see above)
- Managing and resolving conflict
- Action to be taken in the event of an emergency, including the report of a crime, fire, or request for emergency medical attention
- Licence conditions
- Relevant obligations and offences under the Licensing Act 2003, including those associated with the sale of alcohol.

Records of all training should be documented and kept on the premises available for inspection by the Responsible authorities.

CD11 Implementation of effective measures to prevent and deal with drunkenness at the premises

Premises licensed for the sale of alcohol for consumption on the premises should have a written policy in relation to drunkenness. Premises should not admit persons who are visibly intoxicated and staff should be trained regarding responsible alcohol

sales, identifying drunkenness and preventing alcohol sales to them.

Consideration should also be given to:

- Taking practical steps to prevent drink driving
- Displaying responsible drinking information and posters throughout the premises including the toilet areas
- Ensuring alcohol free options are readily available
- Making appropriate arrangements to ensure the safe transport home of vulnerable customers

CD12 Ensuring only responsible drinks promotions are operated at the premises

Consideration should be given to how any promotions could impact upon the mandatory licence condition for on-licensed premises prohibiting irresponsible promotions. It is expected licensees have reference to recognized codes of practice in respect of the responsible sale and promotion of alcohol products such as those issued by the British Beer and Pub Association, Portman Group and Drinkaware Trust.

CD13 Effective monitoring of the premises (both interior and exterior) including the use of CCTV

It should be demonstrated how the premises will be effectively monitored, e.g. patrols by staff, which areas will be covered by CCTV, whether security staff will be employed and, if so, where – as well as any other appropriate measures. Additionally, appropriate monitoring of external areas, e.g. immediately outside the entrance to the premises, smoking shelters or beer gardens, should be addressed where relevant.

Details of CCTV cameras should be provided (both internal and external). CCTV should be installed in liaison with, and to a standard approved by, Essex Police.

CD14 Ensuring all alcohol sales are properly authorised

The Licensing Authority considers it good practice for alcohol-licensed premises to ensure that there is a Personal Licence-holder on site at all times the premises is open for the sale of alcohol. Depending on the size of the premises, it may be appropriate for multiple Personal Licence-holders to be on duty, e.g. if the premises has more than one bar or is particularly large. The Licensing Authority expects to see written evidence of the delegation by the DPS to other persons of the authority to sell alcohol at the premises

CD15 Prevention of illegal drug use and anti-spiking at the premises

A zero-tolerance policy should be implemented regarding the use of illegal drugs on the premises. A drugs policy should be in writing and include how drugs will be prevented from being brought into the premises, what action the venue will take should anyone be caught with drugs on the premises, and how the drugs will be disposed of. The use of toilet attendants, regular documented toilet checks and searches of the premises could be conducted. Licensees for on-licensed premises should also consider what action will be taken to prevent the spiking of drinks at the

premises. This could include encouraging customers to ensure that drinks are not left unattended, and the use of publicity material to ensure customers remain vigilant.

CD16 Operation of a documented glass policy for the premises

Glass injuries are a serious problem in the UK, with approximately 5,500 glassings reported each year, and glasses or bottles being used in 5% of all violent crime. A documented risk assessment should be conducted for the use of glassware on the premises and safer drinking vessels, such as toughened glass or polycarbonate, should be used when appropriate. Risk assessments should also include the use of glass in external areas (if appropriate) as well as how glass collections will be managed throughout the premises, including the frequency of such collections.

CD17 Support for the SOS bus and other mitigation measures

The SOS bus works with other teams out and about in the night time economy – the street pastors, enforcement officers, doormen of licensed premises, police and ambulance service – to mitigate the effects caused by patrons of premises operating in the night time economy and to assist those premises in dealing with problems at their venue. Licensees are expected to demonstrate how they can offer support to ensure the continued operation of the SOS bus. This can take the form of financial contributions, display of promotional material, fundraising and actively working in a positive way with volunteers, as well as other initiatives such as taxi marshaling.

CD18 The operation of the premises

The Licensing Authority expects licence holders to operate their premises in accordance with the application and commitments made in order to obtain the licence. Applicants should demonstrate their commitment to the proposed use of the premises by the inclusion of such conditions that support this use of the premise and to limit the operation of the premises to the use applied for.

5 Public Safety

5.1 The Licensing Authority expects licensees to risk assess their premises and to implement the measures they consider appropriate to promote the public safety objective regarding their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

PS1 Maintaining a safe capacity and recording customer numbers

Capacity should be managed effectively and in accordance with an appropriate risk assessment to prevent overcrowding. Advice should be sought from Essex Fire and Rescue in relation to the safe capacity for premises and how it should be managed.

PS2 Ensuring Fire Safety procedures are in place and up to date

Licensed premises should:

- Conduct a Fire Risk Assessment for the premises, which is reviewed as required, and as a minimum every 12 months. An assessment template and guidance notes are available on the Essex County Fire & Rescue Service website.

- Ensure all fire equipment is inspected/serviced as per its relevant British Standard (generally, but not always, annually) and documented.

PS3 Use of a daily pre-opening and closing checklist

Consideration should be given to implementing such checklists as they can help ensure that all appropriate and routine actions are conducted consistently, ensuring good practice.

PS4 Provision of comprehensive documented staff training

Documented staff training should be provided to ensure adequate public safety on the premises, including (but not limited to):

- First Aid
- Fire safety procedures
- Evacuation procedures
- Terrorist threats (predominantly town centre venues)
- Overcrowding.

PS5 Implementation of appropriate anti-terrorism measures

Licensed premises, particularly those located in the town centre, should have regard to the National Counter Terrorism Security Office (NaCTSO) publication 'Counter Terrorism Protective Security Advice for Bars, Pubs and Nightclubs'.

PS6 Operation of a documented glass collection and spillage policy

Premises licensed for the sale of alcohol for consumption on the premises should have a policy and procedure in place to ensure effective and efficient collection of glasses and the cleaning-up of spillages throughout the premises.

PS7 The Use of Special Effects

Premises intending to use any form of special effects should carry out an appropriate and documented risk assessment and notify the Licensing Authority of their intended use.

PS8 Hypnotism, mesmerism or similar acts

Premises intending to provide, as part of their entertainment an exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process should carry out an appropriate and documented risk assessment and notify the Licensing Authority of their intended use. This does not absolve the premises licence holder from applying for and gaining any other necessary permissions

PS9 Large Scale Events

Premises holding large scale events are expected to have regard to the management standards set out in the policy and have in place an Event Management Plan that addresses , but is not limited to, the following –

- Overall event safety control
- Production details
- Medical and first aid provision
- Site management and the structural integrity of all temporary structures
- Crowd management, stewarding and security
- Fire safety and control
- Configuration and control of sound systems
- Management of any on-site and off-site car parking
- Management of concessions and franchises
- Provision and maintenance of water supplies
- Welfare and provision of information
- Provision and maintenance of sanitary facilities
- Reception collection and removal of litter and other waste
- Liaison with local residents and businesses
- An alcohol management plan

PS10 Care and Safety of Persons, including vulnerable persons, leaving the premises

A vulnerable person is one who for a variety of reasons may be unable to look after themselves and protect themselves from harm or exploitation. People may be vulnerable for a variety of reasons including but not restricted to – intoxication levels, substance misuse, illness or medical conditions, mental health issues, age, gender/risk of sexual predator or exploitation, and social impact factors.

Premises are expected to have in place a policy in relation to the care of vulnerable persons which should consider but is not limited to the following –

- Identifying whether the person is alone or with friends.
- Assigning a member of staff to keep an eye on them.
- Making contact with a relative or friend to ensure the person is taken home safely.
- Caring for the person in a safe place within the premises and away from the general public area.
- Contacting the SOS bus, Street Pastors and/or Police/Ambulance Service to provide care/assistance.
- In the event the person wanders away from the premises, notify CCTV and asking them to keep a watch on the individual and communicate with other premises via the town link service
- Assisting the person and/or friends in finding a route home.
- Recording the incident in the premises log book.

Premises are also expected to give consideration to implementing measures designed to encourage safe journeys home including (but not limited to) -

- Discouraging drink driving by promoting schemes such as designated driver, with notices clearly displayed throughout the premises.
- Displaying information to customers with regard to safe options for travelling home such as Cabwise. Information should include access to licensed taxi cabs or licensed private hire vehicles, the location of taxi ranks and public transport facilities including night bus options. Providing a free taxi phone service and a safe waiting area for customers inside the premises

6 The Prevention of Public Nuisance

6.1 The Licensing Authority expects licensees to risk assess their premises and to implement the measures they consider appropriate to promote the prevention of public nuisance objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

PN1 Prevention of noise breakout from the premises

This relates to both internal and external areas. Measures such as double-glazing, the use of an acoustic lobby, noise limitation devices and soundproofing for internal areas may be relevant. Licensees should demonstrate the measures taken to address such issues.

PN2 Use of a last entry time for the premises

Consideration should be given to a curfew on entry times, which can reduce the possibility of persons causing noise and disturbance late at night who may have been attracted to the premises.

PN3 Communication and integration with local residents and businesses

Licensees are encouraged to consult with local residents and businesses prior to submitting an application for a new licence or variation of an existing licence to ensure that any issues that may arise in respect of the proposed operation of the premises can be addressed at the earliest possible stage and ensure the promotion of the licensing objectives.

Licensees are expected to communicate with local residents and businesses, to address and resolve relevant problems. This could include giving contact telephone numbers to local residents so they can report any issues to the premises for them to be dealt with. It is expected that contacts at the premises would be persons in a position of responsibility who are contactable whenever the premises is open to the public so that any issues can be addressed without delay. Licensees could also arrange regular meetings with neighbours to ensure good relations.

PN4 Effective management of exterior spaces (e.g. beer gardens, smoking areas)

Where the premises include any exterior areas, licensees should demonstrate what measures are in place to prevent issues that may give rise to problems. Relevant considerations should include:

- a limit on the number of patrons in such areas
- whether there is a curfew on using them
- how they will be delineated, if relevant
- how will premises be kept clean and free of litter, particularly at the end of trading

what supervision will be in place?
will the premises be covered by CCTV?
How will the area be lit to avoid nuisance to neighbours?
will glasses be allowed outside?
what glass collection arrangements will be in place?
how to avoid customers causing noise disturbance
how the premises will prevent begging at, and in the immediate exterior of, the premises.

PN5 Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter

Where the licensable activities could give rise to litter being dropped in the vicinity of the premises, the measures in place to prevent this occurring and/or tidy it up should be demonstrated.

The licensing authority will expect operators to cleanse outside their premises, particularly at the close of business. Further, where its discretion is engaged, the licensing authority will take account of the potential impact of the premises upon litter problems in the area and take such steps that are deemed appropriate and proportionate to address such issues. Such measures could include regular litter inspections during the hours of operation and at the close of business, the placing of litter bins in prominent areas of the premises, reducing packaging, and the use of branded packaging.

PN6 Responsible management of the use of flyers and other promotional material

The irresponsible use of flyers can cause major litter problems. Any use of flyers and other promotional material should be done in a responsible and appropriate manner. It should be noted that permits are required for handing out flyers in various areas of the Borough.

PN7 Ensuring adequate arrangements for secure and responsible storage of refuse

Adequate and secure storage for refuse should be provided that is appropriate for the nature of the business. Particular regard should be given to the management of glass bottles to prevent them being taken outside the premises as potential weapons, and to the emptying of bottles into refuse containers at times that could disturb local residents or businesses.

PN8 Appropriate arrangements for deliveries and collections

Consideration should be given to how and at what times deliveries are made to the premises to avoid disturbance to local residents and business and avoid any obstruction. Equally, this would apply to any collections from the premises, e.g. refuse collections by private contractors.

PN9 Prevention of customers causing disturbance when leaving the premises

Licensed premises need to ensure the orderly exit and dispersal of customers from

the premises. Relevant considerations could include:

- Prominent display of notices requiring courtesy for neighbours
- Preventing customers from congregating outside
- Providing advice and directions to available public transport
- Providing contact details for taxi/private hire firms and provision of a call-back service
- Use of a dedicated taxi/private hire service
- Implementing a dispersal policy based upon good practice
- Use of a winding-down period
- The role of door supervisors in managing persons leaving.

PN10 Membership of any local Pub and Club Network/Off Licence Forum or other recognized partnership group

Licensees should commit to work in partnership through local business groups, which can provide useful forums to keep abreast of local issues and developments when they operate in the area.

7 The Protection of Children from Harm

7.1 The Licensing Authority expects licensees to risk assess their premises and to implement the measures they consider appropriate to promote the protection of children from harm licensing objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

CH1 Risk assessment for when children are on the premises

Regard should be had to specific risks that may arise when children are on the premises. The risk assessment should be documented and available for inspection by the Responsible authorities upon request. Relevant considerations could include:

- Will access be restricted to certain areas of the premises?
- Is there adequate supervision?
- Are the areas covered by CCTV?
- Will alcohol sales be restricted in areas where children are permitted?
- How will children be prevented from accessing alcohol?

Special consideration is expected to be given to promoted events in licensed premises aimed at, or likely to attract, persons under 18. The Licensing Authority expects robust measures to be in place to address potential risks associated with such an activity.

CH2 Ensuring any gambling machines on the premises are appropriately located and properly monitored

Consideration should be given to the ability to supervise their use regarding location to ensure underage persons do not use them with regard to any code of practice issued by the Gambling Commission (gambling machines) and advice from the Licensing Authority.

CH3 Ensuring entertainment at the premises is age-appropriate

Where adult-only entertainment is provided, children should be prevented from being on the premises when such entertainment is taking place.

CH4 Taking action to prevent proxy sales of alcohol from the premises

Premises licensed for the sale of alcohol should take proactive steps to prevent this occurring. Possible measures include:

- Regular checks around and/or outside the premises for underage persons

- encouraging adults to purchase alcohol for them
- Use of CCTV, particularly in external areas
- Displaying prominent notices in the premises explaining the law in relation to purchasing alcohol on behalf of persons under 18 and the penalties involved.

CH5 Proper management of any child performers

It is expected that any child performers are properly licensed and a nominated adult is present to act in a supervisory capacity.

CH6 Ensuring age restrictions are enforced effectively when showing films

Where age-restricted films are displayed, appropriate and effective measures must be in place to ensure relevant age restrictions are complied with.

CH7 Prevention of underage sales of age-restricted products and underage persons access

Effective and appropriate measures must be taken to ensure age restrictions are enforced at the premises. Relevant considerations include:

- Implementation of Challenge 25
- Details of what forms of ID are acceptable
- The use of till prompts
- The maintenance of refusal logs
- Staff training.

CH8 Provision of comprehensive documented staff training

Documented staff training is expected, particularly in relation to activities consistent with the licensing objectives, including (but not limited to):

- Identification and refusal of underage sales
- Age-restricted products
- Any access restrictions to the premises by children.

CH9 Display of child welfare information in public areas of the premises

Where children are allowed on the premises, information should be available on what to do if there is a cause for concern regarding a child's welfare.

CH10 Operation of under 18 events at premises

Where under 18 events take place, premises are expected to put in place appropriate measures to ensure the safety and welfare of those attending the event.

8 Off-sales of Alcohol

8.1 The Licensing Authority expects licensees to consider the standards below in relation to the operation of their premises; they may not be appropriate to apply in every situation but where they are such measures will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives and in particular those set out in the preceding sections on the measures to promote the licensing objectives.

OF1 Taking action to prevent the purchase and sale of counterfeit or non-duty paid alcohol

Premises should take proactive steps to prevent this from occurring. Such measures include:

- No alcohol purchased from sellers calling at the shop
- Reporting to Trading Standards any caller to the shop attempting to sell alcohol
- Keeping invoices (or copies) on the premises for all alcoholic goods purchased for inspection by authorised officers
- Operation of a stock control system
- Use of an ultraviolet pen or light to check the UK Duty Stamp on spirits

OF2 To control the sale of alcohol for delivery

Regard should be given to the specific risks, of selling and supply alcohol to persons underage, that are presented by the ordering of alcohol by telephone or internet and the delivery to a residential address where the person receiving the alcohol be underage. Premises should take proactive steps to prevent the sale and delivery of alcohol to underage persons. Possible measures include:

- Pre-ordering by telephone or internet prior to delivery
- Carrying Invoices relating to delivery on the delivery vehicle
- Production of invoices and record of orders on request to any authorised officer
- Operation of a "Challenge 25" scheme
- A refusals book

9. Town Centre Zone

9.1 In the town centre restaurants and takeaways account for over half of the premises in the night time economy and pubs, bars and inns account over a third of all premises. **There is evidence that within this area (shown on the plan at Appendix 1), the promotion of the licensing objectives is being undermined, in particular in the early hours of the morning, as a consequence of the operation of licensed premises in the area; having regard to the levels of crime and disorder and public nuisance experienced within it and the complaints received from local residents.**

9.2 The Licensing Authority considers that whilst the levels of problems do not currently justify the implementation of a cumulative impact policy for the area and therefore a reversal in the presumption of granting applications; **the area is of concern and will be kept under review.** The Licensing Authority has taken into consideration the role of the SOS bus in helping to mitigate the problems caused by the sale of alcohol in this area and recognizes that were the bus to be withdrawn the effect would be to push problems in the area to levels where a cumulative impact area would be considered.

9.3 There is evidence of problems associated with operation of licensed premises in the Town Centre Zone and the Licensing Authority wishes to see a decrease in the levels of crime and disorder and public nuisance already being experienced in the area. However, the authority does wish to diversify the evening and night time economy in in this area.

9.5 With this in mind, and **subject to compliance with the other requirements of the policy (in particular paragraph 3.14)**, the following guidance for new licences and material variations, where relevant representations have been made, is offered:-

- a. The following venue types are strongly encouraged provided they do not undermine the licensing objectives and therefore the licensing policy:
 - Restaurant
 - Non-alcohol led premises
 - Live entertainment venue
 - Coffee shops
- b. There is a strong presumption against the following venue types because of their potential to undermine the licensing objectives and therefore the licensing policy.
 - Late night takeaway
 - Nightclub
 - High Volume Vertical Drinking establishment
 - Pub/Bar
 - Off licences

Please note

- In the case of premises which encompass two or more uses it is incumbent on the applicant to state the primary use of the premises; this use must be supported by the management plan/operating schedule.
- Any applicant who wishes to operate a premises for which there is a strong presumption against within the Policy must demonstrate in its application that there will be no derogation in the licensing objectives, including from departing customers, and that its operation actively supports the Key Factors. Reliance on continuing good practice is unlikely to be sufficient where such applications for new or material variations are sought. Neither should reliance be placed on the size of the venue.

9.6 Key Factor 4, Standards to Promote the Licensing Objectives, sets out many measures that the Licensing Authority considers to be appropriate in order to ensure the promotion of the licensing objectives.

9.7 Having regard to the issues within the Town Centre Zone the Licensing Authority has also set out particular matters to which it expects operators to pay special attention in order to ensure their operation will not add to the problems within this area. Operators are not required to do so, but where the authority's discretion is engaged, any applications which fail to address all appropriate matters may be refused or have appropriate conditions applied.

9.8 These measures shall be considered in conjunction with the policy approach set out above and may be more or less appropriate depending on the style of operation applied for. Applicants are not limited to only these proposed measures and should propose all measures they consider appropriate in the promotion of the licensing objectives.

9.9 The measures are set out as follows:

Please note – the references below refer to the standards under the licensing objectives
(See pages 22 to 34)

| Ref | Matter to be addressed | Measure to be adopted |
|------|---|--|
| CD2 | Effective management of queues outside the premises | A documented policy addressing how queues outside of the premises will be managed to prevent any nuisance or disorderly behavior |
| CD3 | The control of entry to and exit from the premises, including assessing the need for door supervisors | A documented risk assessment assessing the need for door supervisors at the premises. Where employed, door supervisors shall be easily identifiable (through high-visibility uniform) and employed in appropriate numbers and during appropriate times. Written records to be kept of any door supervisors on duty. |
| CD5 | Designing out crime in the layout of the premises | Positive consideration will be given to the commissioning a Licensing Impact Statement (by Design for Security) and operation of the premises in line with the recommendations of that report. |
| CD8 | Implementation of documented reporting procedures at the premises | Documented records to be kept in respect of: Lost and found property Refused sales of alcohol Thefts Banned and ejected persons Injuries Complaints and any remedial action taken. |
| CD10 | Provision of comprehensive documented staff training | Documented staff training conducted in respect of: Preventing underage sales Preventing drunkenness Managing and resolving conflict Emergency procedures |

| | | |
|------|---|---|
| | | <p>Compliance with the licence conditions</p> <p>Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol</p> <p>Identification and refusal of underage sales</p> <p>Positive consideration will be given to the use of accredited training course and recognized industry qualifications (e.g. BII)</p> |
| CD11 | Implementation of effective measures to prevent and deal with drunkenness at the premises | <p>A documented policy in relation to preventing and managing drunkenness on the premises.</p> <p>Access to the premises should not be permitted to any person who is visibly intoxicated.</p> <p>Positive consideration will be given to:</p> <p>The sale of alcohol being subject to the use of waiter/waitress service for consumption by persons seated at tables</p> <p>Substantial food being available at all times</p> <p>Use of the Responsible Alcohol Service Guide</p> <p>Displaying responsible drinking information and posters throughout the premises</p> <p>Ensuring alcohol-free options are readily available</p> <p>Making appropriate arrangements to ensure the safe transport home of vulnerable customers</p> <p>Training of staff in the Responsible Alcohol Service award</p> <p>No promotional activity resulting in a minimum unit price of less than 50p.</p> <p>In relation to off sales - positive consideration will be given to:</p> <p>Voluntary restriction of high strength alcohol (i.e. high ABV beers and cider)</p> |

| | | |
|------|---|---|
| CD13 | Effective monitoring of the premises (both interior and exterior) including the use of CCTV | A digital CCTV system installed in conjunction with any specification or recommendations of Essex Police. |
| CD14 | Ensuring all alcohol sales are properly authorised | Positive consideration will be given to there being at least one personal licence holder on duty on the premises at all times it is open to the public. |
| CD16 | Operation of a documented glass policy for the premises | A documented risk assessment in respect of the use of glassware on the premises. Where appropriate plastic or polycarbonate drinking vessels. |
| CD17 | Support for the SOS bus and other mitigation measures | Positive consideration will be given to measures to support the SOS bus and other mitigation measures. |
| PS1 | Maintaining a safe capacity and recording customer numbers | The maximum occupancy of the premises should be prominently displayed at the entrance to the premises and appropriate measures put in place to ensure the capacity is not breached. |
| PS6 | Operation of a documented glass collection and spillage policy | A documented policy to ensure that drinking vessels are not left unattended and the efficient collection of glasses and cleaning up at the premises, especially in outdoor areas. |
| PN1 | Prevention of noise breakout from the premises | Systems to ensure that any noise from the premises, especially regulated entertainment, does not cause disturbance to neighbouring properties, particularly local residents. |
| PN3 | Communication and integration with local residents and businesses | Positive consideration will be given to: Participation in any community local initiatives. Communication with local residents and groups. Provision of a mobile contact number for the DPS or nominated person for the immediate resolution of problems. |

| | | |
|------|---|--|
| | | Hosting of meetings with local residents to troubleshoot issues associated with the premises. |
| PN4 | Effective management of exterior spaces (e.g. beer gardens, smoking areas) | Policies in place in relation to: Supervision arrangements. How such areas will be kept clean and free of litter, particularly at the end of trading. Avoiding customers causing noise disturbance. |
| PN5 | Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter | Systems in place to ensure the premises and surrounding area are kept clean and free of litter at all times the premises is open to the public, and at the close of trade. Positive consideration will be given to: Contribution (including financial) to any community local initiatives or infrastructure Cleaning initiatives beyond the immediate vicinity of the premises. |
| PN6 | Responsible management of the use of flyers and other promotional material | The distribution of flyers shall only be conducted in accordance with the terms of the requisite permit to distribute free printed material issued by the Council. |
| PN9 | Prevention of customers causing disturbance when leaving the premises | Policies for the dispersal of customers to ensure orderly conduct and minimize disturbance. Positive consideration will be given to: Supervision of customers leaving including preventing customers congregating outside Use of a winding-down period Providing a dedicated taxi/private hire calling service, which operates a call back facility. |
| PN10 | Membership of any local Pub and Club Network/Off Licence Forum or other | Positive consideration will be given to: Participation in the local Pubwatch scheme |

| | | |
|-----|---|--|
| | recognized partnership group | Support of any local resident / community schemes including the voluntary hosting of meetings. |
| CH4 | Taking action to prevent proxy sales of alcohol from the premises | Operators should ensure staff are aware of the risks of proxy sales and take appropriate measures to deter offences. |
| CH7 | Prevention of underage sales of age-restricted products and underage persons access | The operation of Challenge 25 with acceptable forms of ID Positive consideration will be given to: The use of till prompts Operation of mystery shopper exercises at own expense. |

9.9 The guidance for the Town Centre Zone applies to all new and material variation applications. In relation to variations, this includes any variation that seeks to add a licensable activity, increase the capacity/size of a licensed premises, or extend the hours for licensable activities, but will usually exclude minor variations.

9.10 Each application will be considered on its individual merits.

9.11 Applicants will be expected to have particular regard to all key factors of this Policy.

9.13 The Town Centre Zone will be kept under review and where problems of crime and disorder or public nuisance are not improving, or are worsening, the Policy will be reviewed with a view to introducing a cumulative impact area.

10. The Cumulative Impact of Concentrations of Licensed Premises

10.1 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its licensing policy statement.

10.2 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increase in crime, anti-social behaviour, noise pollution and disturbance to residents in the vicinity of those premises and other patrons of the nighttime economy. In such cases the amenity of local residents can be placed under severe pressure but the causes may not be attributable to any individual premises and therefore enforcement action taken to ensure adherence to conditions may not always resolve the problems.

10.3 Types of evidence the Licensing Authority will take into consideration when considering whether to implement a cumulative impact policy include:

- Information and intelligence from its own Licensing Enforcement Group
- Alcohol-related crime
- The number and type of licensed premises and the hours and activities for which they are licensed
- Ambulance and A&E data in respect of alcohol-related incidents
- Residential density
- Noise complaints
- The number of consumers attracted to the area and the availability of public transport

10.4 In coming to any decision about a cumulative impact, the Licensing Authority will also have regard to other mechanisms outside of the licensing regime, which may also be available to address the issues, these include but are not limited to:

- Planning controls
- Positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other Council departments
- The provision of CCTV in the town centre, sufficient taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- Police enforcement including the issuing of fixed penalty notices
- Prosecution of personal licence holders or other members of staff who sell alcohol to people who are already drunk
- Confiscation of alcohol from children and adults in designated areas
- Police and Council powers to close down instantly, for 24 hours, a premises or temporary event on the grounds of disorder, the likelihood of disorder or noise

- emanating from the premises causing a nuisance
- The power to seek the review of a licence

10.5 Such a special policy will be implemented if the Authority is satisfied that there is evidence to support such a decision, and that it is proportionate and the most effective measure to address the problems identified.

11 Designated Premises Supervisors

11.1 Under the Licensing Act 2003, all licences that authorise the sale of alcohol must contain details of the Designated Premises Supervisor (DPS).

11.2 It is expected that responsible authorities will as a rule consider developing constructive working relationships with designated premises supervisors, and the Licensing Authority expects this to be reciprocated to promote effective partnership working relations with the trade.

11.3 The Section 182 guidance states: ‘the designated premises supervisor is the key person who will usually be charged with day-to-day management of the premises by the premises licence holder including the prevention of disorder.’ The licensing authority will not normally impose conditions related to the management competency of designated premises supervisors, save where it is considered appropriate that in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder, public safety and public nuisance.

11.4 Where, following an objection by the police, the Licensing Authority is satisfied that the appointment of a person as a DPS would undermine the crime prevention licensing objective, the policy is to refuse the appointment or, if already in post, to remove them as the DPS.

12 Temporary Event Notices

12.1 Temporary Event Notices, TENs, can be used to authorise premises for licensable activities for temporary periods or specific occasions.

12.2 Unlike applications for premises licences and club premises certificates, the licensing authority does not grant temporary event notices. Instead the premises user notifies the licensing authority of their intention to hold an event. Only the police and environmental protection can intervene to prevent it taking place or agree modifications to the event arrangements. However, in the interests of public safety the fire authority are notified by the Licensing Authority of all temporary events notices.

12.3 It is strongly suggested that TENS are lodged well in advance of the event to enable the licensing authority to work with event organisers, where necessary, to resolve any potential issues that may arise as a result of the TEN. This is particularly relevant for organisers of events anticipating maximum attendance and/or involving the sale of alcohol. Organisers should also have regard to the relevant parts of the guidance in this policy on large scale events.

12.4 Events such as village fetes which occur on a temporary basis may not require a licence. However, organisers of such events are requested to notify the Licensing Authority to ensure that, in the event that enquiries/complaints are received from members of the public, they can be effectively dealt with.

12.5 Temporary Event Notices do not override the need to have the necessary planning consent in place for the event to be held.

13 Premises Licences for Large-Scale Public Events

13.1 The Council holds a number of Premises Licences for public areas throughout the town centre. If you wish to hold an event in a public space it is strongly recommended that you first contact the Council's Licensing Team.

13.2 Licensees are expected to have regard to the management standards set out in the Policy as well as address the following elements:

- Overall event safety control
- Production details
- Medical and first aid provision
- Site management and the structural integrity of all temporary structures
- Crowd management, stewarding and security
- Fire safety and control
- Configuration and control of sound systems
- Management of any on-site and off-site car parking
- Management of concessions and franchises
- Provision and maintenance of water supplies
- Welfare and provision of information
- Provision and maintenance of sanitary facilities
- Reception collection and removal of litter and other waste
- Liaison with local residents and businesses

13.3 Relevant details in respect of the above may include:

- The proposed capacity of the event
- The provision of plans to agreed scales detailing exits, entrances, temporary bars, marquees and all facilities to be provided within the premises
- Details of proposals for entertainments, together with information regarding any special effects
- Details of proposals for concessionary activities, including food franchises, bars, restaurants and non-food retail sales
- An alcohol management plan, which will include details of:

- The designated premises supervisor
- Personal Licence-holders
- Control of the sale of alcohol
- Proof-of-age policy
- Promotion of responsible drinking
- Appropriate signage

- A Safety Policy and Risk Assessment for the event
- Details of arrangements for co-ordinating and controlling event safety on the site
- A site safety plan, including site safety rules, requirements for construction and breakdown of site, structural safety calculations, drawings of temporary structures and safety barriers, details of electrical installations and lighting arrangements
- Incident contingency and emergency plans (including a Major Incident Plan)
- A crowd management, stewarding and security plan (taking into account the views of Essex Police)
- A medical ambulance and first aid plan
- A fire safety plan
- A traffic management plan
- A sound assessment with details and proposals for monitoring and controlling sound emission
- Details for the provision of cleaning and maintenance of sanitary accommodation, washing facilities and drinking water
- Details for the reception collection, litter and disposal of other waste
- Details of welfare arrangement facilities and provisions for information on site
- Details of the arrangements and facilities for disabled persons.
- Consideration should not solely focus on the activities taking place within the area of the licensed premises. Appropriate measures to address issues outside the licensable area include:
- Putting in place plans that will assist to minimize disruption to the day-to-day lives of local residents, businesses and existing operations for the period of the event
- Providing a robust traffic and transport plan that takes into account the needs of the local community – and minimizes the impact of visitors to the area for the event – while maintaining a safe and convenient point of access and egress for the attendees within the parameters of existing traffic, transport and parking provision

- Putting in place a strategy to manage the consumption of alcohol by visitors accessing and leaving the event in the public realm and highway
- Putting in place a strategy for the control of access to and egress from the licensed premises for the control of disorderly behaviour.
- Providing facilities external to the licensed area that will assist in the management of the access and egress of visitors to the event – and minimize the impact on the existing public realm – including, but not restricted to, additional toilet facilities and a designated park and ride area
- Putting in place a cleansing strategy beyond the immediate perimeter of the licensed premises in association with the Local Authority
- Providing communication channels for the local community that will enable residents and businesses to access sufficient detailed information prior to the event days
- Providing a hotline and information phone number for residents and local businesses for the duration of the event.

13.4 Licensees should contact the Safety Advisory Group which oversees large scale events in the Borough and have reference to The Event Safety Guide – A Guide to Health, Safety and Welfare at Music and Similar Events, commonly referred to as 'The Purple Guide'.

14 Film classifications

14.1 Where a Premises Licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to films to be restricted in accordance with either the BBFC classification; or where the film is not classified by the BBFC, any recommendations made by the licensing authority.

14.2 The Council's Policy, attached at Appendix 2 sets out the formal procedure for Colchester Borough Council (the Licensing Authority) to determine within its area –

- the classification of previously unclassified films
- the amendment of classifications and the consideration of appeals by distributors against the BBFC's decisions
- requests to reclassify films.

15 Adult Entertainment

15.1 Where its discretion is engaged, the Licensing Authority will have regard to the following additional matters in respect of applications to provide adult entertainment, including entertainment of a sexual nature, eg. nudity, striptease and lap dancing.

15.2 For premises that wish to provide such entertainment, the authority will also take into account the location of the premises in relation to their proximity to the following sensitive uses –

- residential accommodation;
- schools, nurseries and other premises used by children and vulnerable persons;
- parks or other recreational areas used by children and other vulnerable persons;
- religious centres and places of religious worship;
- youth, community and leisure centres;
- access routes to and from premises listed above;
- historic buildings or visitor attractions;
- an area designated either as an area under regeneration, or due to be regenerated.

15.3 The licensing authority expects licensees to consider the following additional measures when applying to provide adult entertainment and, if considered

appropriate for the promotion of the licensing objectives, include relevant steps in their operating schedule:

- The exclusion of under-18s from the premises
- A code of conduct for customers
- A code of conduct for dancers and performers
- Documentary checks for dancers and performers, including proof of age, identity and (where appropriate) proof of permission to work
- how the entertainment will be advertised and promoted at the premises

15.4 It is expected that any codes of conduct would be developed in consultation with the Licensing Authority having regard to the Council's Sex Establishment Policy.

16 Licensing Enforcement and Monitoring

16.1 It is essential that licensed premises comply with the terms of their licence as well as other requirements of the Licensing Act. Equally important is ensuring that premises not licensed to provide licensable activities are prevented from doing so. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with the licence conditions and the specific requirements of the Act. The Council will also monitor the Borough for unlicensed activities that require a licence and then act accordingly and in line with the Council's Enforcement Policy.

16.2 Enforcement activities to promote the licensing objectives will be targeted and will concentrate on those premises that present a greater risk; have a history of non-compliance with conditions and regulations; or demonstrate poor management practice.

16.3 The Licensing Authority is the lead authority on the Council's Licensing Enforcement Group which comprises representatives from all the responsible authorities and the Garrison. The Group meets monthly to share information on licensed venues and agree any resultant enforcement action.

The Terms of Reference of the Group are to:

- Work together to share knowledge and deal effectively with premises licensed under the Licensing Act 2003 that have been subject to complaints or raised concerns.
- Identify and discuss at an early stage those premises which may be called for review.
- Establish agreed means by which an intervention by the Group rather than by a single responsible authority could be achieved.
- To consider matters of potential serious or escalating concern that may fall outside the Licensing Act 2003 (e.g. taxi problems or disturbance that may be related to the management of one or more licensed premises).
- The aims and responsibilities of the Group are to:
- Improve the local and immediate neighbourhood that is affected by poorly managed premises.
- Raise the levels of compliance and standards of management in licensed premises.
- Prevent a possible escalation of problems with early and coordinated intervention.
- Enable the Licensing Authority to optimise its role as responsible authority under the Licensing Act.

- Improve understanding and foster positive working relationships between all responsible authorities.

16.4 The Licensing Authority takes a risk-based and proportionate approach to regulatory enforcement and monitoring in relation to the likely impact of the premises upon crime and disorder, public nuisance, problems concerning public safety and the protection of children from harm. Therefore, higher-risk and problem premises will be targeted for enforcement activity whereas a lighter touch approach will be adopted for low risk, well-run premises.

16.5 Failure to promote the licensing objectives may result in licence review and the possible implementation of sanctions by the Licensing Committee, including removal of licensable activities, reductions in hours or, ultimately, revocation of the licence. Additionally, where offences are committed and/or licence conditions are not adhered to, prosecution will be considered.

16.6 The Licensing Authority and partner agencies shall continue to work with the licensed trade through the provision of advice, education and training, information, promotion of good practice and behaviour.

16.7 The principles of enforcement for Licensing Authority focus are:

- Taking firm action against those who flout the law or act irresponsibly
- Assisting businesses and others in meeting their legal obligations
- Promptly acting on issues of concern to local communities.

16.8 The responsible authorities are available to provide advice and support for licensees as well as members of the public in relation to any problems they may be encountering relevant to licensed premises.

Reviews

16.9 The review of a licensed premises is the key protection for residents and businesses where one or more of the licensing objectives are being undermined and these problems can be linked to the operation of a licensed premises. A responsible authority or any other body can ask for the review of a licence.

16.10 When considering a review request, or other possible enforcement action, the Licensing Authority will consider all relevant matters and in particular –

- The use of the premises for criminal activities such as the supply of drugs or money laundering
- Failure to promptly respond to a warning given by a responsible authority
- Failure to engage with the responsible authorities in an effective manner
- Previous convictions for licensing offences
- Previous failure to comply with licence conditions

16.11 The Licensing Authority will not normally engage its role as a responsible authority by calling reviews on behalf of other persons, such as local residents or community groups. These individuals are entitled to do so in their own right where there are sufficient grounds to do so.

16.12 Where responsible authorities have concerns about problems identified at a premises, the Licensing Authority considers it to be good practice for them to give the licence holder early warning of their concerns and the need for improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given, such as using an Improvement Plan before bringing the premises to review. Responsible authorities may seek to amend a licence via review where evidence indicates the need for permanent enforceable conditions to be added to a licence.

16.13 It should be noted that a review can be called without an early warning where a serious situation has occurred and immediate action is required. Where premises are associated with serious crime and/or disorder a senior Police officer may apply for a summary review of a premises licence.

16.14 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of.

Suspension for Non Payment of Fees

16.15 The Licensing Authority is required to suspend a premises licence or club premises certificate if the annual fee has not been paid when it is due. Where a premises licence or certificate has been suspended, no licensable activities can be lawfully carried out at the premises until the annual fee has been paid. The suspension shall be lifted immediately upon payment of the fee and licensable activities may be resumed.

16.16 If an annual fee has not been paid by the due date, the licence holder shall be notified accordingly by the Licensing Authority and given notice of the date the suspension shall take effect.

16.17 Where payment has not been made by the due date as a result of a genuine administrative error, or because the licence holder disputed liability for the fee before or at the time of the due date, there shall be a grace period of 21 days to resolve the matter before the licence is suspended.

Ability to re-instate conditions upon Review

16.18 Where entertainments authorised under the Licensing Act 2003 have been deregulated and the conditions in relation to those matters no longer apply, the Licensing Authority may reinstate or impose conditions following a review of a premises licence or

club premises certificate. The reinstatement or imposition of conditions will be considered where it can be demonstrated that the promotion of the licensing objectives is being undermined and such action is considered to be appropriate.

11 November 2020

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|----------------|--|--------|---------------|
| Report of | Assistant Director of Corporate and Improvement Services | Author | Matthew Evans |
| Title | Licensing Committee Work Programme 2020-2021 | | ☎ 8006 |
| Wards affected | Not applicable | | |

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2020-2021 for the Licensing Committee. This provides details of the reports that are scheduled for each meeting during the municipal year.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents of the Committee's Work Programme for 2020-2021, including the changes that have been made to the work programme for this meeting, and for the following meeting scheduled for 20 January 2021.

3. Alternative Options

- 3.1 This function forms part of the Committee's Terms of Reference and, as such, no alternative options are presented.

4. Background Information

- 4.1 The Committee's work programme will evolve as the Municipal Year progresses and items of business are commenced and concluded.

5. Standard References

- 5.1 There are no particular references to publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety, environmental and sustainability implications or risk management implications

6. Strategic Plan References

- 6.1 The Policy aims to contribute to the Council's priorities for the Borough and in particular to support the Growth, Wellbeing and Opportunity priorities by working with the licensed trade to promote the town and make it a safer place.

Licensing Work Plan May 2020 – April 2021

| | |
|--------------------------|--|
| 10 June 2020 | <p>Responses to scrap metal dealer policy consultation</p> <p>CCTV in Licensed Vehicles Policy consultation period - extension</p> |
| 11 August 2020 | <p>Reponses to CCTV in licensed vehicles policy consultation – update report for noting</p> <p>Responses to the Hackney Carriage and Private Hire Policy amendments in relation to policy changes</p> <p>Amendments made to the administrative process for Hackney Carriage and Private Hire under urgency powers – for noting</p> |
| 30 September 2020 | <p>Update on Reponses to CCTV in licensed vehicles consultation</p> <p>Responses to the Hackney Carriage and Private Hire Policy amendments in relation to policy changes</p> <p>Film classification policy</p> <p>Licensing Act 2003 policy review</p> |
| 11 November 2020 | <p>Licensed vehicle and driver standards – statutory guidance</p> <p>Caravans and Park Homes update</p> <p>Licensing Act 2003 Policy review</p> |
| 20 January 2021 | <p>Revised Hackney Carriage and Private Hire Policy – card machines</p> <p>CCTV implementation update/policy revisions</p> |
| 24 March 2021 | <p>Caravans and Park Homes update</p> <p>Sex establishment policy review</p> <p>Street Collections policy review</p> |