

Council Agenda



Epping Forest District Council

NOTICE OF COUNCIL MEETING

You are hereby summoned to a meeting of the **EPPING FOREST DISTRICT COUNCIL** to be held in the **COUNCIL CHAMBER, CIVIC OFFICES, HIGH STREET, EPPING** at 7.30 pm on **Tuesday, 20 December 2016** for the purpose of transacting the business set out in the agenda.

A handwritten signature in black ink, appearing to read 'Glen Chipp'.

Glen Chipp
Chief Executive

**Democratic Services
Officer:**

Council Secretary: Simon Hill
Tel: 01992 564249 Email:
democraticservices@eppingforestdc.gov.uk

WEBCASTING/FILMING NOTICE

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed. The meeting may also be otherwise filmed by third parties with the Chairman's permission.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy.

Therefore by entering the Chamber and using the lower public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for web casting and/or training purposes. If members of the public do not wish to have their image captured they should sit in the upper council chamber public gallery area or otherwise indicate to the Chairman before the start of the meeting.

If you have any queries regarding this, please contact the Public Relations Manager on 01992 564039.

BUSINESS**1. WEBCASTING INTRODUCTION**

This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking. The Assistant Director of Governance and Performance Management will read the following announcement:

“The chairman would like to remind everyone present that this meeting will be broadcast live to the internet (or filmed) and will be capable of repeated viewing (or another use by such third parties).

If you are seated in the lower public seating area it is likely that the recording cameras will capture your image and this will result in the possibility that your image will become part of the broadcast.

This may infringe your human and data protection rights and if you wish to avoid this you should move to the upper public gallery.”

2. MINUTES (Pages 7 - 16)

To approve as a correct record and sign the minutes of the meetings held on 18 October 2016 and 1 November 2016 (attached).

3. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

4. ANNOUNCEMENTS

- (a) Apologies for Absence
- (b) Chairman’s Announcements

5. PUBLIC QUESTIONS (IF ANY)

To answer questions asked after notice in accordance with the provisions contained within Part 4 of the Council Rules of the Constitution on any matter in relation to which the Council has powers or duties or which affects the District:

- (a) to the Leader of the Council;
- (b) to any Portfolio Holder; or
- (c) to the Chairman of the Overview and Scrutiny Committee.

Questions, if any, will follow if not received in time to be incorporated into the agenda.

6. QUESTIONS BY MEMBERS UNDER NOTICE

To answer questions asked after notice in accordance with the provisions contained within the Council Rules in Part 4 of the Constitution on any matter in relation to which the Council has powers or duties or which affects the District:

- (a) to the Chairman of the Council;

- (b) to the Leader of the Council;
- (c) to any Member of the Cabinet; or
- (d) the Chairman of any Committee or Sub-Committee.

The Council Rules provide that answers to questions under notice may take the form of:

- (a) direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

Answers to questions falling within (a) and (b) above will be made available to the member asking the question one hour before the meeting. Answers to questions falling within (c) above will be circulated to all councillors.

Questions, if any, will follow if not received in time to be incorporated into the agenda.

7. REPORTS FROM THE LEADER AND MEMBERS OF THE CABINET (Pages 17 - 50)

To receive reports and any announcements from the Leader and members of the Cabinet on matters falling within their area of responsibility:

- (a) Report of the Leader;
- (b) Report of the Assets and Economic Development Portfolio Holder (attached);
- (c) Report of the Environment Portfolio Holder(attached);
- (d) Report of the Finance Portfolio Holder (attached);
- (e) Report of the Governance and Development Management Portfolio Holder (attached);
- (f) Report of the Housing Portfolio Holder (attached);
- (g) Report of the Leisure and Community Services Portfolio Holder (attached);
- (h) Report of the Planning Policy Portfolio Holder (attached);
- (i) Report of the Safer, Greener and Transport Portfolio Holder (attached); and
- (j) Report of the Technology and Support Services Portfolio Holder (attached).

8. QUESTIONS BY MEMBERS WITHOUT NOTICE

The Council Rules provide for questions by any member of the Council to the Leader or any Portfolio Holder, without notice on:

- (i) reports under the previous item; or

(ii) any other matter of a non operational character in relation to the powers and duties of the Council or which affects all or part of the District or some or all of its inhabitants.

Council Rules provide that answers to questions without notice may take the form of:

(a) direct oral answer from the Leader or, at the request of the Leader, from another member of the Cabinet;

(b) where the desired information is in a publication of the Council or other published work, a reference to that publication;

(c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner; or

(d) where the question relates to an operational matter, the Leader or a member of the Cabinet will request that a response be given direct to the questioner by the relevant Chief Officer.

In accordance with the Council Rules, a time limit of thirty minutes is set for questions. Any question not dealt with within the time available will receive a written reply. The Chairman may extend this period by up to a further 10 minutes at their discretion.

9. MOTIONS

To consider any motions, notice of which has been given under Council Rules.

(a) Area Plans Sub-Committee South – Location of Meetings

Proposed by: Councillor G. Chambers

Seconder: Councillor A. Lion

“That, with effect from the 2017/18 municipal year and notwithstanding Rule T1(2) of the Council Rules of the Constitution, meetings of Area Plans Sub-Committee South be held at the Civic Offices in Epping”

Other motions, if any, will follow in accordance with the Council Procedure Rule 13.

10. MEMBERS' ALLOWANCES SCHEME - ANNUAL REVIEW 2017/18 (Pages 51 - 72)

(Chairman of Remuneration Panel) To consider the attached report.

Reports of the Cabinet

11. LOCAL COUNCIL TAX SUPPORT SCHEME 2017/18 (Pages 73 - 74)

(Finance Portfolio Holder) To consider the attached report.

12. CAPITAL REVIEW 2016/17 - 2020/21 (Pages 75 - 76)

(Finance Portfolio Holder) To consider the attached report.

13. WASTE MANAGEMENT SERVICE - REVISED FUNDING (Pages 77 - 80)

(Environment Portfolio Holder) To consider the attached report.

14. CALENDAR OF COUNCIL MEETINGS 2017/18 (Pages 81 - 86)

(Governance & Development Management Portfolio Holder) To consider the attached report.

15. OVERVIEW AND SCRUTINY PROGRESS REPORT (Pages 87 - 88)

(a) To receive the report of the Chairman of the Overview and Scrutiny Committee and to answer any questions without notice asked in accordance with Council Rules.

16. APPOINTMENT OF EXTERNAL AUDITOR (Pages 89 - 108)

(Chairman of the Audit & Governance Committee) To consider the attached report.

17. HACKNEY CARRIAGE & PRIVATE HIRE LICENSING CONDITIONS & GUIDANCE (Pages 109 - 238)

(Chairman of the Licensing Committee) To consider the attached report.

18. GAMBLING ACT 2005 - PERIODIC REVISION OF STATEMENT OF PRINCIPLES (Pages 239 - 268)

(Chairman of the Licensing Committee) To consider the attached report.

19. OVERVIEW AND SCRUTINY RULE 53 (CALL-IN AND URGENCY) - TRANSFORMATION PROGRAMME - ACCOMMODATION REVIEW AND THE DRAFT CHIGWELL NEIGHBOURHOOD PLAN - EPPING FOREST DISTRICT COUNCIL RESPONSE (Pages 269 - 270)

To note the attached decisions taken by the Chairman of the Council, to waive the call-in provisions of the Overview and Scrutiny Rules of the Constitution.

20. JOINT ARRANGEMENTS AND EXTERNAL ORGANISATIONS (Pages 271 - 272)

(a) To receive the attached report from Councillor H. Kane, as the Council's representative on Waltham Abbey Royal Gunpowder Mills Ltd.;

(b) To receive from Council representatives any other reports on the business of joint arrangements and external organisations and to receive answers to any questions on those bodies which may be put without notice; and

(c) To request written reports from representatives on joint arrangements and external organisations for future meetings.

21. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Background Papers: Article 17 of the Constitution (Access to Information) define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information and in respect of executive reports, the advice of any political advisor.

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

22. MANAGEMENT OF THE COUNCIL'S LEISURE FACILITIES - AWARD OF CONTRACT (Pages 273 - 276)

(Leisure & Community Services Portfolio Holder) To consider the attached report.

EPHING FOREST DISTRICT COUNCIL COUNCIL MINUTES

- Committee:** Council **Date:** 18 October 2016
- Place:** Council Chamber, Civic Offices, High Street, Epping **Time:** 6.30 - 8.45 pm
- Members Present:** Councillors J Lea (Chairman), D Stallan (Vice-Chairman), N Avey, R Baldwin, R Bassett, A Beales, H Brady, R Brookes, G Chambers, K Chana, D Dorrell, R Gadsby, L Girling, A Grigg, S Heap, L Hughes, R Jennings, J Jennings, H Kane, S Kane, H Kauffman, P Keska, J Knapman, Y Knight, A Lion, M McEwen, L Mead, A Mitchell, G Mohindra, R Morgan, S Murray, S Neville, A Patel, J Philip, C P Pond, C C Pond, C Roberts, D Roberts, B Rolfe, B Sandler, M Sartin, G Shiell, S Stavrou, B Surtees, E Webster, C Whitbread, H Whitbread, J H Whitehouse, J M Whitehouse and D Wixley
- Apologies:** Councillors N Bedford, A Boyce, W Breare-Hall, R Butler, S Jones and G Waller
- Officers Present:** G Chipp (Chief Executive), D Macnab (Deputy Chief Executive and Director of Neighbourhoods), C O'Boyle (Director of Governance), R Palmer (Director of Resources), S G Hill (Assistant Director (Governance & Performance Management)), A Hall (Director of Communities), R Perrin (Democratic Services Officer), A Rose (Marketing & Digital Content Officer), P Seager (Chairman's Secretary), S Mitchell (PR Website Editor), T Carne (Public Relations and Marketing Officer), J Leither (Democratic Services Officer), S Tautz (Democratic Services Manager), A Hendry (Senior Democratic Services Officer), G J Woodhall (Senior Democratic Services Officer), K Polyzoides (Assistant Director (Policy & Conservation)), A Blom-Cooper (Local Plan Consultant) and D Bailey (Head of Transformation)

50. WEBCASTING INTRODUCTION

The Assistant Director of Governance and Performance Management reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

51. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor R Gadsby having sought advice of the Monitoring Officer declared a disclosable pecuniary interest in item 4, Draft Epping Forest District Local Plan for Consultation in relation to SRO417 (land east of Church Lane/west of Harrison Drive, North Weald) by virtue of a 25% equity share within a third party trust which she had fully declared in her register of interests and in relation to that site, would not participate, vote or remain. However, she had no interest in relation to any sites identified – either within North Weald Bassett or anywhere else in the Draft Local Plan and intended to fully participate in the interests of both her local constituents and the District as a whole.

52. ANNOUNCEMENTS

The Chairman advised that Councillor T Boyce was in hospital and the Council would send all their best wishes.

53. DRAFT EPPING FOREST DISTRICT LOCAL PLAN FOR CONSULTATION**Mover: Councillor J Philip, Portfolio Holder for Planning Policy**

Councillor J Philip submitted a report endorsing the Draft Local Plan and non technical summary of the Sustainability Appraisal for the proposed consultation, which would commence for a six-week statutory period. He advised that the Draft Local Plan contained the Council's vision and preferred approach for development in the District over the next 17 years and included draft policies to be used in determining planning proposals. Consideration had been given to reasonable alternatives as required by legislation. The Portfolio Holder drew attention to Appendix 2 of the report which contained the Non-Technical Summary of the Interim Sustainability Appraisal.

Amendment moved by Councillor C C Pond and Seconded by Councillor D Wixley

"subject to the removal from chapter 5 of any site which is public urban open space"

Councillors H Kauffman, S Murray, C C Pond, C P Pond and D Wixley requested a recorded vote.

There voted for the recommendation: (30) namely: N Avey, R Bassett, H Brady, G Chambers, K Chana, D Dorrell, R Gadsby, A Grigg, L Hughes, H Kane, S Kane, P Keska, Y Knight, J Lea, A Lion, M McEwen, A Mitchell, G Mohindra, R Morgan, A Patel, J Philip, B Rolfe, B Sandler, M Sartin, G Shiell, D Stallan, S Stavrou, E Webster, C Whitbread and H Whitbread.

There voted against the recommendation: (16) namely: Councillors R Baldwin, A Beales, R Brookes, L Girling, S Heap, B Jennings, J Jennings, H Kauffman, L Mead, S Murray, S Neville, C C Pond, C P Pond, C Roberts, D Roberts and D Wixley.

Abstentions: (4) namely: Councillors J Knapman, B Surtees J H Whitehouse and J M Whitehouse.

Lost

Following a further debate Councillor J Philip moved the recommendations on the agenda together with the following amendments to the Draft Local Plan, Chapter 5;

a) to clarify that for the purposes of the Draft Local Plan there would be an addition to paragraph 5.103 to make it clear that when reference was made to 'North Weald Bassett' it referred to the settlement of North Weald Bassett, recognising that the Parish encompasses North Weald Village, Thornwood and Hastingwood; and

b) to revise Figure 5.9 in relation to the site allocations of Waltham Abbey, to show the indicative green belt boundary amendment to run to the North of SR 0061B along the M25.

Carried

RESOLVED:

(1) That the Draft Local Plan as set out in report and the non technical summary of the Sustainability Appraisal as set out in the supplementary agenda be endorsed for the purposes of the proposed consultation;

(2) That consultation on the Draft Local Plan under Regulation 18 of the Town and Country Planning (Local Planning) Regulations 2012 be commenced for a 6 week statutory period from 31 October to 12 December 2016 inclusive in accordance with the Statement of Community Involvement, and any representations received after 5.00pm on 12 December 2016 be deemed invalid;

(3) That the Draft Local Plan be endorsed as a material consideration to be used in the determination of planning applications and enforcement decisions in accordance with paragraph 216 of the National Planning Policy Framework;

(4) That the Director of Neighbourhoods, in consultation with the Planning Policy Portfolio Holder, be granted delegated authority to make any necessary minor non-material amendments to the Draft Local Plan prior to the commencement of public consultation on 31 October 2016; and

(5) That two minor amendments to the Draft Local Plan in Chapter 5 be made as follows;

a) to clarify that for the purposes of the Draft Local Plan there would be an addition to paragraph 5.103 to make it clear that when reference was made to 'North Weald Bassett' it referred to the settlement of North Weald Bassett, recognising that the Parish encompasses North Weald Village, Thornwood and Hastingwood; and

b) to revise Figure 5.9 in relation to the site allocations of Waltham Abbey, to show the indicative green belt boundary amendment to run to the North of SR 0061B along the M25.

CHAIRMAN

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EPPING FOREST DISTRICT COUNCIL COUNCIL MINUTES

Committee: Council **Date:** 1 November 2016

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.30 - 7.55 pm

Members Present: Councillors J Lea (Chairman), D Stallan (Vice-Chairman), N Avey, R Baldwin, R Bassett, A Beales, H Brady, W Breare-Hall, R Brookes, R Butler, K Chana, D Dorrell, L Girling, A Grigg, S Heap, L Hughes, R Jennings, J Jennings, H Kane, S Kane, H Kauffman, P Keska, J Knapman, Y Knight, M McEwen, G Mohindra, R Morgan, S Murray, S Neville, J Philip, C P Pond, C C Pond, B Rolfe, G Shiell, B Surtees, G Waller, E Webster, C Whitbread, H Whitbread, J H Whitehouse, J M Whitehouse and D Wixley

Apologies: Councillors N Bedford, A Boyce, G Chambers, R Gadsby, A Lion, L Mead, A Mitchell, A Patel, C Roberts, D Roberts, B Sandler, M Sartin and S Stavrou

Officers Present: G Chipp (Chief Executive), D Macnab (Deputy Chief Executive and Director of Neighbourhoods), R Palmer (Director of Resources), C O'Boyle (Director of Governance), A Hall (Director of Communities), S G Hill (Assistant Director (Governance & Performance Management)), R Perrin (Democratic Services Officer), S Kits (Social Media and Customer Services Officer), A Hendry (Senior Democratic Services Officer) and P Seager (Chairman's Secretary)

54. WEBCASTING INTRODUCTION

The Assistant Director of Governance and Performance Management reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

55. MINUTES

RESOLVED:

That the minutes of the Council meeting held on 27 September 2016 be taken as read and signed by the Chairman as a correct record subject to the following amendments;

Item 46 – Statutory Statement of accounts 2015/16, the replacement of '2014/15' with '2015/16' in the resolution; and

Item 42 - Questions by Members without Notice, the inclusion of the word 'Forest' in question (c) Public Transport, when mentioning the Epping Transport Action Group.

56. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

57. ANNOUNCEMENTS

(a) Announcements by the Chairman of Council

(i) Chairman's Events

The Chairman advised that she had attended a go kart charity event in Brentwood hosted by 'Racing Green', where she had been presented with a cheque for £7206 for her chosen charities. She had also attended the opening of a nursery in North Weald.

(ii) Floral Display

The Chairman announced that she proposed to send the flowers from this evenings meeting to Cunningham House, North Weald.

58. PUBLIC QUESTIONS (IF ANY)

The Council noted that there were no public questions under notice for the meeting.

59. QUESTIONS BY MEMBERS UNDER NOTICE

The Council noted that there were no questions by Members under notice for the meeting.

60. REPORTS FROM THE LEADER AND MEMBERS OF THE CABINET

(a) The Leader of the Council

The Leader advised that he had attended various meetings around the District including meeting the new principal at Epping Forest College, the West Essex and Essex Leaders meeting regarding the new local quadrante (Epping Forest, Harlow and Uttlesford) discussions with Public Health England about their plans for Harlow and the launch of the Council's Local Plan Consultation. He advised Members that they should have a Local Plan pack to help assist the public in completing the Draft Local Plan Consultation and to ensure that as many responses as possible were received.

(b) Finance Portfolio Holder

Councillor G Mohindra advised that the Council had not received a response from the Government regarding the acceptance of the multi-year settlement. He advised that around 90% of the Local Authorities had accepted the 4 year settlement, although no official announcements had been made.

(c) Planning Policy Portfolio Holder

Councillor J Philip advised that the Draft Local Plan Consultation had opened as scheduled on 31 October 2016 and post cards had been distributed at the tube/train stations within the District and leaflets had been delivered to residents. He encouraged people to respond with supported evidence.

61. QUESTIONS BY MEMBERS WITHOUT NOTICE**(a) Unauthorised Encampments on Limes Farm, Chigwell**

Councillor G Mohindra asked the Environment Portfolio Holder for an update on the unauthorised encampment on Limes Farm, Chigwell.

Councillor W Breare-Hall advised that the Council had moved swiftly and initiated legal proceedings with a Court date set for 2 November 2016. The people within the encampment had advised the Council that they were leaving on 2 November 2016 and the Council's staff would be monitoring the situation.

(b) Epping Forest Careline Alarm Monitoring Service

Councillor S Murray asked the Housing Portfolio Holder for assurance that one of the four options being considered by the Cabinet for the future delivery of the Epping Forest Careline Alarm Monitoring Service be run by the Council.

Councillor C Whitbread answered on behalf of the Housing Portfolio Holder who had offered her apologies. He advised that he had not seen the details of the report but believed one of the four options included a Council run service.

(c) Street Cleansing

Councillor S Neville asked the Environmental Portfolio Holder whether there was a mechanism for cross checking the street cleansing of roads within the District.

Councillor W Breare-Hall advised that street cleansing should take place on both sides of the roads and supervisors were in position to check that this was being completed correctly. He asked that Councillor S Neville to share the details of the roads concerned and he would follow it up.

(d) Fly Tipping

Councillor H Kauffman stated that there had been an increase in flying tipping, in particular the edges of the forest and that the fines incurred were not deterring the offenders. He advised that he was not sure whether this was a result of the Recycle Centres now not accepting household DIY and construction waste.

Councillor W Breare-Hall advised that it was a big issue for the District, but where possible the Council would prosecute. He understood that it was hard to find evidence on the people dumping rubbish but the Council aimed to limit the problem with publicity and education. The Essex County Council had advised that they would monitor the situation with regard to the non-acceptance of household DIY and construction waste.

(e) Epping Forest Retail Park

Councillor C C Pond asked the Asset and Economic Development Portfolio Holder whether she could name any further retailers that had signed up to the Epping Forest Retail Park and whether she thought there would be any affect under the National Non Domestic Rates 2017 revaluation on the viability and stability of the Retail Park.

Councillor A Grigg advised that she had no further updates on future retailers and she would seek advice and provide a written reply to his second question in the Members Bulletin.

(f) Unauthorised Encampments on Burney Drive, Loughton

Councillor D Wixley asked the Environment Portfolio Holder for an update on the unauthorised encampment on Burney Drive, Loughton and on how long it would take for an order to be obtained for the encampment at Burney Drive.

Councillor W Breare-Hall advised that the Council was taking these matters seriously and that the Council had proceeded with legal action to have the encampment removed. Unfortunately he did not know how long it would take to obtain the order but he would come back to him with the details.

(g) Leisure Centres

Councillor J M Whitehouse asked the Leisure and Wellbeing Portfolio Holder about the Leisure Centres sites being identified within the Draft Local Plan for redevelopment and asked for reassurances that the Leisure Centres would not be closed before replacement services/sites were found in the same sort of locations.

Councillor H Kane advised that the Leisure Centres would be part of the Leisure Review and that the Cabinet would look at everything when considering their decisions.

(h) Local Plan

Councillor J H Whitehouse asked the Planning Policy Portfolio Holder whether it would be possible to add road names to some of the maps provided within the Draft Local Plan, so that residents could more easily identify the sites on the map.

Councillor J Philip advised that the maps had been made as accessible as possible and changes could not be made as the consultation was live. Residents were advised to attend manned exhibitions and Members could look at the pro-forms, which provided more details to help residents. He advised that residents could contact the Council if they were having any further problems.

(i) Police's Non Emergency Telephone Number

Councillor L Girling asked the Safer, Greener and Transport Portfolio Holder about concerns that had been raised by residents during the Halloween period whilst using the Police's non emergency telephone number, 101 and not being able to get through to speak to anyone. He advised that he knew that the Police would be attending the next Communities Select Committee but was the Portfolio Holder aware of when this problem would be addressed.

Councillor G Waller advised that the demands on the Police resources during this period of year increased and that it would be a good question to put to the Communities Select Committee on 8 November 2016, where all members could attend. There was a meeting of the Essex Police and Crime Panel, where he would raise these issues.

(j) Leisure Centres

Councillor S Murray asked the Leisure and Wellbeing Portfolio Holder to clarify her comments regarding the Leisure Review and the proposed sites within the Draft Local Plan Consultation.

Councillor H Kane advised that the Council was currently considering the Leisure Contracts and that she was not at liberty to disclose any further information. The tenders had been received and were being considered and further information would be discussed at the Portfolio Holder Advisory Group on Leisure Management on Thursday 10 November 2016 and a presentation to Cabinet would follow in due course.

62. MOTIONS

The Chairman reported that there were no motions to be considered at this meeting.

63. TREASURY MANAGEMENT STRATEGY STATEMENT & INVESTMENT STRATEGY 2016/17 - 2018/19.

Mover: Councillor G Mohindra, Finance Portfolio Holder

Councillor G Mohindra submitted a report regarding changes to the Treasury Management Strategy Statement and Investment Strategy 2016/17 – 2018/19.

Report as first moved **ADOPTED**

RESOLVED:

(1) That the following changes to the Council's Treasury Management Strategy Statement and Investment Strategy be approved;

(a) an increase in the group limit for Local Authorities from £20million to £25million;

(b) an increase in the group limit for Money Market Funds from £15million to £20million; and

(c) an increase in the limit for NatWest (the Council's banker) from £2.5million to £5million.

64. OVERVIEW AND SCRUTINY

There were no questions to the Chairman of the Overview and Scrutiny Committee.

65. CALL- IN AND URGENCY - COUNCIL HOUSEBUILDING - PHASE I TENDER (RECOVERY PACKAGE)

The Council noted that the Chairman of the Council had agreed that the following decision be treated as a matter of urgency and not subject to call in:

(a) That P. A. Finlay and Company Limited be awarded the Design and Build Contract for the recovery phase of the construction works making up Phase 1 of the Council's Housebuilding Programme in Waltham Abbey, in the negotiated contract sum of £2,674,335.10; and

(b) That a contingency sum be set aside for any unforeseen matters that might materialise once works had commenced on site.

66. JOINT ARRANGEMENTS AND EXTERNAL ORGANISATIONS

- (a) The Council received a written report regarding the Royal Gunpowder Mills from Councillor H Kane, the Council's representative.
- (b) There were no requests made for written reports at the next meeting.

CHAIRMAN

Report to the Council

Committee: Cabinet

Date: 20 December 2016

Subject: Assets and Economic Development

Portfolio Holder: Councillor A Grigg

Recommending:

That the report of the Assets and Economic Development Portfolio Holder be noted.

1. Town and Village Centres Opportunities Fund

Following a Cabinet decision in November 2016 the Town and Village Centres Opportunities Fund has been expanded to now include non-town centre focused and non-village centre focused proposals and ideas which have a broader economic development impact across the district. As a result the scheme will be renamed the Epping Forest District Economic Opportunities Fund and a revised policy document to support the fund will be produced. In recent weeks a number of exciting proposals for projects have come forward and economic development officers are in discussion with the groups to assist them in preparing their bids.

2. Business Support

Eastern Plateau

After a period of uncertainty we are pleased to confirm that it is now business as usual for the Eastern Plateau programme which is part of the Rural Development Plan for England. This funding is open to projects in certain areas of East Herts, North Herts, Uttlesford and Epping Forest Districts. The aim of the funding is to create jobs and promote business growth in rural areas and it focuses on small business growth, projects covering farm productivity, rural tourism, the provision of rural services, culture and heritage forest/woodland productivity. Economic Development Officers are working with the Eastern Plateau to identify the best routes to publicise the programme and maximise the impact within our district and the programme facilitator has met with economic development officers to connect the programme with potential projects in the district.

3. Visitor Economy

Tourism Website

Work continues on the refresh and enhancement of the new district tourism website. Data is being sought from the district's attractions and accommodation establishments to populate the website with useful content in advance of a soft launch in the New Year and a planned wider launch during Tourism Week 2017.

Accommodation Study

Economic Development is working with selected consultants, Hotel Solutions, on phase 2 of the Visitor Accommodation Needs work. The 2nd phase of work is more substantial than the first and will provide a clearer picture of how existing visitor accommodation providers are performing, seek to ascertain if proposed developments (i.e. schemes with planning permission) are likely to be progressed and gauge wider developer interest in the district. It will also progress liaison with bodies such as Lee Valley Regional Park around any potential

future visitor accommodation development and further consider how it might be possible to meet the market need for additional budget hotel provision in some of the district's larger town centres.

4. Major Projects

The main contractor for the Epping Forest Shopping Park, McLaughlin and Harvey are making good progress and are now slightly ahead of programme. The retaining wall to the rear of the site providing access to service the retail units, is largely complete with the main steelwork for the retail units now being erected.

Work to the car park is underway with kerbing largely complete and the base coat of tarmac due to be laid in mid-December. The Highways work is proceeding but has been delayed due to an element of re-design required to accommodate utilities and attenuation tanks for surface water. Work on the highway will cease over the Christmas period to avoid any disturbance to local shopping centres.

After a protracted period of negotiation, I can now report that the Council exchanged on the purchase of the Epping Junior School on the 6 December with completion a few days later. Now that the site is within the District Council's ownership, it is hoped to proceed with our development partner and the Town Council to bring forward the mixed use scheme sought to be delivered through the design and development brief. I will keep Members updated on progress.

5. SELEP Chairman Tours the District

The new Chairman of SELEP, Chris Brodie enjoyed a familiarisation tour of the district at the end of November, accompanied by senior elected members of the District Council. The tour was designed to highlight the wide range of opportunities and attractions in the district and raise some of the challenges in supporting the economy in an area on the border of three Enterprise partnerships. The tour began with briefing session led by the Leader and Chief Executive of the District Council before moving on to a trip on a London Underground maintenance train on the heritage line from Ongar to North Weald and a pilot's eye view from the cockpits of Weald Aviation's Spitfire and Mustang at North Weald Airfield. They were also taken on a guided tour of Epping Forest College, a royal view over Epping Forest from Queen Elizabeth's Hunting Lodge and a lunch meeting with the Lee Valley White Water Centre as a backdrop. At each stop, representatives of the District's key organisations, businesses and elected members were able to brief Mr Keiffer on their vision and opportunities for future growth. It was agreed with all parties that the tour will be followed up with additional information expanding on the areas of interest and projects touched upon during the visit.

6. Site Visit Harlow Enterprise Zone

On December 5th a delegation of members and officers from the district council with a role in Economic Development visited the Harlow Enterprise Zone accompanied by the Leader of Harlow council. Members wished to see at first hand the ongoing build on site and talk to some of the new companies that had moved in as well as receiving briefings on how the next phase was progressing. Members were particularly interested in how the zone could help boost trade and investment across the west Essex area and explore opportunities for closer joint working, particularly around sector clusters and supply chain.

Report to the Council

Committee: Cabinet

Date: 20 December 2016

Subject: Environment

Portfolio Holder: Councillor W Breare-Hall

Recommending:

That the report of the Environment Portfolio Holder be noted.

Waste Management

The new recycling scheme for the Civic Offices is now up and running. Collections of waste, recycling and, separately collected, food waste is now taking place. Over the next month any operational collection difficulties will be ironed out. It is expected that in the New Year the scheme will be extended to the Council's depots in Oakwood Hill, Loughton, and Townmead, Waltham Abbey.

I have previously reported that the Council has been successful in a funding bid to the Department of Communities and Local Government (DCLG). Some of this funding has been used to employ two new members of staff in the Waste Management Team. This has enabled a district-wide survey and evaluation of all blocks of flats, and reviews of collection schedules and types of, and storage arrangements for, waste and recycling containers used in the blocks. These new officers, in conjunction with existing waste officers and Biffa colleagues, have completed the necessary arrangements for the role-out of a Recycling Rewards scheme in 60 flat blocks consisting of circa 1100 flats. The scheme will assist in reducing contamination and increasing recycling. The managing agents of the flat blocks will be contacted, as will local businesses and shops who will work with companies who specialise in "recycling rewards" programmes. I have asked officers to provide more information in the Council Bulletin.

Since vacating Langston Road Depot Biffa have struggled to find temporary storage space for furniture and white goods that are in good condition and could be used by Epping Forest Reuse. I am pleased to inform Members that, in collaboration with Biffa, a new covered storage area for white goods will be established at Biffa's depot in Waltham Cross and, additionally, Biffa is investigating possible storage space for good reusable furniture. Discussion will be held with Epping Forest Reuse to establish a collection regime from these new facilities once the necessary arrangements are in place. To remind residents of the opportunities available for the reuse of items, officers are liaising with Essex County Council and Epping Forest Reuse to arrange a local campaign next year to promote the reuse/recycling of household items that may otherwise end up being disposed of in landfill.

Leaf clearing, including the deployment of additional resources by Biffa, is now underway across the District. If a Member has concerns around heavy leaf fall or would like further information then please contact the Waste Management Team.

Flooding and Drainage

Further to my last report, officers from the Engineering Drainage and Water Team (EDWT) have been successful in their application for an Essex County Council Community Flood

Improvement Grant. In addition, a subsequent grant application was also approved for a site in North Weald where surface water run off affected a number of properties during the recent wet winters. With the funds for both sites totalling over £21,000, work on the design phase can now commence with construction delivery by the Council's Watercourse and Drainage Assets Contractor expected to take place in the fourth quarter (weather permitting!).

The number of new planning applications needing to be responded to from a drainage and flooding perspective continues to increase and forms a significant part of the Team's workload. In line with best practice, officers continue to push for sustainable drainage solutions where appropriate and often need to enlighten agents and architects as to what solutions are currently available. The key to securing long term drainage benefits from new developments lies with early engagement with the professionals involved in the design process, so officers of the team are also involved with the emerging Draft Local Plan.

Pollution at Duck Lane, Thornwood Common

Over a number of years, the EDWT has been liaising with residents living near a scrap yard in Thornwood Common. Residents have complained of strong smells and visual discolouration of the ditch adjacent to Duck Lane that drains into the Cripsey Brook.

The site is licensed under the Environmental Permitting Regulations by the Environment Agency (EA), who is the primary regulator. However, for various reasons the EA has been unable to effect improvements in the operating systems on site and pollution incidents have persisted. Petitions and ongoing complaints have been received by both the Council and the EA. In September this year, on witnessing a Statutory Nuisance, despite the EA being the primary regulator of the site, the Council served a Section 80 Abatement Notice, under the Environmental Protection Act 1990, on the offending company. The company has been given four months to carry out works to ensure the nuisance does not recur. Although the Council will continue to work with both the EA and the company with regards to this matter the Council must be mindful of its statutory responsibilities if a breach of the notice is witnessed after the time given in the Notice for Compliance.

Get Ready for Winter Week

As part of the Government-led Get Ready for Winter Initiative, during the week of 24th October officers from the EDWT and Emergency Planning managed a mobile information point in order to raise the awareness of flooding in certain areas of the District. Like a lot of issues, flooding flows, if you'll excuse the expression, in and out of the public consciousness but the residual risk to communities needs to be continually pushed home in order to make residents as ready as they can be in the event of prolonged wet weather. Members of the public who attended the session welcomed the information that officers were able to impart and it was also a good opportunity to publicise the help and advice that the Council as a whole can offer during times of severe weather and other significant events.

Unauthorised caravan encampments

Without wishing to tempt Fate, at the time of writing there are no unauthorised encampments in the District after a series of encampments in Waltham Abbey, Loughton and Chigwell earlier in the year. A group of traveller caravans that moved from sites in Waltham Abbey and then on to a number of sites in Loughton have moved out of the area after the Environment & Neighbourhoods team obtained possession orders and an interim injunction. A full injunction hearing has been set for March 2017. If the group have not returned in the interim period the Council will not pursue a full injunction.

The Wood Yard, Hoe Lane, Nazeing

JSJ Wood Recycling has stopped operating on the site. However, there is now a new occupier who appears keen to start a new wood recycling operation in the near future. A new waste exemption has been registered with the Environment Agency.

Environment & Neighbourhood Officers are closely monitoring the site and liaising with the EA regarding compliance with waste regulations. The EA are still investigating potential waste offences regarding the use of the site prior to the fire in August 2016, based on evidence obtained by EFDC officers.

Fly-tipping

There has been a noticeable increase in large scale industrial size fly-tipping across Essex, but particularly in Chelmsford, Brentwood and the border of our district with these authorities. Environment & Neighbourhood Officers have recently been investigating multiple skip lorry fly-tips in Willingale. Officers are following up evidence that will hopefully lead to a successful prosecution in due course.

The EA are leading on the investigation of industrial sized fly-tips across Essex, but their resources are extremely stretched with five officers covering this aspect of their work across Suffolk, Norfolk and large parts of our county.

Limited EA resources impacts on the Council's Environment & Neighbourhood team who become involved in the investigation of more serious organised fly-tipping cases and the inspection of sites that have an exemption registered with the EA.

Fly-tipping prosecutions

Mr. Scott Tait was fined £560 and ordered to pay the Council's prosecution costs of £1086.16 (which included the cost of clearing the fly-tipped waste of £477.47) together with a Victim Surcharge of £56, after pleading guilty to failing to comply with his duty of care with regard to some waste he produced whilst renovating a property. The waste was found fly-tipped on a bridleway in Roydon. At a hearing on 13 October 2016 in Chelmsford Magistrates Court Mr. Tait pleaded guilty to failing in his duty of care. He had carried out renovation work at a property in Buckhurst Hill which included the responsibility of disposing of the resulting waste. He had employed a person who had put an advert for clearance services through the door but without checking that the person taking the waste was a registered waste carrier. He also failed to exchange a written description of the waste (a waste transfer note).

Mr. Michael Maughan of Standard Road, Enfield, was fined £150 and ordered to pay a contribution towards the Council's prosecution costs of £150 together with a Victim Surcharge of £20 after he pleaded guilty to depositing several boxes of items in commercial waste bins belonging to a St. Clare's Hospice Charity shop in Loughton. Evidence gathered by the Council's Environment & Neighbourhood team led to a prosecution in Chelmsford Magistrates Court on 27 October 2016. Mr. Maughan pleaded guilty to depositing the waste after the shop had closed.

Retrospective Scooters Limited of Walthamstow was fined £500 and ordered to pay the Council's prosecution costs of £802.48 (which included the cost of clearing the fly-tipped waste together with a Victim Surcharge of £50) after a hearing on 10 November 2016 in Chelmsford Magistrates Court. The director of the company, Mr. Niall McCart, pleaded guilty to failing to comply with the waste duty of care. Fly-tipped waste found on the pavement in

The Meadway, Loughton, led back to the company. The company had carried out some renovation work to their new premises in Walthamstow in early 2016. Prior to arranging a contract with a fully licensed waste removal company Mr. McCart had employed a number of persons to take away the resulting waste but failed to check that the persons taking the waste were registered waste carriers and did not exchange a written description of the waste.

Report to the Council

Committee: Cabinet

Date: 20 December 2016

Subject: Finance

Portfolio Holder: Councillor G Mohindra

Recommending:

That the report of the Finance Portfolio Holder be noted

Accountancy

The Autumn Statement was presented by the Chancellor on 23 November and was based on the latest projections for the economy by the Office for Budget Responsibility (OBR). These projections represent a central case and so have been criticised by both sides of the Brexit debate for being either far too cautious or far too optimistic. The reality is that no one really knows how negotiations and trade deals will play out, this is summarised nicely by the OBR who state “there is a higher than usual degree of uncertainty in these forecasts”. However, the Chancellor cannot set tax and spending policies without using predictions on future spending and growth in the economy so we have to accept what the OBR says and focus on the key announcements in the Statement.

The OBR’s forecast for the public finances shows a clear deterioration since the 2016 Budget. This is due to lower tax revenues, higher spending by public bodies and on welfare benefits and the weaker economic outlook. Compared to their forecasts for the 2016 Budget, the OBR now thinks borrowing will be higher in every year of the forecast and £32 billion higher in 2020/21. This prediction has debt peaking at 90% of Gross Domestic Product (GDP) in 2017/18 and then reducing.

The Government is in a difficult position but is trying to return the public finances to health while providing support to the economy and addressing long-term productivity issues through increased investment. Within these parameters the Government has interim objectives of reducing the structural deficit to less than 2% of GDP and for debt as a percentage of GDP to be falling by the end of this Parliament.

It remains to be seen how much of the investments that were announced in the Autumn Statement will be spent in this district but it is worth mentioning some of the new or expanded schemes. There is a £2.3 billion Housing Infrastructure Fund to deliver infrastructure to support the building of 100,000 new homes in high demand areas. Further money has been made available for housing with an additional £1.4 billion to build 40,000 more homes as part of the Affordable Homes programme. The third substantial investment is the National Productivity Investment Fund. This fund will provide an additional £1.1 billion to relieve congestion and deliver upgrades on local roads and public transport networks.

Unfortunately the Statement did not tell us when the detailed settlement information would be issued by the Department for Communities and Local Government or provide any more detail on the potential changes to New Homes Bonus.

On 16 November we received confirmation from the Minister for Local Government that our application for the multi-year settlement had been accepted and his letter also stated that 97% of councils had applied. Therefore, it is hoped that when the detailed settlement is published it will contain no significant changes to the four-year figures announced last year.

Benefits

The main change to the benefits system was a change to the taper rate in Universal Credit. Currently the taper rate is 65% which means that once claimants earn above the work allowances in Universal Credit their income is withdrawn at a rate of 65p for every extra £1 earned. From April 2017 the reduction to 63% will let individuals keep an extra 2p in the £1 and this should strengthen the incentive to work. The Government has estimated that 3 million households will be better off because of this change.

Later on the agenda we have the Council's scheme for Local Council Tax Support (LCTS) for 2017/18. It was four years ago now that we approved our first LCTS scheme for 2013/14. The scheme had remained largely unchanged until last year when concerns about the financial burden of the scheme and the equality of treatment for the employed and self-employed necessitated changes. The only changes proposed for 2017/18 are technical ones to keep the scheme in line with changes to the wider welfare system. As we will debate these changes later I do not want to say any more about them at this stage.

Revenues

The Statement included more items of interest on Business Rates than Council Tax. I was pleased to see the removal of the inconsistency between rural rate relief and small business rate relief with the doubling of rural rate relief from April 2017. As an incentive to invest in infrastructure, new fibre-optic broadband will qualify for 100% business rate relief for 5 years from April 2017.

The Government has also confirmed the transitional scheme for the 2017 revaluation. Any rise will be capped at 5% in the first year for small properties with the total value of transitional relief being £3.6 billion over 5 years. This is being paid for by caps on reductions to businesses which gain from the revaluation, with smaller businesses again receiving preferential treatment.

One item on Council Tax I would like to share with Members is the success of our recent review of Single Person Discounts. This is the most abused discount and so reviews are conducted on a fairly regular basis. As part of this exercise 3,442 accounts were checked and contacted and this resulted in the removal of 726 single person discounts. The total potential revenue generated by this is £458,000, although of course the largest beneficiary will be Essex County Council.

Report to the Council

Committee: Cabinet

Date: 20 December 2016

Subject: Governance and Development Management

Portfolio Holder: Councillor R Bassett

Recommending:

That the report of the Governance and Development Management Portfolio Holder be noted.

1. Development Management

Building Control

I would like to share with you the success of our Building Controls trainees, Richard Smith and Stephanie Newton, who were both successful in the Essex Building Control Association's recent award for the Outstanding Trainee 2016. Both candidates were nominated by their manager Jeff Dixon who has been delighted with their development and each of them winning this award recognises their continued progress in the Building Control team.

Building Control Income

Building Control 2016/17 budget is £425,000 and the year to date income is £342,000.

Building Control continue to work hard to actively market BC as a quality service with an almost fully established team. They are focused on delivering a sustainable competitive Building Control Service and are confident in being able to ensure that its ring fenced income matches expenditure for 2016/17.

Projected income for BC is £467,000 (eight months actual and four months budgeted). This means that BC income is currently £42,000 ahead of its budget as at November 2016.

Development Control

Development Control Income

DC Pre-Application Income has in recent years generated an additional income stream. This has resulted in an extra £100,000 per year that is added to DC income. Current indications show that DC Pre-Application is £84,000 from April to November 2016 and this points towards DC achieving a record £120,000 within this financial year.

Development Control 2015/16 budget is £800,000 with year to date actual income of £670,000.

The projected income is £960,000 (eight months actual and four months budgeted). This means that DC income is currently £160,000 ahead of its budget as at November 2016.

Income Summary for Building and Development Control

Building Control (BC) and Development Control (DC) continue to show signs of positive income growth with both DC & BC achieving in excess of 80% of their budgeted income within the 67% time frame the first eight months of the April 2016 to March 2017 financial year.

Overall all income streams for DC and BC are estimated to reach 1.5 million pounds in 2016/17.

2. Democratic Services

The Democratic Services Section recently supported voting in the district's schools, for the election of new members of the Epping Forest Youth Council. Candidates competed for twenty-five places on the Youth Council, which represents the voices and views of young people across the district.

Officers set up and managed polling stations elections in all of the schools holding elections, giving our young people their first taste of the democratic process. Complimentary feedback on the election process, which was conducted to the same standards as parliamentary and local elections, has been received from teachers and pupils at many of the schools'.

Elections

The Council's Electoral Services has completed the annual Canvass for 2016. There has again been a very good return rate achieved. Compared to 2015:

2015: 55472 properties in the district with a 98.1% response rate

2016: 55805 properties in the district with 97.9% response rate

It is encouraging to note that an increasing number of households are using our automated online/telephone/sms system to update their registrations. Just over 60% (32,726) of occupied households have responded this way. This level of automation allows staff to place greater emphasis on ensuring the accuracy of the register rather than having to scan in posted returns.

The Council's register was published on time on 1 December 2016.

3. Legal Services

Traveller Incursions

The legal service has been supporting colleagues in the Neighbourhoods directorate to deal with various traveller incursions. Indeed my Cabinet colleague, Councillor W Breare-Hall gave an up to date position statement in response to questions at a previous Council. I can confirm that action is taken as soon as possible and in general travellers have moved on the day of or just before our court action.

One particular group has expressed a desire to remain in the District and moves to various locations across Waltham Abbey and Loughton. This has proved resource intensive, but unfortunately our attempt to seek a specific injunction banning their return to the District was not granted by the District Judge. He felt it was too wide an area for such a restriction. The intention is to consider reapplying for a smaller more defined area. We seek to keep ward members and others informed of these cases and will continue to do so either directly, here at Council or through the Council Bulletin.

Illegal Eviction by Landlord – Update

In a previous report to Council I highlighted the cross- directorate working with Communities in securing a conviction in the magistrates' court for illegal eviction of her tenant against Landlord, Alexandria Kenna of Oakwood Hill, Loughton. She was fined £275 and ordered to pay costs of £447.50 and a Victim Surcharge of £28. The Magistrates also ordered that compensation of £100 be paid to the tenant for her distress.

Ms Kenna appealed to the Crown Court against her sentence. At Chelmsford Crown Court Her Honour Judge Peters with two Magistrates dismissed the appeal stating that Ms. Kenna had been treated very leniently in the Magistrates Court and the way Ms. Kenna sought to explain the matter gave her no credit at all. The Judge stated there was a difference between being cautious about the use of energy and being utterly unreasonable. Ms Kenna fell into the second category. As the deposit paid by the student had still not been repaid, the compensation order payable by Ms. Kenna was increased to £575 and she was ordered to pay the Council's costs of defending the appeal of £740.

I am pleased the Court took the issue as seriously as this Council did and a clear message that we will tackle illegal landlord practices was reinforced.

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Report to Council

Committee: Cabinet

Date: 20 December 2016

Subject: Housing

Portfolio Holder: Councillor S Stavrou

Recommending:

That the report of the Housing Portfolio Holder be noted.

Proposed £235,000 funding cut by Essex County Council for Housing Related Support Services

Since the introduction of the former Supporting People regime in 2002, the Council has received funding from Essex County Council towards the provision of housing related support (HRS) services to our older and vulnerable residents. This covers the support provided by Scheme Managers at our sheltered housing schemes, our Careline Service and our CARE Agency (which provides invaluable support and advice to help older and vulnerable residents to arrange disabled adaptations and other work in their homes).

This funding has been consistently reduced over recent years, but we currently still receive £235,000 funding for HRS services from the County Council.

However, we have been notified that, subject to the decisions made through their budget-making process, the County Council is proposing to reduce funding for HRS services across the County by £5million per annum from April 2017, with a further £1million per annum reduction from April 2017. This proposal will result in all of the Council's £235,000 funding for HRS services being eradicated from April 2017.

Unfortunately, in view of the constraints of our own finances, I can see no other alternative but to pass these funding cuts on to the users of these services, through increased fees and charges. Last year, the Finance and Performance Management Cabinet Committee agreed a methodology for setting charges for sheltered housing and Careline. This funding cut will therefore result in Careline charges increasing by 78p per week for residents (a 22% increase for those who pay the full charge and a 141% increase for tenants in receipt of housing benefit) and sheltered housing charges increasing by £1.76 per week for sheltered housing and £0.43 per week for area schemes (17% and 58% increases for self-funders and those in receipt of housing benefit respectively).

Council Housebuilding Programme – Progress Report

Due to the current uncertainty around the amount of resources available to continue with our Housebuilding Programme beyond Phase 3, the Cabinet has introduced a temporary moratorium on work to Phases 4–6 of our Housebuilding Programme with immediate effect. The Cabinet also agreed to temporarily pay over to the Government around £1.67million of “141 Receipts” that accrued from Right to Buy sales in Quarters 1 and 2 of 2016/17, that would otherwise have been used to part-fund Phases 4-6. The Cabinet also agreed that any further 141 Receipts that accrue in future quarters should be temporarily paid over to the Government when they arise, until such time as the further HRA Financial Options Review is completed (see below).

Phase 1

Members will be aware that, in June 2016, the Council formally determined the contract for Phase One of the Council Housebuilding Programme with Broadway Construction Ltd as they were failing to regularly and diligently progress with the works. Subsequently, P A Finlay & Co Ltd were awarded the contract for the recovery phase of construction and works recommenced on-site on 31 October 2016 as planned. We expect to take handover of these homes on a phased basis between March and October 2017.

Phase 2

The Contractor, Mullalley & Co Ltd, has undertaken site and soil investigations and progressed with the detailed design for the works. The garages have also been demolished and the site secured. All highway diversions have been submitted and subsequently agreed in relation to the public footpaths, vehicle cross-overs and the bus stands.

Due to the need to undertake additional ground condition monitoring, a 9-week delay has occurred in the Contractor's Programme. However, the Contractor hopes to recover this delay over the course of the construction period and, at present, the anticipated completion date remains as 9 April 2018. Since the contract has been let as a design and build contract, I am pleased to report that the Council will not be liable for any loss and expense to the contractor as a result of any delays.

Phase 3

Tenders have now been received for all of the Phase 3 sites, which are based on a combination of design and build and traditionally designed contracts, which are due to be considered by the Council Housebuilding Cabinet Committee later in December.

Phases 4-6

Following the introduction of temporary moratorium on work to progress Phases 4–6 of the Housebuilding Programme, with the exception of progressing planning applications up to their determination, no further work has been undertaken. At the time of writing, 32 applications have now received planning permission; 9 applications are currently being considered; and 7 applications have been refused planning permission. The Cabinet Committee will be making decisions on what to do with the sites where planning permission has been refused in due course.

Barnfield, Roydon

I have previously reported that the Council has purchased from the developer the 8 affordable rented homes required by the Section 106 Agreement at the development in Barnfield, Roydon. The works are now on site, with a target completion date of October 2017.

High Value Voids Levy Payment to Government

As many members will know, the Housing and Planning Act 2016 makes provision for the Secretary of State to require stock-holding councils, like our Council, to pay a levy to the CLG, effectively funded from councils having to sell empty properties that the CLG considers to be of "higher value". The Act also allows the Secretary of State to reduce the amount of levy payable if a council utilises the retained amount for the provision of new council housebuilding. We have been waiting for details from the CLG on how this arrangement will operate for some time.

The original intention of this approach was to help fund the extension of the Right to Buy to housing association tenants. Following the Chancellor's Autumn Statement, the Minister of State for Housing and Planning has written to all councils advising us that the Government is

“fully committed” to ensuring that housing association tenants have the opportunity to purchase their own homes and, to this end, intends to undertake an “expanded regional pilot” of the Right to Buy for housing association tenants, which will allow over 3,000 tenants to purchase their own homes with Right to Buy discounts, while allowing the Government to “more fully test demand and specific aspects of the scheme which were not covered by the initial small-scale pilots”.

The Minister’s letter also states that the Government will be funding this expanded pilot itself, and that the CLG will therefore not be requiring any Higher Value Voids Levy to be paid in 2017/18.

Further HRA Financial Options Review – 2-Stage Approach

In September 2015, following the Government’s requirement that all social landlords must reduce their rents by 1% per annum for 4 years from April 2016, the Finance and Performance Management Committee undertook a Financial Options Review for the Council’s Housing Revenue Account (HRA) to consider the options available to ensure that it does not fall into deficit. The Review identified that no immediate corrective action was required at that time and that, therefore, no decisions were required then to re-cast the HRA Financial Plan. The Cabinet Committee therefore agreed that a further Options Review should be undertaken in 2016 and that decisions be made at that time on any required actions, once the financial implications for the Council of the Government’s requirement for local authorities to sell high value void properties were known.

It was also agreed that, in order to inform the further Options Review, another Options Report be provided by the Council’s HRA Business Planning Consultant and that the Communities Select Committee and the Tenants and Leaseholders Federation be consulted for their views on the options, prior to consideration by the Cabinet Committee.

We have been awaiting details of the arrangements for the Higher Value Voids Levy before we undertake the further HRA Financial Options Review. However, now that the Minister has confirmed that any proposals for the introduction of a High Value Voids Levy has been put back until 2018/19 at the earliest, and because we now need to make strategic decisions on future spending by the HRA, I have decided that we should undertake the required Review in two stages, as follows:

Stage 1 – To be based on what we know now and, in particular, to make decisions on the future approach to our Council Housebuilding Programme; and

Stage 2 – When the CLG decides to implement its High Value Voids Levy and announces the arrangements, to consider the implications for the Council and any required action to mitigate the financial effects of having to pay the Levy at that time.

I have therefore asked the Director of Communities to undertake the Stage 1 Review early in the New Year and to report to the Finance and Performance Management Cabinet Committee, following consultation with the Communities Select Committee and the Tenants and Leaseholders Federation as previously agreed.

Review of Epping Forest Careline Alarm Monitoring Service

The Council’s Careline Monitoring Centre is based at Parsonage Court, Loughton. The service was introduced in June 1984 and offers a twenty-four hour, 365 days per year, emergency alarm monitoring service to older and disabled people living within the District. There are currently 2,572 properties (representing around 3,500 people) in the District linked to the service. This includes 1,380 private sector connections which are connected via a dispersed alarm, which has an associated neck worn radio trigger.

As the Careline Monitoring Centre has expanded in terms of the number of private sector connections and the advances in technology, enabling service users to benefit from a range of associated sensors, the management and operational aspects of the service have become more complex.

Although an excellent and reliable service continues to be provided to residents, in order to ensure the future resilience of the service it was considered important that a review was undertaken. At its meeting in November 2016, the Communities Select Committee therefore considered a report from the Director of Communities reviewing the future provision of the Monitoring Service, which identified the following four options:

- The Careline Monitoring Service continues to be provided by the Council under the current arrangements
- The Council provides an enhanced Careline Monitoring Service
- The service is provided by another provider at all times
- The service is provided by the Council during the day and another provider overnight

Following detailed consideration of all the options, the Select Committee concluded that it will be recommending to the Cabinet at its meeting in February 2017 that the Careline Monitoring Service is outsourced to an external provider full-time. The Cabinet Committee has further recommended that reports be received at a later date on how the Older Peoples Housing Service could be restructured, and the charges that should be made to users, following the Monitoring Service being outsourced.

Government decides not to proceed with proposals to introduce a mandatory “Pay to Stay” Scheme for local authorities

The Government has decided to drop plans for the introduction of a mandatory “Pay to Stay” Scheme for Council tenants.

The Government introduced powers in the Housing and Planning Act 2016 to require councils to set higher rents for council tenants with household incomes of over £31,000 p/a (£40,000 p/a in London).

We have been waiting for the detailed Regulations on Pay to Stay since the Act received Royal Assent in May 2016. We were advised a few months ago that, following the appointment of Theresa May as Prime Minister and the appointment of a new Ministerial Team at the CLG, Ministers would be reviewing this policy.

In a Written Ministerial Statement to the House of Commons made on 21 November the Housing Minister, Gavin Barwell MP, said that the Government had listened carefully to the views of tenants, local authorities and others and, as a result, has decided not to proceed with the policy in its current compulsory form. He said that the Government remains committed to delivering its objectives in social housing and ensuring that it is prioritised for those in most need of housing; but in a way that supports those ordinary working class families who can struggle to get by, and in a way which delivers real savings to the taxpayer. He said that the new Government, under Theresa May, accepts that the policy as previously envisaged did not meet those aims. He said that local authorities and housing associations will continue to have the discretion to implement the policy for tenants with annual incomes over £60,000 if they wish.

Homelessness Initiatives

At its meeting on 17 January 2017, the Communities Select Committee will consider as part of its Work Programme to consider a report on various mitigation strategies to deal with the current and future pressures due to the increasing rise in homelessness, and to make recommendations accordingly.

We have a very effective Homelessness Prevention Service, comprising 6 FTE Homelessness Prevention Officers, who provide a comprehensive service with a range of initiatives at their disposal to assist them with resolving the housing difficulties of clients they are seeking to assist.

The increasing difficulties we are experiencing of dealing with homelessness include the following:

- The Council's homeless persons' hostels at Norway House, North Weald and Hemnall House, Epping are full most of the time
- The Council provides bed and breakfast (B&B) accommodation for predominantly single vulnerable homeless applicants. The numbers placed in B&B has increased from single figures about 18 months ago to around 25 people currently
- In recent months, 5 families have had to be placed in B&B, which is not only costly to the General Fund, it is illegal if they remain in B&B for more than 6 weeks
- B&B hotels used by the Council have become full, due to placements being made at the same hotels by other councils, who are experiencing similar increases in homelessness.
- Due to temporary accommodation being full, we currently have 14 homeless families placed in our own housing stock on non-secure tenancies until their cases are resolved, with this figure likely to increase, resulting in non-homeless housing applicants on the Housing Register having to wait longer to be housed
- London boroughs are placing increasing numbers of their own homeless applicants in private rented accommodation in our District, due to the lower costs compared to London rents, and paying landlords generous cash incentives - which makes it difficult for us to help accommodate our own homeless applicants into private rented accommodation
- The Homelessness Reduction Bill, expected to become law in 2017, will place additional duties on the Council to prevent and reduce homelessness
- The number of statutory reviews of homelessness reviews are increasing, and are placing an increasing burden on senior housing officers who undertake the, taking them away from managing the Homelessness Service.

Officers are suggesting a number of measures to the Select Committee to help mitigate this increasing homelessness, and the Select Committee will be asked to make recommendations on to the Finance and Performance Management Cabinet Committee that meets a few days later.

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Report to the Council

Committee: Cabinet

Date: 20 December 2016

Subject: Leisure & Community Services

Portfolio Holder: Councillor H Kane

Recommending:

That the report of the Leisure and Community Services Portfolio Holder be noted.

Community Services

Stay Well This Winter Events: As part of the Council's focus on improving the health and wellbeing of its residents in their late 60's -70's and above, the Community, Health & Wellbeing Team recently organised and delivered three very successful "Stay Well This Winter" events, with the support of the West Clinical Commissioning Group. The events took place in Chigwell, Loughton and Ongar and were attended by over 200 people from across the district.

The aim of the 'Stay Well' events was to facilitate the delivery of important messages to help our older residents stay healthy, well, safe and warm this winter. Each event started with a Wake & Shake dance based, seated exercise session to music, which was designed to help to energise the attendees and to act as an icebreaker. This was followed by a number of informative talks provided by a variety of partner agencies including; the NHS pharmacy team, the East of England Ambulance Service, Trading Standards, the NHS Falls Prevention Team, Community Matrons and the Fire Service. The topics for these included advice relating to:

- Medicine management and eye health
- Falls prevention
- Staying safe from fire and carbon monoxide
- Staying safe from rogue traders
- The importance of flu jabs

Attendees also had the opportunity to meet over 20 local service providers including; the Council's Care and Repair Team, the Alzheimer's Society, Age UK, VAEF, and West Essex Mind to name just a few. Participants were treated to a guest appearance from Epping Forest's very own Elvis (!) before heading home with a comprehensive information pack.

Epping Forest Youth Council: November saw the formal election of 25 new young people onto the Epping Forest Youth Council. The new cohort has representatives from every secondary school within the district, including the new Ongar Academy and Epping Forest College. I was delighted to meet the new youth councillors on 22nd November, when they had their first formal visit to the Council and were welcomed by the outgoing youth council and the Leader and Chairman of Council.

Our new recruits range from 12 to 17 years of age and all come with a fantastic range of ideas and opinions as to how the Youth Council will engage with their peers on priority issues. It was very sad to say goodbye to our out-going Youth Councillors who have carried out such an excellent role within the Council, but, I know from meeting the new cohort, that

they will continue to play a very important part in supporting the young people of our district to get their voices and views heard.

Disability Inclusion Project: Our Inclusion Project continues to develop from strength to strength and during October, 60 hours of sports and leisure provision was available to local families with children and young people with a disability, which attracted over 350 participants. Activities on offer included new sessions such as a farm activity day at Lea Valley Park Farm, paddle sports at the Lea Valley White Water Centre and new weekly dance sessions at the Limes Centre, Chigwell, as well as regular weekly sessions such as trampolining, football, swimming and horse riding. I am very much looking forward to joining the young participants and their families at a special Christmas party that has been arranged for 6th December, at Waltham Abbey Town Hall.

Night – time at the Museum!: As part of the plan to expand the type of activity provided at the Museum, the first '**Night at the Museum**' event was held at the end of October. The event attracted around 50 people, some of which were new visitors, who enjoyed 'out of hours' access to the museum building and a number of 'drop in' activities and events which were held between 6-9pm. It is planned to develop the evening and night time programme further, with the addition of themed events.

No Borders - Arts Council England (ACE) Resilience Project: I am pleased to update you on our No Borders partnership project, which is being supported by over £270,000 ACE funding over the next 18 months. The project is a partnership between Epping Forest, Broxbourne and Chelmsford Councils, which seeks to develop sustainable services across the three areas, through the establishment of Development Trusts and new fundraising that will operate in parallel to the management of the services and by developing commercial approaches to general operation of facilities and outreach services. In addition, work will be undertaken on the engagement of new audiences and new themes of work to improve diversity.

The funding provided by ACE covers the appointment of three, new, fixed term staff and associated budgets to support this work across the three areas. Interviews were undertaken in the first week of December and I am delighted to say that we have appointed three excellent candidates, who will be in post from 1st January 2017 to end of March 2018.

King Harold Conference: As part of the celebration of King Harold, a special conference was organised by the Museum Service, which involved several leading experts from across the country. Over 70 people attended the event, which was held at Waltham Abbey Town Hall and funded through the Heritage Lottery Fund.

Attendees had an excellent day of expert talks about King Harold, presented by Doctor Michael Lewis from the British Museum, Professor Gail Owen-Crocker from the University of Manchester and Professor Simon Keynes, from University of Cambridge.

Investors in Young People Award: The Museum was delighted to be awarded the Investors in Young People – Organisation Award, on the 10th November at the YES partnership award ceremony, at the Marriott Hotel, Waltham Abbey. The award was given to the Museum in recognition of its work with young people, including the range of volunteering opportunities offered.

TakeOver Day: Following the success of 'TakeOver' Days at Lowewood Museum, the first Take Over day was staged at our Museum in Waltham Abbey, as part of a national programme of events. Pupils from the King Harold Academy took over the running of the museum for the day, including leading guided tours for the public and providing theatrical performances in the Core Gallery, using props which they had made, based on items on

display in the museum. Following excellent feedback, it is planned to extend the programme in 2017.

Leisure Management Contract

With the assistance of my Portfolio Holder Advisory Group, I am pleased to report that the Cabinet considered the outcome of the tender evaluation for our new Leisure Contractor on the 1 December 2016, selecting Places for People Leisure Ltd as our preferred bidder. I am seeking Council's formal verification of this decision this evening through the report contained elsewhere on the Agenda.

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Report to the Council

Committee: Cabinet

Date: 20 December 2016

Subject: Planning Policy

Portfolio Holder: Councillor J Philip

Recommending:

That the report of the Planning Policy Portfolio Holder be noted

Local Plan

The timetable set out in the Local Development Scheme reported to Cabinet on 21 July 2016 for consultation of the Plan under Regulation 18 of the Town and Country Planning (Local Planning) Regulations 2012 has been met. The Cabinet considered the Draft Local Plan on 6 October 2016 and subsequently Full Council agreed the Draft Local Plan for consultation on 18 October 2016. The formal 6 week consultation started on 31 October 2016 and ends on 12 December 2016. Council also agreed that the Draft Local Plan policies should be treated as a material planning consideration when determining planning applications and I am pleased to report that the Council won its first appeal for the Priors Site making use of the site selection evidence used to support the Draft Local Plan.. The Planning Policy Team have provided a guidance note to officers in Development Management to ensure consistency of approach and this will be reported to the Planning Committees.

The consultation strategy for the Draft Local Plan was agreed by Cabinet on 1 September 2016. A new Local Plan website went live on 15 September 2016 www.eppingforestdc.gov.uk/planningourfuture. Since the start of the consultation on 31 October until 21 November 2016 the website had been visited on 3,854 occasions. As at 22 November 2016 238 online responses had been received, approximately 65 hard copy feedback responses and 851 requests to be registered for updates in addition to the existing database list. Regular monthly e bulletins are being sent out to all those registered.

Staffed exhibitions have been held at 6 locations in the District. These were well attended:

North Weald Bassett: approx. 259
Loughton: approx. 207
Chigwell: approx. 107
Chipping Ongar: approx. 258
Epping: approx. 277
Waltham Abbey: approx. 125

The Planning Policy Team also provided an opportunity for one to one discussions on 22 November 2016 for all the Town/Parish Councils and on request residents groups/amenity societies to discuss the Draft Local Plan to help them in making comments on the Draft Local Plan.

Following consideration of the comments received in response to the Draft Local Plan

consultation, the next stage will be to prepare a plan for publication and to publish it under Regulation 19. As part of this process officers will be establishing a Developer Forum alongside the progression of the Draft Local Plan to provide a basis for ongoing discussions with relevant landowners, site promoters and stakeholders. It is important that the Council liaises closely on an ongoing basis with relevant landowners and promoters of the sites proposed for allocation within the Draft Local Plan, and with other stakeholders as required in order to demonstrate that the Local Plan is 'effective' and that the allocations in the Local Plan will be viable and deliverable, and therefore meet the 'tests of soundness' at Examination-in-Public. Consideration will be given to the use of planning performance agreements on the larger sites to help support the process as a project management tool to set a framework and timetable for masterplanning and other work which will need to be undertaken before the examination of the plan.

We will be reporting to members in detail the consultation response, undertaking further work to support the plan including transport modelling and the preparation of a detailed infrastructure delivery plan and assessing any new sites that come forward together with the employment sites through the site selection process.

Report to the Council

Committee: Cabinet

Date 20 December 2016

Subject: Safer, Greener and Transport

Portfolio Holder: Councillor G Waller

Recommending:

That the report of the Safer, Greener & Transport Portfolio Holder be noted.

Community Safety

Partnership Working with Essex Police

Our working relationship with the Local Community Policing Team and Offender Management continues to go from strength to strength, ensuring that local issues and concerns are dealt with very efficiently and effectively. The daily morning conference call with the police enables a swift and open exchange of information and concentrates on the previous day's activities and on planned operations for the next 24 hours. Additionally the Community Safety team is a key partner in and regularly hosts the bi-weekly police district 'tasking', which is undertaken through call conferencing and involves the Police District Commander, Integrated Offender managers, intelligence officers, police analyst, Community Policing team and Operation Raptor representatives.

Community Safety Team Work Priorities

In addition to joint working with the police, our team has a range of priorities, including working to reduce vulnerability to those most at risk of harm and exploitation. Previously, the team only received security assessment referrals from other EFDC colleagues, but they now have regular referrals from Safer Places, which is a voluntary sector organisation supporting people subject to domestic abuse, along with Family Mosaic and Family Solutions, which form part of Essex County Council Social Care provision. They also support the work of the police in relation to 'cocooning' (promoting home security to residents living in the vicinity of crime incidents), and take referrals from them for residents who express an interest in increasing their home security.

J9 Domestic Abuse Campaign

Over the last three years the Council's J9 training programme has been expanded to encompass Uttlesford and Harlow districts and is now set to be rolled out across the rest of Essex. The original programme was developed following the death of a Domestic Abuse victim by the name of Janine and is designed to encourage organisations and staff to identify signs of domestic abuse and to enable them to signpost potential victims to other agencies who can provide the advice and protection they may need. The project has received recognition across Essex and the team has recently secured an additional 12 months' funding from the Office of the Police & Crime Commissioner to deliver J9 to eight new local authorities in Essex. The aim is also to expand the project across all Jobcentres in the county.

Cuckooing

This is becoming more prevalent in the district and our team have worked on several cases of cuckooing over the past year. A recent case investigated by Community Safety identified a Council housing property where the occupant was being exploited by drug dealers and his home was being used for the supply and use of drugs. As a joint piece of work involving local residents affected by the problem, the Council's Housing team and Essex Police Operation Raptor, the Community Safety team obtained a Closure Order for the property, excluding anyone entering it who was not named on the order. Police carried out proactive investigations and arrested a drug dealer in the act of re-supplying class A drugs to the house before proceeding to raid the property, arresting two further males for possession of Class A drugs. As a result, the tenant is now working with social care and is no longer being exploited, and the property is back in his and the Council's control. Subsequently, three men appeared at Chelmsford Crown Court on 16 November charged with drugs offences. One pleaded guilty to possession with intent to supply heroin and crack cocaine and received a sentence of 40 months imprisonment. The other two men pleaded guilty to possession of class A drugs and received prison sentences of six and four months. This is an excellent example of the Council's Community Safety team being involved in a coordinated investigation with many different service areas, organisations and the public and obtaining a positive result which has improved the quality of life for all the victims who had been affected.

Drug Detection Case Study

Our Community Safety team was asked to investigate a case where a male was regularly visiting a Council property, parking his car in its vicinity and then being visited by a number of individuals for a short period of time. The team suspected that drug dealing was taking place and gathered evidence from nearby residents, working with them to provide reassurance that action would be taken. Enquiries with the Community Policing Team identified the male and it was ascertained he was wanted by police in connection with drugs offences. Police visited the area and subsequently arrested the male who was found to be in possession of drugs. A warrant was then executed at the property, a small amount of drugs was seized and the female occupant cautioned. All suspicious activity has now ceased in this area and the Community Safety team received an email from one of the members of public who had been affected, as follows:

"I'd just like to say a massive thank you to the two of you for all your efforts re the resolution of the goings on around this turning. I'm not sure what happened the other week but we haven't seen any sign at all of the people that had been causing all the problems. Consequently the area is a very much nicer place to live and I'm very aware that we have you to thank for that."

This clearly demonstrates the success of our working in partnership in delivering positive outcomes for residents affected by this kind of anti-social behaviour.

Airwave Radio

I can report that the Community Safety team has now acquired a government Tea2 licence to operate an Airwave radio base station. This will be located in our CCTV room at the Civic Offices and will give our CCTV team the ability to communicate directly with operational front line police units in times of emergency.

Firebreak

I was pleased to attend the passing out parade at Waltham Abbey Fire Station for young people who have participated in a Firebreak course over a week. This excellent programme run by Essex Fire and Rescue and supported by EFDC involves pupils who have been referred by their schools as likely to benefit from a course which shows them how to work as a team and to participate in some of the basic training undertaken by firefighters. The programme has produced some first class outcomes and is warmly welcomed by the parents and teachers of those taking part.

Safeguarding

The number of safeguarding referrals and concerns received by our team on a weekly basis continues to grow. This is mainly due to staff awareness and vigilance across all sectors of the Council.

In November, the safeguarding team received 37 referrals involving 72 people, which is one of the highest numbers this year, and the breakdown of these was as follows:

No. of children-only concerns (where children were victims):	8
No. of adult-only concerns (where adults were victims):	19
No. of concerns that involved both (adult and children were victims):	10
Total no. of children involved:	41
Total no. of adults involved:	31
No. of new cases referred to Essex Social Care:	16
No. of new cases referred to Police	2
No. of multi-agency referrals made (eg. to Police and Essex Social Care):	0
Updates (sent to agencies where victim/perp already known/on-going):	4
Referral to Mental Health Service:	0
Referred to MARAC:	4
Referral to other external agencies (eg. Family Mosaic; CQC; GP)	0
Not referred (doesn't meet threshold/not safeguarding):	16

Categories:

Welfare concerns:	12	Physical Abuse:	0
Domestic Abuse:	6	Self Neglect/Hoarding:	6
Mental Health/Mental Capacity:	9	Homeless:	1
Neglect:	2	Substance Misuse:	1
Emotional/Psychological Abuse:	0	Exploitation/cuckooing:	2
Financial Abuse:	0	CSE:	1
Sexual Abuse:	0	Suicide/self-harm threats:	3
Carer Abuse:	1	Child birth not registered :	1

The main issues arising from these referrals are as follows;

- **Domestic Violence:** Due to changes in the Multi Agency Risk Assessment Conferences (MARAC), the Council is no longer involved in meetings for local High Risk cases of Domestic Abuse. This has meant information is not cascaded to a local

level and where there are serious concerns in Epping Forest they may not be discussed at the MARAC.

- *Hoarding*: A corporate Hoarding Working Group has been introduced and is currently focussing on the hoarding cases that have already been identified in the district and how the complex range of issues can be resolved. The group will be working with Lee Markwick from the Fire Service, in order for them to flag them on their system and carry out risk assessments.
- *Referrals*: There has been a slight increase in referrals for Mental Health and Suicide threats, which are being attributed to the recent success of the Mental Health First Aid Courses delivered by MIND and the publication of the new Suicide Protocol.

Countrycare

Since the last report Countrycare has held volunteer tasking days at Swaines Green in Epping (paid for by Epping Town Council), Willingale Community Orchard (paid by Loughton Town Council), Abbots Wood in Waltham Abbey, Linders Field, Church Lane and Chigwell Row Wood. We were pleased to have a visit from the Chairman of the Council, Jeane Lea, at Abbots Wood, a new site that has been neglected and which we are improving for wildlife and people.

The team and a small group of volunteers spent two days coppicing hazel at Belhus Woods, a site managed by the Woodland Trust. Instead of payment we took away the harvested stakes and binders to sell on to the City of London for their hedgelaying over the winter. We spent another two days there harvesting stakes and binders for Countrycare's own activities, representing payment in kind for the coppicing work.

Hedgelaying has continued weekly with work on hedges in Home Mead (particularly fine) and Swaines Green. We also hosted a Field Studies Council hedgelaying course at the North Weald Flower meadow, and in return a hedge was laid there by the students. Following the Tesco Bags of Help vote in the Epping Tesco store, Countrycare's project came third and has been chosen by Tesco customers to receive a grant award of £8,000, which is for replacing the boardwalk and related works in Nazeing Triangle LNR.

Energy Efficiency

BioBoost

EFDC has been awarded EU funding as part of a consortium project called BioBoost. The project is made up of nine partners in three countries (UK, Netherlands and Belgium) and over the next three years will look at ways of using agricultural waste for new products in a circular economy. NIAB, the National Institute for Agriculture and Botany, are the UK lead partner organising research projects, and EFDC will work with NIAB to hold educational and networking events in the UK to disseminate results of the research.

Corporate Green Working Party

The Green Working Party continues to work across departments within EFDC. With the recent adoption by the Council of the Environmental Charter following recommendations brought to Cabinet, the group is updating and adding actions to the objectives and actions.

Parking

Implementation of Council Car Parking Strategy

All pay and display machines have now been upgraded to receive the new one pound coin once it is brought in circulation. Chip and Pin is now also operational in at least one machine in each car park.

I am pleased to inform Members that the project for replacement of older lighting systems with new improved and efficient LED lighting is now in its implementation stage for the Traps Hill Car Park in Loughton, and the installation work will commence shortly. The project will include some new lighting columns, with all new LED lamps with associated electrical circuitry. Once this work is completed a new CCTV system will be installed.

The next phase of surveying the existing lighting provision in the remaining Council car parks has already commenced, and I shall update Members on progress as it takes place.

At its meeting on 1 December 2016, Cabinet agreed to award the contract for the provision of off-street parking enforcement across the Council car parks to NSL Limited, and the new arrangements will commence on 1 April 2017. I would like to thank officers involved in this project as well as members of my Portfolio Holder Advisory Group who have been assisting and advising during the implementation of the Car Parking Strategy and the procurement process for the off-street enforcement contract.

Loughton Broadway Parking Review

Significant progress has been made in the implementation of Phase 1 of the Loughton Broadway Parking Review. This consists of a handful of sites that are experiencing severe parking problems due to inconsiderate parking by commuters. Following consultation with ward members, proposals for on-street parking restrictions in the Oakwood Hill Road and the Industrial Estate have been finalised and the necessary Traffic Regulation Order will be advertised in a few days' time. I shall be holding another meeting with the local members to review proposals for the area wide review.

TRO (Traffic Regulation Order) scheme update

The North Essex Parking Partnership (NEPP) intends to advertise the following schemes for public consultation in Spring 2017: Albany Court and Allnuts Road in Epping, and Loughton Station entrance. Additionally, the following schemes are being investigated: Green Glade / Pakes Way and Smarts Lane / Forest Road and High Beech Road.

Officers have started work on the following seven schemes approved at the October Joint Committee meeting: Epping New Road (Boleyn Court), High Road (Shore Point), Beech Lane, Basons Way, Albert Road, Kings Green and Woburn Avenue.

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Report to the Council

Committee: Cabinet

Date 20 December 2016

Subject: Technology and Support Services

Portfolio Holder: Councillor A Lion

Recommending:

That the report of the Technology and Support Services Portfolio Holder be noted

Support Services

Apprenticeship Scheme

I am really delighted to inform colleagues that Becky Linford, who joined our Corporate Apprenticeship Programme in September 2015 has won this year's 'YES Investors in Young People' Award for Apprentice of the Year 2016 at a ceremony held at the Marriott Hotel on 10 November. The Award recognises a young person of exceptional talent and achievement who is under 25 years of age.

Becky was the first apprentice in the current cohort to complete and pass her Business Administration qualification, she has worked very hard in her placements, plus she has been coaching other apprentices in the cohort to pass their qualifications. This summer she also stepped in to run presentations at Crucial Crew on behalf of other providers. I am sure that Members will join me in congratulating Becky on her success.

The current cohort of 7 corporate apprentices are developing well, 3 of whom are now employed by the Council in full-time roles. 3 have achieved their full Business Administration qualification and the remaining 4 are on target to pass before the end of December.

Following the successful completion of this qualification the apprentices will participate in higher level Customer Service or Business Administration qualifications. They are all gaining excellent feedback in their third work placements. To support the apprentices to apply for jobs at the Council, the mentoring they receive from internal coaches helps them focus on career opportunities, job applications and interview skills.

On behalf of the Council, the apprentices successfully organised a promotional stand at the Careers Festival held at St Johns School. They spoke to other young people about our excellent Apprenticeship Programme and how they can benefit from what the scheme has to offer in developing their career.

HR/Payroll IT System

The new HR and Payroll System has moved from the development stage to a live system. Staff details are being updated and parallel running of Payroll has been taking place over October and November. October's pay-run has now been balanced against the existing system and it is looking positive for the November balance. The system is still on track for a live payroll run in December.

Facilities

Civic Offices Complex

I am pleased to report that the new electrical control panel has now been installed and commissioned. This allows for much greater control of the electrical system. When electrical shutdowns become necessary we can now independently isolate certain critical areas, such as computer suites, as well as individual buildings around the Civic Offices complex without losing power everywhere. As part of this project, all switchgear throughout the complex has been serviced for the first time. A specialist condition report is now awaited and the findings will enable Facilities to have a better understanding of where to target future resources to maximise electrical performance.

The main mechanical control panel in plant room 1 which controls the heating system around the Civic Office complex has also now been installed and is currently being commissioned. The old original panel was well beyond its serviceable life and we will soon be able to operate the heating system more efficiently and with greater control.

Works have also been taking place to upgrade the fire alarm system to include a number of designated escape routes not previously covered by fire detection equipment. Commissioning of this essential safety system is imminent.

The installation of LED lighting throughout the site has been continuing and we have already been noting the benefits. The new lighting is helping to reduce our energy consumption, additional benefits include a reduction in maintenance expenditure on lighting faults. This has helped our "in-house" Facilities Electricians to be refocused on delivering other capital electrical projects.

Works to reline the splitting lead valley gutter around the perimeter of the Council Chamber's roof with a coating system is now nearing completion. This will ensure these areas remain water tight for the future.

Other Sites

Resurfacing of the access yard to the rear of the Council's shopping parade at Limes Avenue in Chigwell has recently been completed, together with redecoration of the undercover public walkway. This painting was completed by the EFDC Works Unit instead of an external contractor. The Works Unit also made an excellent job of some external redecoration and timber repair works at our shops in Parklands, Coopersale. These projects help to ensure our landlord responsibilities are fulfilled and our leasehold assets are kept in a good condition.

Facilities Management is also currently investigating and planning the implementation of some urgent security and safety works at Townmead Depot in Waltham Abbey. This includes the provision of new fencing, hard surfacing and toilet facilities. These improvements will enable services provided by the Neighbourhoods Directorate at this location to be more effectively provided.

Technology

The voice service over internet and out telephone system project is progressing well in conjunction with our telecommunications partners, Solar Communications. This project will give the Council the ability to route inbound and outbound calls over the Internet reducing cost and improving flexibility and resilience compared to our current connections.

Increased security is provided by a DMZ (Demilitarised Zone). This is an additional layer separating the Councils internal infrastructure and the Internet and where the Councils public facing capabilities reside. The storage technology in this area has been upgraded and the capacity of storage increased.

During the afternoon of Friday 18 November KCO Group, a contractor working on behalf of BT on fibre-optic cables on Epping High Street, accidentally damaged 3 cables used by the Council. The services affected were the connections to Epping Depot, Parsonage Court and the Councils main Internet connection also affecting external email and the Councils website. The outage was reported immediately to BT who in turn responded quickly by sending emergency crews to assist in rectifying the fault. 840m of new fibre was installed along the length of the High Street taking 12 hours to re-establish connectivity. Recognition of Mark Giddy from the Network team is warranted for his commitment in managing this incident on behalf of the Council. ICT will be discussing the matter with BT to minimise the risk of this incident re-occurring.

PCI DSS (Payment Card Industry Data Security Standard) is a means of assurance for the appropriate handling of card payment data. The standard has been through a number of iterations and NTA Monitor Consultants were employed to assist with the optimum infrastructure configuration to minimise security risks in relation to card payment data. ICT is implementing the recommendations of the report by installing devices providing protection from internal authorised access (firewalls) between the PC's taking card payments and the rest of the Councils network.

The rollout of the multifunction printers (MFD's) part of the printer migration project is nearing completion. This has significantly reduced the number of individual printers and replaced them with a much smaller number devices capable of printing, copying and scanning. These have been placed in key areas to ensure efficient usage. Member training will follow shortly.

EFDC have been subject to 3 serious virus attacks in the last month. Our firewalls and anti-virus software isolated all of them before they could damage any of our systems or data. These incidents highlight the increase in attacks across the spectrum of local and central government. Although staff continue to be vigilant, additional financial resources may well be required to maintain the high level of security required.

Andrew Gardner has now acquired a license from the CAA (Civil Aviation Authority) to fly the Council's drones. Flights will commence in approximately 3 weeks' time. The website will be updated to advise the times and areas our drones will be operating across the district.

Superfast Broadband High Speed Internet

The Rural Challenge Project to deliver ultrafast broadband to rural parts of the district continues to make progress. Almost 175km of network has now been built with in excess of 2,400 connection pots installed at the property edges. 7 cabinet areas in the district are now live with 5 areas completely built.

Broadband development is moving toward a Smart Place agenda, enabling applications which will improve services to residents, our own activities and looking at enabling street services.

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Report to the Council

Subject: Members' Allowances Scheme – Annual Review 2017/18

Committee: Member Remuneration Panel

Date: 15 December 2016

Independent Member: Mr. S. Lye

RECOMMENDING:

Basic Allowance

- (1) That no change be made to the implementation of the full amount of Basic Allowance of £4,300.00 per member per annum, currently included in the Council's Members' Allowances Scheme;

Special Responsibility Allowance

- (2) That, with effect from the commencement of the 2017/18 municipal year, the Special Responsibility Allowance applicable to the position of the Chairman of the Epping Forest Standards Committee, be applied at the rate of £110.00 per meeting; and

Revised Scheme and Guidance

- (3) That, subject to the above recommendations and other administrative matters set out in this report, the Members' Allowances Scheme and Guidance for 2017/18 attached as an appendix to the report, be adopted and implemented with effect from 26 May 2017.

Report

1. This report of the Independent Remuneration Panel (the Panel) sets out our conclusions and recommendations on members' allowances for the 2017/18 municipal year, for consideration by the Council.
2. The Remuneration Panel was established in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003. These regulations, which arose from relevant provisions of the Local Government Act 2000, require all local authorities to set up and maintain an advisory independent Remuneration Panel to review and provide advice on Members' allowances. All Councils are required to convene their Panel and seek its advice before making any changes or amendments to allowances schemes and must 'pay regard' to the Panel's recommendations before setting a new or amended Members' Allowances Scheme.
3. The Panel is required to gather information, to hear and consider evidence and to make recommendations to the Council on:
 - the amount of Basic Allowance to be paid to members;
 - those positions that should receive a Special Responsibility Allowance and the level of such allowance; and

- travel, subsistence and certain other allowances.
4. The current members of the Remuneration Panel are Mr. D. Jackman, Ms. R. Kelly and Mr. S. Lye. This report will be presented to the Council by Stephen Lye on behalf of the Panel.

Members' Allowances Scheme

5. The last review of the Members' Allowances Scheme undertaken by the Panel covered all aspects of the Scheme and our recommendations were agreed by the Council in December 2015. We have recently undertaken a further annual review of the Members' Allowances Scheme for 2017/18, in order that any proposals for changes to members' allowances can be considered by the Council as part of the budget-setting process for the next financial year.
6. As in previous years, we have been keen to hear the views of members about how the current scheme is working in practice and whether there are specific issues or proposals that the Panel should address. As part of our review, we requested that an item be placed in the Council Bulletin inviting councillors to raise issues or concerns about the current scheme that they wished us to consider. A similar invitation was also extended to the Chairman and Vice-Chairman of the Council and the officers that directly support their roles and activities, and all other independent and co-opted members, to express any suggestions or concerns with regard to the current operation of the Members' Allowances Scheme. A submission was made by one councillor, the issues from which we have considered as part of our review of the Special Responsibility Allowance provisions of the Scheme.

Basic Allowance

7. All local authorities must make provision for a flat-rate allowance to be payable to all Members. This 'Basic Allowance' is payable equally to all Councillors and is designed to cover member activities such as constituency casework, preparation for and attendance at meetings of the Council's committees etc. and service as a representative of the authority on outside bodies for which no separate remuneration is made.
8. At its meeting on 15 December 2015, the Council agreed that no change be made to the full Basic Allowance of £4,300.00 per member per annum included in the Members' Allowances Scheme for the 2016/17 municipal year, but that implementation of 100% of the amount of Basic Allowance be made for each member with effect from the commencement of the year. This increase in the payment of Basic Allowance was in line with the recommendations of the Panel over a number of years, although we understand that, to date, one member has requested that their Basic Allowance remain at the (lower) level applied by the Council up to the end of the 2015/16 municipal year.
9. In the current economic climate, the Panel is not minded to recommend any changes to the Basic Allowance at this time. However, we consider that it is appropriate to continue to revisit this issue as part of our annual review of the Members' Allowances Scheme for 2018/19 and future years, whilst recognising that implementation of any increase would be a matter for the Council to determine and that there is a continued need for restraint in setting the authority's budget and achieving savings.

Special Responsibility Allowance – Standards Committee

10. Each local authority may make provision in its Members' Allowances Scheme for the

payment of a Special Responsibility Allowance (SRA), for those Councillors who have significant responsibilities. As previously with the Basic Allowance, the Council has decided not to implement payment of full SRA amounts for a number of positions and to restrict these to a percentage of the amount set out in the Members' Allowances Scheme. The current Scheme provides that Members may receive more than one SRA if they hold more than one relevant position.

11. In adopting the new Constitution at its meeting on 26 April 2016, the Council agreed that the Standards Committee be convened only when there was business to be transacted, and that the Remuneration Panel be asked to consider the appropriate level of SRA for the Chairman of the Committee. In addition, as part of the review of the Council's Constitution during 2015/16, when consideration was being given to the possible combination of the Audit and Governance Committee and the Standards Committee, the Constitution Working Group suggested that the Panel might wish to consider current arrangements for the application of SRA for the position of the Chairmen of the (standalone) Standards Committee.
12. The Council establishes a Standards Committee for each municipal year, to promote and maintain ethical standards amongst its members and local councillors across the district. The Members' Allowances Scheme currently provides for an SRA of £500.00 per annum to be applied to the position of the Chairman of the Standards Committee.
13. The Panel has considered comments submitted for consideration by the present chairman of the Standards Committee (Councillor G. Chambers), in relation to the level of SRA currently applied to his position. In his submission, Councillor Chambers has suggested that the allowance should stay the same for 2017/18 or be subject to a slight increase, to reflect that there is often work for the Chairman of the Committee that takes place with regard to telephone conversations and email correspondence outside of formal meetings of the Committee. Councillor G. Chambers also suggested that the chairman is often asked questions on standards matters by other members of both the district and town/parish councils.
14. The Panel pays regard to the expectations and experience of specific roles and responsibilities when making recommendations to the Council for the application of SRA. In terms of the Standards Committee, we have been advised that the Monitoring Officer and/or Deputy Monitoring Officer undertake the local assessment of complaints arising from the Code of Conduct, including making judgment on many specific matters. Whilst the Monitoring Officer and Deputy Monitoring Officer both work closely with the Standards Committee, reporting about Code of Conduct complaints, training and other related issues, the number of complaints required to be considered by the Committee is currently very low. The Panel also understands that, although the Standards Committee is a committee of the authority, over one-third of its members are not elected councillors and comprise members of town or parish councils and independent people appointed to provide views on complaints made under the Council's Code of Conduct. An allowance of £250.00 per annum is currently made to the independent persons affiliated to the Standards Committee, to recognise their work in this regard.
15. We have considered the written views put forward by the Chairman of the Standards Committee and have concluded that, as the current standards regime is now well established, that insufficient evidence has been presented to justify recommending an increase in the current level of SRA applied to the position of the Chairman of the Committee. Moreover, in recognition of the increased role and responsibilities of the Monitoring Officer (and Deputy Monitoring Officer) and the independent persons in assessing complaints, the Panel recommends that such SRA should, in future, be

made on the basis of the payment of £110.00 for each meeting of the Committee that the Chairman attends, rather than as the current flat-rate allowance of £500.00 per annum.

16. This approach would also bring the Standards Committee into line with similar arrangements pertaining to the quasi-judicial responsibilities of the Staff Appeals Panel and, formerly both the Complaints Panel (which ceased operation during 2014/15) and the Housing Appeals and Review Panel (discontinued from 2016/17), We consider that this approach more appropriately reflects the reduced number of meetings of the Standards Committee in recent years and the increased involvement of the independent persons in the consideration Code of Conduct matters. The payment of a 'per-meeting' based SRA would be made at year-end, rather than on a quarterly basis.

Special Responsibility Allowance – Chairman and Vice-Chairman of Council

17. The Council also agreed at its meeting in December 2015 that, from 2016/17, consideration of the amount of SRA applied to the positions of the Chairman and Vice-Chairman of the Council be added to the responsibilities of the Remuneration Panel. The Director of Governance has reported to us with regard to the background to the current level of SRA for the Chairman and Vice-Chairman, which was last reviewed by the Governance Select Committee in December 2015.
18. As a result, we intend to meet with the current Chairman and Vice-Chairman (and possibly the immediate past Chairman) early in 2017, to discuss the current application of SRA in terms of the responsibilities of the Chairman and Vice-Chairman of the Council. In advance of this exercise, we have requested the Director of Governance to undertake appropriate benchmarking in respect of the level of SRA amongst other similar local authorities.

Travel Expenses - Taxation and National Insurance Implications

19. The Panel has been advised that, with effect from 6 April 2016, legislation introduced as part of the Finance Bill 2015 exempted the payment of councillors' travel expenses from a charge to income tax. This includes expenses paid for journeys between the councillor's home and most frequently used local authority office, except where the councillor's home is more than 20 miles from the boundary of the local authority area.
20. The purpose of this change to recognise that councillors perform an important constitutional role in representing communities, carrying out their duties in their own time, often in addition to other professional and personal commitments, and that many receive no payment other than allowances in recognition of the time and expenses incurred. The measure is intended to help ensure that individuals are not discouraged from undertaking a role as a councillor by the tax treatment of travel expenses paid by their local authority.

Recommendations

21. In the light of the ongoing economic situation, the Panel considers that no change should be made to the level of the Basic Allowance made to members of the Council for 2017/18. We also consider that no changes should be made to the Special Responsibility Allowances applied to various member positions, other than as reflected in this report, as we understand that there has been no change in other responsibilities since our review of the Members' Allowances Scheme for the current year.
22. We have not considered any changes to other elements of the Members' Allowances

Scheme, such as travel and subsistence allowances etc., which are paid at levels that also apply to officers of the Council and are subject to national application.

23. The proposals set out in this report will require minor amendments to be made to the Members' Allowances Scheme. The Director of Governance has implemented drafting changes to the Scheme to reflect the current position in respect of tax and National Insurance implications arising from changes to the payment of councillors' travel expenses.
24. The draft revised Members' Allowances Scheme for the 2017/18 municipal year, incorporating the recommendations contained within this report is attached as Appendix 1.
25. The Panel has also prepared the attached (Appendix 2) Statement of Implementation (based on the assumption that the Council will not increase the Basic Allowance or the implementation of any Special Responsibility Allowance other than as reflected in this report) for publication on the Council's website. The format of the statement illustrates the operation of the Members' Allowances Scheme, in terms of the implementation of Special Responsibility Allowances as proportions of the amounts provided in the Scheme, as we feel that this approach is not always fully understood or entirely transparent.
26. The Panel would like to acknowledge the contribution of the officers involved in our review of the Members' Allowances Scheme for 2017/18, for the support and assistance that we have received in undertaking our review.
27. We recommend as set out at the commencement of this report.

Members of the Remuneration Panel: D. Jackman, R. Kelly, S. Lye

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MEMBERS' ALLOWANCES SCHEME

EPPING FOREST DISTRICT COUNCIL - REMUNERATION AND EXPENSES SCHEME

The Epping Forest District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 1990 and the Local Authorities (Members' Allowances) (England) Regulations 2001, hereby makes the following scheme:

1. Scheme

- 1.1 This scheme may be cited as the Epping Forest District Council Members' Allowance Scheme and shall have effect for the period from 26 May 2017 to 25 May 2018.

Comment [ST1]: Revision of applicable dates of Members' Allowances Scheme.

2. Definition

- 2.1 In this scheme:

"business mileage" means mileage incurred for journeys by Councillors between their homes and business venues or between the Civic Offices, Epping and business venues;

"Councillor" means a member of the Epping Forest District Council who is a Councillor;

"home to office mileage" means mileage incurred for journey by Councillors between their homes and the Civic Offices in Epping;

"independent person" means (a) a member of the Standards Committee who is not an elected councillor or (b) a co-opted member of an Overview and Scrutiny Committee or the Audit and Governance Committee who is not an elected councillor; and

"year" means the period ending with 25 May 2018.

Comment [ST2]: Revision of applicable dates of Members' Allowances Scheme.

3. Basic Allowance

- 3.1 Subject to Paragraph 7, £4,300 shall be paid to each Councillor. Payments are subject to deductions for tax and national insurance dependant on the circumstances of individual councillors.

4. Special Responsibility Allowances

- 4.1 For each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the allowances specified in Schedule 1 to this scheme. Special responsibility allowances shall be calculated as multipliers of the Basic Allowance. There is no restriction on the number of separate SRA's which are payable to an individual member.
- 4.2 Subject to Paragraph 7, the amount of each allowance shall be the amount specified against that special responsibility in Schedule 1 for the year.
- 4.3 The Council has decided not to implement payment of the full Special Responsibility Allowance amounts and to restrict these to a percentage of each allowance as set out in an annual statement of implementation.

5. Travelling and Subsistence (including Cycle Allowance)

- 5.1 These expenses may be claimed by members of the Council in connection with the carrying out of approved duties specified in Schedules 2, 3 and 4 of this scheme.
- 5.2 Payments may be claimed up to the maximum casual user rate set for officers of the Council as adjusted annually by the National Joint Council for Local Government Services (travel expenses) and the East of England Regional Assembly (subsistence expenses).
- 5.3 Payment of home to office car mileage will be subject to deduction of tax and national insurance contributions, dependant on the circumstances of individual councillors. Business mileage incurred by councillors will not be subject to such deductions if the mileage rate claimed does not exceed 45 pence per mile.

6. Child Care and Dependant Carers' Allowances

- 6.1 The maximum rate for this allowance shall be set at a rate equivalent to the National Living Wage introduced in April 2016, which will commence at £7.20 per hour.
- 6.2 A member of the Council or and independent person shall be eligible to claim up to four hours of the allowance for the performance of approved duties under this scheme and for the purpose of contributing to the cost of providing personal care to immediate dependants who are in need of care and supervision.
- 6.3 The rate applicable shall be subject to automatic increases on an annual basis in line with uprating of the National Living Wage.
- 6.4 The allowance is not payable in respect of carers who are members of the member's immediate and close family i.e. parents, children, spouses, co-habitees or members of the same household as the member.
- 6.5 All claims shall be subject to Audit checks and no claim in excess of the maximum level will be payable, whatever the circumstances.

7. Renunciation

- 7.1 A councillor or independent person may by notice in writing given to the Director of Governance, elect to forego any part of his/her entitlement to an allowance under this scheme.

8. Part-year Entitlements

- 8.1 The provisions of this paragraph shall have the effect of regulating the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- 8.2 If an amendment to this scheme changes and the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
 - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or

- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the end of the year; and
 - (c) the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.
- 8.3 Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- 8.4 Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a councillor does not subsist throughout the period mentioned in such-paragraph (2)(a), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole of the same proportion as the number of days during which his term of office as a councillor subsists bears to the number of days in that period.
- 8.5 Where a councillor has during part of, but not throughout a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole of the same proportion as the number of days during which he/she has such special responsibilities, bears to the number of days in that year.
- 8.6 Where this scheme is amended as mentioned in sub-paragraph (2), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2)(a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

9. Claims and Payments

- 9.1 Payments shall be made in respect of basic and special responsibility allowances, subject to subparagraph (2), in instalments of one quarter of the amount specified in this scheme.
- 9.2 Where a payment of one-quarter of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which by virtue of paragraph 8(1), he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- 9.3 Claims must be made within a period of one year of the duty being carried out. Payments after that period will only be made in exceptional circumstances.

10. Uprating for Inflation

- 10.1 There will be no inflationary adjustment to the allowances set out in this scheme, except those relating to travel and subsistence.

11. Co-optees' Allowance

- 11.1 Co-optees' allowance will be payable to independent persons as set out in Schedule 5 to this scheme.

12. Withholding/Recovery of Payments

- 12.1 Where any councillor or independent member has already received a payment in respect of any period during which they have been:
- (a) ceased to be a member of the Authority; or
 - (b) not entitled in any other way to receive the allowance in respect of that period, the Council may require that such part of the allowance as relates to the period in question shall be repaid to the Authority.

13. Pensionable Status

- 13.1 Remuneration payable to councillors of Epping Forest District Council under this scheme shall only be entitled to pensionable status in accordance with a scheme made under Section 7 of the Superannuation Act 1972, if the member opted in to the Essex Superannuation Scheme before 1 April 2014.
- 13.2 For the purposes of a Paragraph 13.1 above basic allowance and special responsibility allowance will be treated as amounts in respect of which such pensions are payable in accordance with a scheme under that Act.
- 13.3 The Local Government Pension Scheme (LGPS) (Transitional Provisions, Savings and Amendment) Regulations 2014 removed access to the LGPS for Councillors from 1 April 2014, with the exception of those who were members of the Scheme on 31 March 2014, who retain access to the LGPS up to the end of their current term of office only (or to age 75 if earlier).

14. Further Guidance

- 14.1 Further guidance on this scheme can be found in Appendix 1.

SCHEDULE 1

SPECIAL RESPONSIBILITY ALLOWANCES

1. The following are specified as the special responsibilities in respect of which special responsibility allowances are payable and the amounts of those allowances.

DUTY	ANNUAL TOTAL AMOUNT OF SRA
Leader of the Council	£10,750.00
Cabinet members (9)	£6,450.00 (each)
Chairman of the District Development Management Committee	£3,225.00
Chairmen of the Area Plans Sub-Committees (3)	£3,225.00 (each)
Chairman of the Overview and Scrutiny Committee	£4,300.00
Chairman of the Licensing Committee	£500.00
Chairmen of the Licensing Sub-Committees (6)	£2,225.00 (allocated according to the number of meetings chaired each year)
Chairman of the Staff Appeals Panel	£110.00 per meeting held each year
Chairman of the Audit and Governance Committee	£2,150.00
Chairmen of the Select Committees (4)	£2,150.00 (each)
Chairman of the Standards Committee	£110.00 per meeting held each year
Chairman of the Constitution Working Group	£500.00

Comment [ST3]: Addition to reflect 'per-meeting' status of SRA applicable to Standards Committee (if agreed).

SCHEDULE 2

APPROVED DUTIES

1. The following are specified as an approved duty for the purpose of the payment of travelling and subsistence expenses, attendance at any of the following:
 - (a) a meeting of the authority, the Cabinet, a Cabinet Committee, the Overview and Scrutiny Committee and its Panels, the Standards Committee and its Sub-Committees, or as a member of any other Committee or sub-committee, panel, working group, special committee or board of the authority;
 - (b) any other meeting held by the Authority provided that:
 - where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited; or
 - if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
 - (c) duties relating to the supervision of tender opening as required by the Council's Standing Orders;
 - (d) attendance as representative of the Council at any approved conference or meeting of the outside organisations set out in Schedules 3 and 4;
 - (e) attendance at any meeting or other official function at the request of the Chief Executive, Deputy Chief Executive or a Service Director including meetings between group representatives for a particular Committee and officers;
 - (f) any other duty approved by the Council or the Cabinet or any other committee, sub-committee, special committee or Board or Panel or any duty of a class so approved, for the purpose of, or in connection with, the discharge of functions or the body, or of any of its committees or sub-committees;
 - (g) attendance by a councillor at a meeting of which he or she is not a member for the purpose of explaining a motion referred from the Council;
 - (h) attendance as a councillor at the invitation of the Local Government Commissioner for Administration for the purpose of investigating a complaint against this Council of maladministration;
 - (i) attendance as an appointed representative of Epping Forest District Council at any meeting of Essex County Council or any of its committees or sub-committees for the purpose of formal consultations on any matter affecting the powers or duties of this Council or the district or any part thereof;
 - (j) attendance on behalf of the Council or the Cabinet or as a Chairman on behalf of a Committee at an official function;
 - (k) attendance at seminars and training courses arranged by the authority;
 - (l) consultation meetings arranged by the authority where the member's attendance is required or where the business directly affects the member's ward;

- (m) site visits arranged by Area Plans Sub-Committees or the District Development Management Committee;
 - (n) informal site visits by individual councillors in respect of their duties as members of an Area Plans Sub-Committee;
 - (o) attendance at a meeting concerning joint working or partnership arrangements to represent the Council's interests; and
 - (p) attendance at any civic event to which the Chairman or Vice-Chairman is attending in that capacity (or representative) for which Council funded transport is not provided.
2. There is specified as an approved duty for the purpose of paying travelling and subsistence expenses attendance at any of the outside organisations shown in Schedule 4.
 3. Attendance by members of the Council at meetings of outside organisations not shown in Schedule 4 shall NOT qualify for payment of travelling and subsistence expenses.

SCHEDULE 3

CONFERENCE AND MEETINGS

Conference and meetings organised by any person or body who is not doing so by way of trade nor whose objects are wholly or partly political, attendance at which is authorised by or on behalf of the authority and which does not involve an absence overnight from the councillors normal place of residence.	Appropriate subsistence and travelling expenses (second class return rail fare or car mileage at the appropriate rates whichever is the less if travel outside the Epping Forest District is required).
Conferences and meetings organised by any person or body who is not doing so by way of trade, nor whose objects are wholly or partly political, attendance at which is authorised by or on behalf of the authority and which involves an absence from the councillor's normal place of residence of one or more nights.	Appropriate subsistence and travelling expenses (second class return rail fare or car mileage at the appropriate rate whichever is the less if travelling outside the Epping Forest District is required).

SCHEDULE 4

OUTSIDE ORGANISATIONS

Attendance as appointed representative of the Council on any outside organisations, such attendances being deemed approved duty for the purpose of paying subsistence and travelling expenses.

SCHEDULE 5

CO-OPTEEES' ALLOWANCE

Independent Persons affiliated to the Standards Committee	£250.00 per annum
Independent Members of the Remuneration Panel and Parish Remuneration Panel	£250.00 per annum
Co-opted members of the Audit and Governance Committee	£500.00 per annum
Co-opted independent members of an Overview and Scrutiny Committee	£500.00 per annum

APPENDIX 1

MEMBER REMUNERATION SCHEME

EPPING FOREST DISTRICT COUNCIL
GUIDANCE NOTE ON ALLOWANCES AND EXPENSES FOR MEMBERS

1. INTRODUCTION

- 1.1 A Councillor is eligible for the payment of attendance allowances and for reimbursement of travel and subsistence expenses in respect of approved duties carried out on behalf of the Council. An approved duty is one which has been authorised by or on behalf of the Council in advance.
- 1.2 The Council has a formal scheme for allowances which is updated from time to time. A copy of the scheme is set out in the Constitution. This note is of a more informal nature and is designed to assist members in dealing with their claims and explaining the arrangements to the public.

2. BASIC ALLOWANCE

- 2.1 This is a flat rate allowance payable to all members of the Council. This annual amount is paid in quarterly instalments. Members do not have to claim this amount. The full amount of the Basic Allowance is £4,300.00 per member, per ~~annum~~.
- 2.2 The Council requires each of its elected councillors to be registered as a data controller in accordance with the provisions of the Data Protection Act 1998. Although members are responsible for their individual compliance with the data protection principles of the Act, the Council coordinates the registration (and annual renewal) process on behalf of members and an amount of £35.00 is therefore withheld from the Basic Allowance each year to meet the registration fee imposed by the Information Commissioner.

Comment [ST4]: Removal of reference to payment of 80% of full Basic Allowance.

3. SPECIAL RESPONSIBILITY ALLOWANCE

- 3.1 This is a special allowance payable to the Leader, Cabinet members and certain Chairmen. It is designed to reflect the additional responsibilities of these office holders. This amount is paid in quarterly instalments during the year and does not have to be claimed.
- 3.2 The Special Responsibility Allowance applicable to the chairmen of the Standards Committee and the Staff Appeals Panel is applied on a 'per-meeting' basis and is paid in a single instalment at year-~~end~~.
- 2.3 The Council has decided not to implement payment of the full Special Responsibility Allowance amounts and to restrict these to a percentage of each allowance set out in the Scheme.

Comment [ST5]: Addition to reflect 'per-meeting' status of SRA applicable to Standards Committee (if agreed) and Staff Appeals Panel.

4. TRAVEL EXPENSES

- 4.1 Members may re-claim reasonable travel expenses (including public transport tickets, taxi fares, parking costs where appropriate subject to submission of evidence of expenditure) in respect of approved duties as defined in the scheme (Schedule 2).

Car Travel

- 4.2 The normal rates for car travel are the same as the higher rates paid to officers classed as casual users. Claims must be fixed on the rates applicable at the time of the journey. These rates are set out on the claim form and are reviewed annually.

Shortest Distance

- 4.3 Claims for car travel should be by reference to the shortest distance from home to the Council offices or other venue for the approved duty concerned. No claim for additional expenses will be entertained unless there is a valid reason for incurring the additional mileage.

Travel Direct from Place of Employment etc

- 4.4 For claims involving direct travel from a Councillor's place of employment (or other departure point) for an approved duty, the distance claims shall be limited to the home to meeting venue element of the journey. All such claims must be endorsed "CLAIM LIMITED" on the form.

Travel outside the District – Limit on Amount Claimable

- 4.5 For journeys to approved meetings outside the District or by members resident outside the district, claims irrespective of mode of travel must not exceed the lower of:
- (a) second class return rail fare plus underground and other fares from station to destination at each end of the journey; or
 - (b) the appropriate car mileage.
- 4.6 This is subject to consideration of any special circumstances as set out in 4.7 below.

Travel over Long Distances – Special Circumstances

- 4.7 If, for any reason, a councillor undertakes travel over long distances or from outside the District, members are advised to contact the Assistant to the Chief Executive in advance for advice on what would constitute a reasonable claim in the circumstances.

Use of Public Transport within Epping Forest District

- 4.8 The rate for travel by public transport must not exceed the ordinary fare (or any available cheap fare). A member may not claim travelling expenses in respect of a single duty from more than one body. In all such claims evidence of expenditure (i.e. tickets or other receipts) MUST be provided. No claim will be allowed without such evidence.

Cycle Allowance

- 4.9 This allowance is payable at the highest of the higher casual rates paid to officers classed as casual users.

Child and Dependant Carer's Allowance

4.10 This allowance may be claimed at a rate equivalent to the current rate for the National Living Wage. Certain conditions are set out in the Scheme.

5. SUBSISTENCE EXPENSES

5.1 Subsistence expenses (covering refreshments and meals etc paid for by a member) are claimable by councillor in respect of making attendances connected with approved duties on behalf of the Council. The rates for such expenses are set out (by reference to meal time and periods of absence) on the reverse of the form which is supplied to members on a quarterly basis. These rates may not be exceeded. Periods of absence will be calculated on the basis of departure from home or place of work if it is not possible to return home in the time available.

5.2 All claims for subsistence must be accompanied by receipts in respect of meals etc as evidence of expenditure actually having been incurred. No claims will be allowed in the absence of such evidence.

5.3 Special arrangements exist in respect of subsistence expenses in respect of duties involving an absence overnight from a councillor's normal place of residence. These are outlined under Section 7 relating to conferences.

5.4 A Councillor may not claim subsistence expenses in respect of a single duty from more than one body.

6. CONFERENCES

6.1 Attendance at Conferences and payment of allowances and expenses are subject to prior approval by the Council, Cabinet, appropriate committee, Leader or Deputy Leader in all cases.

6.2 All conferences deemed to be approved duties shall, in accordance with statutory requirements, be relevant to the District and not wholly or partly commercial or political in their objectives.

Allowances for Attendance at Conferences (Involving an Absence from Home)

Subsistence - Nights Away from Home

6.3 For conferences involving one or more night's absence, claims can be made for reasonable day or overnight expenses that are necessarily and exclusively incurred in the attendance as an authorised representative of the Council at a meeting, conference or seminar that it held outside of the Epping Forest District.

Claims for Subsistence

6.4 These claims should cover such items as hotel bills, refreshments, meals (other than free meals which should be discounted) and similar items. No claims will be allowed unless evidence is provided of all expenditure being claimed. All relevant bills and receipts should be forwarded to the Assistant to the Chief Executive with claims.

Travel Claims

6.5 The guidance outlined under paragraph 4.5 will apply to all conferences.

7. TAXATION AND NATIONAL INSURANCE IMPLICATIONS

- 7.1 Details of the tax and national insurance implications of allowance payments and expenses claimed are available through Democratic Services. In such matters, members are advised to seek advice from their tax office in the event of any concerns.
- 7.2 Supplementary Note Regarding Treatment of Claims for Travel Expenses by Car for Tax and National Insurance Purposes.

(a) Travel by Car – Councillors’ Homes to Civic Offices Expenses (“Home to Office Mileage”)

- 7.3 Her Majesty’s Revenue and Customs (HMRC) deems a councillor’s workplace for the purposes of their role as an elected representative to be the Civic Offices, Epping. From April 2016, ‘Home to Office Mileage’ is no longer subject to tax and national insurance deductions, provided that the distance between a councillor’s home and the Civic Offices is no more than 20 miles.
- 7.4 If the upper rate of mileage is also claimed (any amount above 45p per mile) this part of the payment will be treated as a taxable benefit and national insurance will be deducted. A petrol/diesel VAT receipt will be required to be submitted with all claims before payment can be made, which must predate the first date of mileage on the submitted claim. The receipt must also be dated within a reasonable timeframe of the first journey for which a claim is made.

Comment [ST6]: Revised to reflect new (2016) HMRC guidance.

(b) Travel by Car – Councillors’ Homes to Other Venues or Civic Offices to Other Venues for the Purposes of Council Business (“Business Mileage”)

- 7.5 HMRC has determined that such travel shall not be subject to tax or national insurance deductions except where the rate of reimbursement exceeds 45 pence per mile. Travel to any meetings of the Council or its subordinate bodies which are held at a location other than the Civic Offices is deemed to be business mileage.

(c) Second Journeys

- 7.6 Second journeys will be subject to taxation and National Insurance deductions depending on whether the journey constitutes home to office or business mileage.

8. ALTERATION OF CLAIMS

- 8.1 All claim forms submitted by members are checked by Democratic Services. The Director of Governance (or the Assistant Director (Governance and Performance Management) acting on their behalf) is authorised to reduce incorrect claims in the following circumstances:

- (a) where a member does not attend at a claimed meeting;
- (b) where a claimed meeting is not approved;
- (c) where an incorrect amount of allowance is claimed; and
- (d) where a correct date has not been claimed.

- 8.2 Any changes under paragraph 8.1 will be notified to members after the claim form has been processed. Any other problems with members’ claims will be referred back for the claimant and processing of the claim will not take place until the query has been clarified.

9. INTERPRETATION

9.1 These guidelines are subject to the overall interpretation of the Chief Executive as to what constitutes a reasonable claim in any individual circumstances.

10. DOCUMENT HISTORY

Prepared/Revised	Written by	Agreed/Authorised	Details of Change(s)
November 2015	S. Tautz (Democratic Services Manager)	Remuneration Panel (17/11/15) Council (15/12/15)	Review of Scheme for 2016/17 municipal year
October 2016	S. Tautz (Democratic Services Manager)	Remuneration Panel (28/9/16) Council (15/12/16)	Review of Scheme for 2017/18 municipal year

SCHEME OF MEMBERS' ALLOWANCES - STATEMENT CONCERNING IMPLEMENTATION 2017/18

The following scheme has been agreed for the period
26 May 2017 to ?? May 2018

The Council decided at its meeting on 15 December 2016 to implement the amount of Basic, Special Responsibility and Co-optees Allowances provided in the scheme as set out below:

BASIC ALLOWANCE	ANNUAL BASIC ALLOWANCE	IMPLEMENTATION OF BASIC ALLOWANCE
All Councillors	£4,300.00	£4,300.00 (100%)

The amounts set out below show the amounts of Special Responsibility Allowance (SRA) payable during the year:

DUTY	ANNUAL SPECIAL RESPONSIBILITY ALLOWANCE	IMPLEMENTATION OF SPECIAL RESPONSIBILITY ALLOWANCE
Leader of the Council	£10,750.00	£7,875.00 (73%)
Cabinet members	£6,450.00 (each)	£6,300.00 (each) (98%)
Chairman of the District Development Management Committee	£3,225.00	£2,362.00 (73%)
Chairmen of the Area Plans Sub-Committees (3)	£3,225.00 (each)	£2,362.00 (each) (73%)
Chairman of the Overview and Scrutiny Committee	£4,300.00	£3,150.00 (73%)
Chairman of the Licensing Committee	£500.00	£500.00
Chairmen of the Licensing Sub-Committees (6)	£2,725.00 (allocated according to the number of meetings each year)	£1,862.00 (allocated according to the number of meetings each year) (73%)

Chairman of the Staff Appeals Panel	£110.00 (per meeting)	£110.00 (per meeting)
Chairman of the Audit and Governance Committee	£2,150.00	£2,150.00
Chairmen of the Select Committees (4)	£2,150.00	£2,150.00 (each)
Chairman of the Standards Committee	£110.00 (per meeting)	£110.00 (per meeting)
Chairman of the Constitution Working Group	£500.00	£500.00

The amounts payable during the year for independent and co-opted members are:

Independent Persons affiliated to the Standards Committee	£250.00
Independent Members of the Remuneration Panel and Parish Remuneration Panel	£250.00
Co-opted members of the Audit and Governance Committee	£500.00
Co-opted independent members of an Overview and Scrutiny Committee	£500.00

A copy of the full scheme is available on request from Democratic Services, Civic Offices, High Street, Epping, CM16 4BZ.

Report to the Council

Committee: Cabinet **Date:** 1 December 2016
Subject: Local Council Tax Support Scheme 2017/18
Portfolio Holder: Councillor G Mohindra

Recommending:

(1) That the revised Local Council Tax Support Scheme 2017/18 be approved.

1. As part of the major changes to the Welfare Benefits system, from 31 March 2013 Council Tax Benefit ended and was replaced by a new scheme called Local Council Tax Support (LCTS). A key principle of the scheme is the protection of people who are of an age where they can claim Pension Credit. The Government introduced Regulations to ensure that pensioners who previously received Council Tax Benefit have continued to receive the same level of assistance they had prior to LCTS being introduced.

2. The Pan Essex LCTS project group, comprising all the billing authorities and the unitary authorities in Essex, was created in January 2012 to devise a modular approach upon which all Essex authorities could base their local schemes according to local needs. The precepting authorities of Essex County Council, Essex Fire Authority and Essex Police have been involved from the beginning of the project. The project is managed by the Benefit Managers under guidance from the Essex Finance Officers Association.

3. The Council approved the Epping Forest LCTS scheme for 2013/14 in December 2012, and for the first 3 years, the scheme remained unchanged. In December 2015, the Council approved 2 amendments to the scheme for 2016/17, the first being that the maximum discount percentage was reduced from 80% to 75%, and the second being a change to the calculation of self-employed income to align it with Universal Credit.

4. On 21 July 2016, the Cabinet approved the general principle that the Local Council Tax Support scheme for 2017/18 should aim to be cost neutral for the Council and that public consultation should be undertaken on the following four elements of the scheme for working age people to align the scheme with other Welfare Reform changes that have either already been implemented, or are due to be implemented by April 2017:

- (a) to remove the family premium in the calculation for new claimants – the family premium had already been removed from all new claims for Housing Benefit and would also be removed from all new claims for Local Council Tax Support for people of a pension age;

(b) to withdraw Local Council Tax Support where a person leaves Great Britain for 4 weeks or more – currently claimants could be absent abroad for up to 13 weeks, but this reduction had already been applied to other state benefits from July 2016, and there would be exemptions for certain occupations as well as absences due to death or medical treatments;

(c) to limit the number of dependent additions to a maximum of two for all cases where dependents were born on or after 1 April 2017 – this would bring Local Council Tax Support in line with other benefits as this limit would also apply to Universal Credit, Housing Benefit and Tax Credits from April 2017;

(d) to reduce the period allowed for backdating to one month – this would bring Local Council Tax Support in line with the Housing Benefit scheme where this was introduced from April 2016.

5. Consultation on the 2017/18 scheme was undertaken from 15 August 2016 to 15 October 2016. A total of 58 responses were received which, while disappointing, was similar to previous years. The consultation questions and the responses received were listed in Appendices 1 and 2 of the report considered by the Cabinet on 1 December 2016 (agenda item 10, report C-040-2016/17 refers). The response to the consultation was not extensive but the few that did make comments were not in favour of reducing the backdating period. Taking this into account, it was decided after due consideration not to reduce the maximum backdating period from three months to one month.

6. For the last four years, there had been a small hardship fund to assist households which had been experiencing exceptional hardship; it was anticipated that the current year's budget for this fund would be adequate. In previous years, contributions to this fund had been made by Essex County Council, Essex Fire & Rescue Service, and Essex Police, and all three organisations had agreed to continue those contributions for 2017/18.

7. Following the end of the consultation period, Members had to now approve the Local Council Tax Support Scheme for 2017/18 and decide whether the scheme should remain in its current form or whether any or all of the proposed amendments should be applied. The proposed revised Scheme has been published as a background paper for this meeting.

8. We recommend as set out at the commencement of this report.

Report to the Council

Committee: Cabinet **Date:** 1 December 2016
Subject: Capital Review 2016/17 – 20/21
Portfolio Holder: Councillor G Mohindra (Finance)

Recommending:

- (1) That a Capital supplementary estimate in the sum of £346,000 for the St John's Road development be approved;**
 - (2) That a Capital supplementary estimate in the sum of £28,000 for Grounds Maintenance Vehicles be approved, to be funded from external sources; and**
 - (3) That a Capital supplementary estimate in the sum of £130,000 for Disabled Facility Grants be approved, to be funded from a Government grant.**
-

1. At its meeting on 1 December 2016, the Cabinet considered the Council's Capital Programme for the five-year period 2016/17 to 2020/21. This included: the forecast capital investment in Council owned assets; estimates of capital loans to be made for private housing initiatives; and projected levels of revenue expenditure funded from capital under statute.

2. As part of the Review, the Council's projected capital expenditure was reviewed and a number of amendments agreed, including carry forwards, reductions, virements and re-phasing of projects. There were also four areas where additional funding was considered necessary and the Cabinet agreed to seek the Council's approval for three supplementary estimates in 2016/17.

St John's Road Development

3. The St John's Road Development in Epping has progressed with approval having been granted for the purchase of the land at St John's Road from Essex County Council with the expected purchase date in November 2016. The full budget for the St John's Road Development was increased to £6,750,000 after a report was presented and approved by the Cabinet, which removed the inclusion of Lindsay House as part of the transfer. This budget did not include the cost of stamp duty or capital fees and a supplementary capital estimate of £346,000 is requested to cover these costs.

Grounds Maintenance Vehicles

4. The annual allowance for the replacement of Grounds Maintenance vehicles, plus the sum carried forward from 2015/16, is expected to be fully spent on new machinery by the end of the year. An additional sum of £25,000 has been

supplemented to this budget to purchase a new mower and trailer, financed from a commuted sum relating to open space land at Tower Road, Epping. A further small addition of £3,000 was also made to this budget to allow for a trade-in on a sold vehicle. The Council is requested to approve a Capital supplementary estimate of £28,000 to cover these two additional sums.

Disabled Facility Grants

5. The Council has a legal duty to provide Disabled Facility Grants (DFGs) to all residents who meet the eligibility criteria. Demand for DFGs has been growing over the past 18 months or so with the number of occupational therapist referrals rising since the beginning of 2015/16. The Council responded to this by uplifting the allocation in the capital programme by £120,000 to £500,000 for each of the four years from 2015/16 until 2018/19. Since this was agreed, demand has continued to rise and it is now thought that expenditure could be as high as £630,000 this year. At the same time, the Council has received a Better Care Fund contribution of £665,000, which means that the additional £120,000 Capital Growth Bid will not be needed to be funded by the Council in 2016/17. The Council is now requested to increase the allocation by £130,000 for 2016/17, which will be fully financed from the Central Government Grant.

Conclusion

6. We recommend as set out at the commencement of this report.

Report to the Council

Committee: Cabinet **Date:** 1 December 2016

Subject: Revised Funding for the Waste Management Service

Portfolio Holder: Councillor W Breare-Hall (Environment)

Recommending:

(1) That, in order to respond to cost pressures on the Council's Waste Management service, the following District Development Fund supplementary estimates for 2016/17 be approved:

(a) a sum of £90,640 from the District Development Fund to meet the costs of additional dry recycling sacks for the period July 2015 to March 2016;

(b) a sum of £202,654 from the District Development Fund to meet the costs of a change in the composition of the dry recyclable materials collected for the period November 2015 to March 2016;

(c) a sum of £64,000 from the District Development Fund to meet the costs of the increased number of properties within the District for the period November 2014 to March 2016.

1. A number of cost pressures on the waste management service have been building since the new contract was awarded in November 2014, which have only been fully highlighted over the last few months due to the initial focus being on improving the quality of the service. These have now resulted in a variation request by Biffa to the Council, which, under the terms of the contract, needs to be formally considered.

Dry Recycling Sacks

2. During the competitive dialogue phase of the procurement process, it was suggested by Biffa that the best way to safeguard and potentially improve dry recycling performance was to introduce a direct delivery of sacks to each household. This was accepted by the Council as part of the Tender Award. However, in addition, the ability to collect additional sacks from the designated outlets was retained, although the expectation was that the volume collected would decline.

3. An evaluation of the number of sacks required was undertaken, which concluded that a figure of 5,550,000 should be specified within the contract, comprising of 4,750,000 to cover the annual delivery to 47,500 dwellings (which equates to 4 sacks per household, per fortnightly collection, offering similar capacity as a 180 litre bin) and a further 800,000 to be made available to the outlets.

4. In the period 1 July 2015 to 30 June 2016, Biffa directly delivered the 4,750,000 sacks. However, demand from outlets has continued to be high, with the estimate of 800,000 greatly exceeded. In total, some 3,107,000 sacks were distributed above the 5,550,000 contract allowance i.e. 8,657,000 sacks.

5. Once the issue was highlighted, Officers undertook a thorough audit of the sacks supplied to confirm that the figures were accurate. In order to help control costs going forward, the annual delivery will cease and revert to the previous outlet only collection regime. However, it should be noted that the level of outlet-only bags issued previously did approach 8,000,000 at its peak.

6. The total cost of additional recycling sacks from 1 July 2015 to 31 March 2016 is £90,640, which was a cost already incurred by Biffa, and the Council is requested to approve a supplementary estimate from the District Development Fund to cover this overspend.

Dry Recyclable Materials

7. In September 2013, during the procurement process, the Council provided all tenderers, as a result of a clarification request, with a sample composition analysis of the dry recycling material at the time. This enabled the tenderers to price the value per tonne of the materials to be offered as rebate to the Council.

8. In January 2016, Biffa submitted a contract variation request seeking a re-basing of the dry recyclate composition, arguing that the quality of the material was significantly inferior to what they had been led to expect through the procurement process. The Waste Management Partnership Board, whilst acknowledging the request, asked for officers and representatives of Biffa to enter into discussions to ensure that the sampling methodology adopted was truly representative of the recyclate collected across the whole District and that the results of the sampling from Biffa's recycling facility were accurate and fully verifiable.

9. The result of this work confirmed that the composition was different to that detailed at the time of the procurement process. There may be a number of reasons for this, including the reduction of paper as people change to electronic news media, increased cardboard through on-line purchasing and the overall reduction in packaging weight by retailers.

10. The variance in the composition of recycling material has meant that the per tonne income that Biffa can achieve is significantly less than what they offered to rebate the Council in their tender. The difference in the income per tonne due to the worsening of the recycling composition is £12.45, which over a year equates to a loss of £143,050. Biffa have incurred the additional costs since the commencement of the contract in November 2014, and the Council is requested to approve a District Development Fund supplementary estimate of £202,654 to reimburse Biffa to cover the additional costs from November 2015 to March 2016.

Increased Number of Properties

11. A decision was made before the commencement of the contract with Biffa to link the number of properties served to the Local Land and Property Gazetteer (LLPG). At the time of award of contract in November 2014, the Gazetteer was not finalised and the registered number of properties in the District was estimated at 55,000. The actual number of properties, once the Gazetteer was finalised, was 55,648.

12. From November 2014 to November 2016 an additional 434 properties have been added to the Gazetteer. This means that since the start of the contract Biffa should be paid for an additional 1082 properties (648 due to the lower estimate at tender stage and 434 new properties constructed since November 2014). The additional costs associated with the increased number of properties from the commencement of the contract have been paid to Biffa, as required under the contract, however the budget provision has not been increased. This means the expenditure for the waste management service will be over budget unless adequate uplift is applied.

13. All payment dues to Biffa for the 1082 properties have been made, and it is now necessary to make a one off allocation in the budget of £64,000 to cover the additional properties added to the waste management contract from November 2015 to March 2016. Consequently, the Council is requested to approve a District Development Fund supplementary estimate of £64,000 for 2016/17 to cover this payment to Biffa.

14. We recommend as set out at the commencement of this report.

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Report to the Council

Committee: Cabinet **Date:** 1 December 2016
Subject: Calendar of Council Meetings 2017/18
Portfolio Holder: Councillor R Bassett (Governance & Development Management)

Recommending:

(1) That, as attached at Appendix 1, the draft Calendar of Council Meetings for 2017/18 be adopted.

1. The calendar has developed over time to meet the changing needs of the authority and, where possible, meetings of a Committee have been standardised on a particular night of the week for consistency. The draft Calendar at Appendix 1 is based upon the current year's calendar, with approximately the same number of meetings.

2. However, there have been some minor amendments proposed for the Calendar this year, which are:

(i) maintaining a two week gap between Cabinet and Council meetings to ensure that any reports from Cabinet to the Council are not published on a supplementary agenda;

(ii) a new committee has been added, meeting twice a year, for the Overview & Scrutiny Chairmen, Vice Chairmen & Officers to discuss any issues arising from the Council's Scrutiny meetings; and

(iii) the Standards Committee has been removed following the Council's decision last year for it to meet only 'as and when' required.

3. Friday evenings have continued to be kept free of meetings, and any encroachment into August has been kept to a bare minimum due to holidays. However, the Regulatory Committees have always continued to meet throughout August in the past and this practice has been continued.

The Executive

4. Some Cabinet meetings have been rescheduled for a Tuesday evening. This change will allow a minimum of two weeks between Cabinet and Council meetings, ensuring that any reports from the Cabinet to the Council will appear on the main agenda for Members to consider rather than a supplementary agenda.

Overview & Scrutiny

5. A new committee has been added, meeting twice a year, for the Overview &

Scrutiny Chairmen, Vice Chairmen & Officers. Similar to the corresponding committee for the Development Management Chairmen, Vice-Chairmen and Officers, the purpose of this would be to discuss any issues arising from the Council's Scrutiny meetings and future training needs for Members.

Planning

6. The week of the Annual Council meeting has again been kept free of Planning meetings and this will enable further training to take place. However, Planning meetings have been arranged for the other weeks in May between the Election and the Annual Council meeting, as there would be a detrimental impact upon the Planning Performance Indicators if there was a six or seven week gap between meetings of the Sub-Committees.

Religious Festivals

7. No Area Planning Sub-Committee meeting has been scheduled for Wednesday 20 September 2017, as this would clash with the Jewish festival of Rosh Hashanah. This has necessitated a five week gap between Sub-Committees from August to September, but the usual four week gap has been reinstated for the meeting cycles for the remainder of the municipal year (with the exception of Christmas week). The scheduled dates for Yom Kippur of 29/30 September 2017 and for Pesach of 30/31 March 2018 have also been kept clear of all meetings.

Licensing

8. A legal technicality has arisen whereby a meeting of the Licensing Sub-Committee cannot consider both Alcohol Licences and Taxi Licences. However, it is intended to run two meetings consecutively on the same day with the same membership, and therefore does not impact upon the calendar.

Miscellaneous Committees

9. Both the Youth Council and the Local Highways Panel have not been included in this schedule as it is felt that they are meetings that sit outside the Council. The Youth Council have their own programme, and although the Local Highways Panel involves both the County and District Councils they are not organised by the District Council.

10. Two meetings of the Appointments Panel have been scheduled for the two Thursdays following the Local Elections on 11 and 18 May 2017, prior to the Annual Council on 25 May. Two corresponding meetings have also been scheduled for May 2018.

11. A new initiative for 2016/17 was the scheduling of one date per month predominantly for Member Briefings in relation to the development of a new Local Plan. This is to minimise the impact upon the Calendar when Member Briefings are required, and the Planning Policy team can schedule these dates into their Project Plan. This arrangement has been retained for 2017/18 as these dates could also be used for other meetings or further Member Training sessions if they are not required by the Planning Policy team.

12. The Local Councils Liaison Committee has traditionally met three times a year. However, the Committee reviewed its schedule of meetings recently and

decided to meet only twice a year in the future. The listed dates in Appendix 1 reflect this.

13. One final change has been the removal of the Standards Committee from the calendar. Last year, when the Council decided not to amalgamate the Standards Committee with the Audit & Governance Committee, and that the Standards Committee should only meet as and when required. Therefore, Officers felt that no purpose would be served by scheduling regular meetings for the Standards Committee.













Conclusion

14. The Council is requested to consider the draft Calendar of Council meetings for 2016/17, as attached at Appendix 1, and whether any further changes are required. However, it should be noted that the current Calendar is extremely congested and the organisation of any additional meetings should be given very careful consideration.

15. We recommend as set out at the commencement of this report.

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Epping Forest District Council Calendar of Meetings 2017/18

		2017								2018				
Meeting		May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
Executive														
Council		25th		25th		26th		2nd	21st		22nd		24th	24th
Cabinet			15th	11th		7th	12th	9th	7th		1st	8th	10th	
FPM Cab Comm			22nd	20th		14th		16th		18th		22nd		
AM & ED Cab Comm				6th			19th			11th			19th	
Scrutiny														
OS Committee			6th	18th			31st			9th	27th		17th	
Communities Sel. Comm			20th			5th		7th		16th		13th		
Governance Sel. Comm				4th			3rd		5th		6th	27th		
Neighbourhoods Sel. Comm			27th			19th		21st		30th		20th		
Resources Sel. Comm				13th			17th		19th		13th		3rd	
Constitution Working Grp						28th					20th			
Planning														
District Development			7th		2nd		4th	29th		31st		28th		
Plans East		10th	14th	12th	9th	6th	11th	8th	6th	10th	7th	7th	4th	9th
Plans West		17th	21st	19th	16th	13th	18th	15th	13th	17th	14th	14th	11th	16th
Plans South		31st	28th	26th	23rd	27th	25th	22nd	20th	24th	21st	21st	18th	30th
Licensing														
Licensing Committee							18th						18th	
Licensing Sub-Comm			6th	4th	1st	5th	3rd	7th	5th	9th	6th	6th	3rd	
Miscellaneous														
Member Briefings			12th	5th	8th	4th	5th	1st	12th	4th	12th	15th	12th	
Audit & Governance			26th			18th		27th			5th	26th		
Joint Consultative Comm				24th			16th			15th			9th	
Local Councils Liaison						11th						12th		
Appointments Panel		11th-18th												14th-21st
Dev Control Chairs/Officers						25th						19th		
OS Chairs/Officers						12th						6th		
Webcast meeting:		<u>Easter 2018</u>			Fri 30-Mar-18 to Mon 2-Apr-18									
		<u>Rosh Hashanah</u>			Thu 21-Sep-17 to Fri 22-Sep-17 (Sundown Wed 20-Sep-17)									
		<u>Yom Kippur</u>			Sat 30-Sep-17 (Sundown Fri 29-Sep-17)									
		<u>Pesach</u>			Sat 31-Mar-18 (Sundown Fri 30-Mar-18)									
		<u>District Council Elections</u>			Thu 3-May-18									

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Report to Council

Date of meeting: 20 December 2016

Subject: Overview and Scrutiny Committee

Contact for further information: Councillor M. Sartin (Chairman)

Recommendations/Decisions Required:

That the Overview and Scrutiny progress report from October to December 2016, be noted.

Report:

Overview and Scrutiny Committee Meeting – 25 October 2016

1. At our meeting on Tuesday 25th October, we considered the Cabinet's Forward Plan of Key Decisions. The Committee were invited to identify issues which were of concern and the following queries were raised:
 - it was noted that the update to waste and recycling policies would not now go to the November Cabinet meeting; and
 - a question was raised for the Housing Portfolio Holder - Councillor Murray wanted to know what were the wider implications of the items on the Sheltered Housing Assets and on the Sheltered Housing Service. An answer was provided in the Council Bulletin on 4 November 2016.
2. Also at this meeting we reviewed the quarter 1 performance figures of the Key Action Plan for 2016/17. We had some relevant questions emanating from the Key Action Plan objectives and these were answered by the Cabinet members in attendance.
3. We then considered our work programme and discussed the difficulty we were having in getting the County's Local Highways Services to come to a future meeting. We reviewed our reserve programme and decided that we should have Barts Health NHS Trust in again for an update early in the new municipal year and the District's 6th Form Consortium around about the same time. We also agreed we should ask someone from the Princess Alexandra Hospital to come to a special meeting, probably in January 2017, and update us on their plans after the recent CQC report and especially on how they plan to deal with their A&E service. We have now pencilled in a provisional date of 30 January 2017 to accommodate this item of scrutiny.
4. Finally we considered the approach we would take with TfL when they attend our meeting on 19 December. We outlined what areas we would like them to cover such as when their new rolling stock would be available; questions about disability access on to their stations and platforms; if their new night time services would be extended up to Epping and what were the security implications for passengers and staff because of this; and what was the capacity of the Central Line and would this be increasing in the coming years and if so, by how much?

5. We also thought that we could ask the British Transport Police to attend a separate meeting and give us their views on the new night time services and the implications on having fewer station staff. We agreed that we could add this onto our reserve programme for further consideration.

Report to the Council

Committee: **Audit & Governance**

Date: 20 December 2016

Subject: **Appointment of External Auditor**

Chairman: **Councillor J Knapman**

Recommending:

(1) That the opting in by this Council to the Appointing Person arrangements made by the Public Sector Audit Appointments (PSAA) for the appointment of an External Auditor be approved.

1. As part of closing down of the Audit Commission, the Government novated external audit contracts to PSAA on 1 April 2015. The audits were due to expire following conclusion of the audits of the 2016/17 accounts, but could be extended for a period of up to three years by PSAA, subject to approval from the Department for Communities and Local Government.

2. In October 2015 the Secretary of State confirmed that the transitional provisions would be amended to allow an extension of the contracts for a period of one year. This meant that for the audit of the 2018/19 accounts it would be necessary for authorities to either undertake their own procurements or to opt in to the appointed person regime.

3. There was a degree of uncertainty around the appointed person regime until July 2016 when PSAA were specified by the Secretary of State as an appointing person under regulation 3 of the Local Audit (Appointing Person) Regulations 2015. The appointing person is sometimes referred to as the sector led body and PSAA has wide support across most of local government. PSAA was originally established to operate the transitional arrangements following the closure of the Audit Commission and is a company owned by the Local Government Association's Improvement and Development Agency (IDeA).

4. An invitation from the PSAA to opt in was received on 27 October and a response is required by 9 March 2017. The Audit & Governance Committee considered this issue at its meeting held on 28 November 2016, and concluded that a sector wide procurement conducted by PSAA was likely to produce better outcomes than any procurement undertaken by the Council alone, and would also be less resource intensive. Consequently, the Committee agreed that the use of the appointing person arrangements should be recommended to the Council for approval at its meeting on 20 December, as Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 required that such a decision must be made by the Council (authority meeting as a whole).

5. The main advantages of using PSAA are set out in its prospectus attached at Appendix 1, but can be summarised as:

- (a) assuring timely auditor appointments;
 - (b) managing the independence of auditors;
 - (c) securing highly competitive prices;
 - (d) saving on procurement costs;
 - (e) saving on the time and effort needed for auditor panels;
 - (f) focusing on audit quality; and
 - (g) operating on a not-for-profit basis; and
 - (h) distributing any surplus funds to scheme members.
6. We recommend as set out at the commencement of this report.



Developing the option of a national scheme for local auditor appointments

www.psa.co.uk

“The LGA has worked hard to secure the option for local government to appoint auditors through a dedicated sector-led national procurement body. I am sure that this will deliver significant financial benefits to those who opt in.”

– Lord Porter CBE, Chairman,
Local Government Association

Over the next few months all principal authorities will need to decide how their auditors will be appointed in the future. They may make the appointment themselves, or in conjunction with other bodies. Or they can take advantage of a national collective scheme which is designed to offer them a further choice. Choosing the national scheme should pay dividends in quality, in cost, in responsiveness and in convenience.

Public Sector Audit Appointments Ltd (PSAA) is leading the development of this national option. PSAA is a not-for-profit company which already administers the current audit contracts. It aims to be designated by the Department for Communities & Local Government (DCLG) to operate a collective scheme for auditor appointments for principal authorities (other than NHS bodies) in England. It is currently designing the scheme to reflect the sector's needs and views.

The Local Government Association (LGA) is strongly supportive of this ambition, and 200+ authorities have already signalled their positive interest. This is an opportunity for local government, fire, police and other bodies to act in their own and their communities' best interests.

We hope you will be interested in the national scheme and its development. We would be happy to engage with you to hear your views – please contact us at generalenquiries@psaa.co.uk

You will also find some questions at the end of this booklet which cover areas in which we would particularly welcome your feedback.

Audit does matter

High quality independent audit is one of the cornerstones of public accountability. It gives assurance that taxpayers' money has been well managed and properly expended. It helps to inspire trust and confidence in the organisations and people responsible for managing public money.

Imminent changes to the arrangements for appointing the auditors of local public bodies are therefore very important. Following the abolition of the Audit Commission, local bodies will soon begin to make their own decisions about how and by whom their auditors are appointed. A list of the local government bodies affected can be found at the end of this booklet.

The Local Government Association (LGA) has played a leadership role in anticipating these changes and influencing the range of options available to local bodies. In particular, it has lobbied to ensure that, irrespective of size, scale, responsibilities or location, principal local government bodies can, if they wish, subscribe to a specially authorised national scheme which will take full responsibility for local auditor appointments which offer a high quality professional service and value for money.

The LGA is supporting PSAA in its application to the Department for Communities & Local Government (DCLG) to be appointed to deliver and manage this scheme.

PSAA is well placed to award and manage audit contracts, and appoint local auditors under a national scheme

PSAA is an independent, not-for-profit company limited by guarantee and established by the LGA. It already carries out a number of functions in relation to auditor appointments under powers delegated by the Secretary of State for Communities & Local Government. However, those powers are time-limited and will cease when current contracts with audit firms expire with the completion of the 2017/18 audits for local government bodies, and the completion of the 2016/17 audits for NHS bodies and smaller bodies.

The expiry of contracts will also mark the end of the current mandatory regime for auditor appointments. Thereafter, local bodies will exercise choice about whether they opt in to the authorised national scheme, or whether they make other arrangements to appoint their own auditors.

PSAA wishes to be selected to be the trusted operator of the national scheme, formally specified to undertake this important role by the Secretary of State. The company is staffed by a team with significant experience in appointing auditors, managing contracts with audit firms and setting and determining audit fees. We intend to put in place an advisory group, drawn from the sector, to give us ready access to your views on the design and operation of the scheme. We are confident that we can create a scheme which delivers quality-assured audit services to every participating local body at a price which represents outstanding value for money.

“Many district councils will be very aware of the resource implications of making their own appointment. Joining a well-designed national scheme has significant attractions.”

– Norma Atlay, President,
Society of District Council Treasurers

“Police bodies have expressed very strong interest in a national scheme led by PSAA. Appointing the same auditor to both the PCC and the Chief Constable in any area must be the best way to maximise efficiency.”

– Sean Nolan, President,
Police and Crime Commissioners
Treasurers’ Society (PACCTS)

The national scheme can work for you

We believe that the national scheme can be an excellent option for all local bodies. Early indications are that many bodies agree - in a recent LGA survey more than 200 have expressed an interest in joining the scheme.

We plan to run the scheme in a way that will save time and resources for local bodies - time and resources which can be deployed to address other pressing priorities. Bodies can avoid the necessity to establish an auditor panel (required by the Local Audit & Accountability Act, 2014) and the need to manage their own auditor procurement. The scheme will take away those headaches and, assuming a high level of participation, be able to attract the best audit suppliers and command highly competitive prices.

The scope of public audit is wider than for private sector organisations. For example, it involves forming a conclusion on the body’s arrangements for securing value for money, dealing with electors’ enquiries and objections, and in some circumstances issuing public interest reports. PSAA will ensure that the auditors which it appoints are the most competent to carry out these functions.

Auditors must be independent of the bodies they audit, to enable them to them to carry out their work with objectivity and credibility, and in a way that commands public confidence. PSAA plans to take great care to ensure that every auditor appointment passes this test. It will also monitor any significant proposals, above an agreed threshold, for auditors to carry out consultancy or other non-audit work to ensure that these do not undermine independence and public confidence.

The scheme will also endeavour to appoint the same auditors to bodies which are involved in formal collaboration/joint working initiatives or within combined authority areas, if the parties consider that a common auditor will enhance efficiency and value for money.

PSAA will ensure high quality audits

We will only contract with firms which have a proven track record in undertaking public audit work. In accordance with the 2014 Act, firms must be registered with one of the chartered accountancy institutes acting in the capacity of a Recognised Supervisory Body (RSB). The quality of their work will be subject to scrutiny by both the RSB and the Financial Reporting Council (FRC). Current indications are that fewer than ten large firms will register meaning that small local firms will not be eligible to be appointed to local public audit roles.

PSAA will ensure that firms maintain the appropriate registration and will liaise closely with RSBs and the FRC to ensure that any concerns are detected at an early stage and addressed effectively in the new regime. The company will take a close interest in feedback from audited bodies and in the rigour and effectiveness of firms' own quality assurance arrangements, recognising that these represent some of the earliest and most important safety nets for identifying and remedying any problems arising. We will liaise with the National Audit Office (NAO) to help ensure that guidance to auditors is updated when necessary.

We will include obligations in relation to maintaining and continuously improving quality in our contract terms and quality criteria in our tender evaluation method.

PSAA will secure highly competitive prices

A top priority must be to seek to obtain the best possible prices for local audit services. PSAA's objective will be to make independent auditor appointments at the most competitive aggregate rate achievable.

Our current thinking is that the best prices will be obtained by letting three year contracts, with an option to extend to five years, to a relatively small number of appropriately registered firms in two or three large contract areas nationally. The value of each contract will depend on the prices bid, with the firms offering the best prices being awarded larger amounts of work. By having contracts with a number of firms we will be able to ensure independence and avoid dominance of the market by one or two firms.

Correspondingly, at this stage our thinking is to invite bodies to opt into the scheme for an initial term of three to five years, subject, of course, to the terms of specification by DCLG.

The procurement strategy will need to prioritise the importance of demonstrably independent appointments, in terms of both the audit firm appointed to each audited body and the procurement and appointment processes used. This will require specific safeguards in the design of the procurement and appointment arrangements.

“Early audit planning is a vital element of a timely audit. We need the auditors to be available and ready to go right away at the critical points in the final accounts process.”

– Steven Mair, City Treasurer,
Westminster City Council

“In forming a view on VFM arrangements it is essential that auditors have an awareness of the significant challenges and changes which the service is grappling with.”

– Charles Kerr, Chair,
Fire Finance Network

PSAA will establish a fair scale of fees

Audit fees must ultimately be met by individual audited bodies. PSAA will ensure that fee levels are carefully managed by securing competitive prices from firms and by minimising PSAA's own costs. The changes to our role and functions will enable us to run the new scheme with a smaller team of staff. PSAA is a not-for-profit company and any surplus funds will be returned to scheme members.

PSAA will pool scheme costs and charge fees to audited bodies in accordance with a fair scale of fees which has regard to size, complexity and audit risk. Pooling means that everyone within the scheme will benefit from the most competitive prices. Current scale fees are set on this basis. Responses from audited bodies to recent fee consultations have been positive.

PSAA will continue to consult bodies in connection with any proposals to establish or vary the scale of fees. However, we will not be able to consult on our proposed scale of fees until the initial major procurement has been completed and contracts with audit firms have been let. Fees will also reflect the number of scheme participants - the greater the level of participation, the better the value represented by our scale of fees. We will be looking for principal bodies to give firm commitments to join the scheme during Autumn 2016.

The scheme offers multiple benefits for participating bodies

We believe that PSAA can deliver a national scheme which offers multiple benefits to the bodies which take up the opportunity to collaborate across the sector by opting into scheme membership.

Benefits include:

- assured appointment of a qualified, registered, independent auditor
- appointment, if possible, of the same auditors to bodies involved in significant collaboration/joint working initiatives or combined authorities, if the parties believe that it will enhance efficiency and value for money
- on-going management of independence issues
- securing highly competitive prices from audit firms
- minimising scheme overhead costs
- savings from one major procurement as opposed to a multiplicity of small procurements
- distribution of surpluses to participating bodies
- a scale of fees which reflects size, complexity and audit risk
- a strong focus on audit quality to help develop and maintain the market for the sector
- avoiding the necessity for individual bodies to establish an auditor panel and to undertake an auditor procurement
- enabling time and resources to be deployed on other pressing priorities
- setting the benchmark standard for audit arrangements for the whole of the sector

We understand the balance required between ensuring independence and being responsive, and will continually engage with stakeholders to ensure we achieve it.

How can you help?

We are keen to receive feedback from local bodies concerning our plans for the future. Please let us have your views and let us know if a national scheme operated by PSAA would be right for your organisation.

In particular we would welcome your views on the following questions:

1. Is PSAA right to place emphasis on both quality and price as the essential pre-requisites for successful auditor appointments?
2. Is three to five years an appropriate term for initial contracts and for bodies to sign up to scheme membership?
3. Are PSAA's plans for a scale of fees which pools scheme costs and reflects size, complexity and audit risk appropriate? Are there any alternative approaches which would be likely to command the support of the sector?
4. Are the benefits of joining the national scheme, as outlined here, sufficiently attractive? Which specific benefits are most valuable to local bodies? Are there others you would like included?
5. What are the key issues which will influence your decisions about scheme membership?
6. What is the best way of us continuing our engagement with you on these issues?

Please reply to: generalenquiries@psaa.co.uk

The following bodies will be eligible to join the proposed national scheme for appointment of auditors to local bodies:

- county councils in England
- district councils
- London borough councils
- combined authorities
- passenger transport executives
- police and crime commissioners for a police area in England
- chief constables for an area in England
- national park authorities for a national park in England
- conservation boards
- fire and rescue authorities in England
- waste authorities
- the Greater London Authority and its functional bodies.

BOARD MEMBERS

Steve Freer (Chairman), former Chief Executive CIPFA

Caroline Gardner, Auditor General Scotland

Clive Grace, former Deputy Auditor General Wales

Stephen Sellers, Solicitor, Gowling WLG (UK) LLP

CHIEF OFFICER

Jon Hayes, former Audit Commission Associate Controller

“Maintaining audit quality is critically important. We need experienced audit teams who really understand our issues.”

– Andrew Burns, Director of Finance and Resources,
Staffordshire County Council

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Public Sector
Audit Appointments

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Appointing person: Frequently asked questions

Question	Response
<p>1. What is an appointing person?</p>	<p>Public Sector Audit Appointments Limited (PSAA) has been specified as an appointing person under the Local Audit (Appointing Person) Regulations 2015 and has the power to make auditor appointments for audits of the accounts from 2018/19 on behalf of principal local government bodies that opt in, in accordance with the Regulations. Eligible bodies are principal local government bodies listed in schedule 2 of the Local Audit and Accountability Act 2014. This includes county councils, district councils, London Borough councils, unitary authorities, metropolitan councils, police bodies, fire and rescue authorities, joint authorities, combined authorities, national park authorities, conservation boards, PTEs, waste authorities, and the GLA and its functional bodies.</p> <p>The 'appointing person' is sometimes referred to as the sector-led body.</p> <p>PSAA is a company owned by the LGA's Improvement and Development Agency (IDeA) and was established to operate the transitional arrangements following closure of the Audit Commission.</p>
<p>2. When will invitations to opt in be issued?</p>	<p>The date by which principal authorities will need to opt into the appointing person arrangement is not yet finalised. The aim is to award contracts to audit firms by June 2017, giving six months to consult with authorities on appointments before the 31 December 2017 deadline. We anticipate that invitations to opt in will be issued before December 2016 at the latest.</p>

Question	Response
	<p>Authorities will have a minimum period of eight weeks to respond to the invitation.</p> <p>In order to maximise the potential economies of scale from agreeing large contracts with firms, and to manage any auditor independence issues, PSAA needs as much certainty as possible about the volume and location of work it is able to offer to firms. Our provisional timetable suggests that we will need to start preparing tender documentation early in 2017, so we will need to know by then which authorities want to be included.</p>
<p>3. Who can accept the invitation to opt in?</p>	<p>In accordance with Regulation 19 of the Local Audit (Appointing Person) Regulations 2015, a principal authority will need to make the decision to opt in at full council (authority meeting as a whole), except where the authority is a corporation sole (such as a police and crime commissioner), in which case the function must be exercised by the holder of the office.</p>
<p>4. Can we join after it has been set up or do we have to join at the beginning?</p>	<p>The Regulations require that once the invitations to opt in have been issued, there will be a minimum period of eight weeks for you to indicate acceptance of the invitation. One of the main benefits of a an appointing person approach is the ability to achieve economies of scale as a result of being able to offer larger volumes of work. The greater the number of participants we have signed up at the outset, the better the economies of scale we are likely to achieve. This will not prevent authorities from joining the sector-led arrangements in later years, but they will need to make their own arrangements to appoint an auditor in the interim. In order to be in the best position we would encourage as many authorities as possible to commit by accepting the invitation within the specified timeframe.</p>

Question	Response
5. Will membership be free for existing members of the LGA?	The option to join the appointing person scheme will be open to all principal local government authorities listed under Schedule 2 of the Local Audit and Accountability Act 2014. There will not be a fee to join the sector-led arrangements. The audit fees that opted-in bodies will be charged will cover the costs to PSAA of appointing auditors and managing the arrangements. We believe that audit fees achieved through large contracts will be lower than the costs that individual authorities will be able to negotiate. In addition, by opting into the PSAA offer, authorities will avoid the costs of their own procurement and the requirement to set up an auditor panel with independent members.
6. How will we be able to influence the development of the appointing person scheme and associated contracts with audit firms?	We have not yet finalised the governance arrangements and we are considering the options, including how best to obtain stakeholder input. We are considering establishing a stakeholder engagement panel or advisory panel which can comment on our proposals. PSAA continues to work in partnership with the LGA in setting up the appointing person scheme and you can feed in comments and observations to PSAA by emailing generalenquiries@psaa.co.uk and via the LGA and their Principal Advisors.
7. Will there be standard contract terms and conditions?	The audit contracts between PSAA and the audit firms will require firms to deliver audits compliant with the National Audit Office (NAO) Code of Audit Practice. We are aware that authorities would like to understand how performance and delivery will be monitored and managed. This is one of the issues that could be discussed with the stakeholder advisory panel (see Q6).
8. What will be the length of the contracts?	The optimal length of contract between PSAA and firms has not been decided. We would welcome views on what the sector

Question	Response
	considers the optimal length of audit contract. We anticipate that somewhere between three and five years would be appropriate.
9. In addition to the Code of Audit Practice requirements set out by the NAO, will the contract be flexible to enable authorities to include the audit of wholly owned companies and group accounts?	<p>Local authority group accounts are part of the accounts produced under the CIPFA SORP and are subject to audit in line with the NAO Code of Audit Practice. They will continue to be part of the statutory audit.</p> <p>Company audits are subject to the provisions of the Companies Act 2006 and are not covered by the Local Audit (Appointing Person) Regulations 2015. Local authority companies will be able to appoint the same audit firm as PSAA appoints to undertake the principal body audit, should they so wish.</p>
10. Will bodies that opt in be able to seek information from potential suppliers and undertake some form of evaluation to choose a supplier?	PSAA will run the tendering exercise, and will evaluate bids and award contracts. PSAA will consult authorities on individual auditor appointments. The appointment of an auditor independently of the body to be audited is an important feature of the appointing person arrangements and will continue to underpin strong corporate governance in the public sector.
11. Will the price be fixed or will there be a range of prices?	The fee for the audit of a body that opts in will reflect the size, audit risk and complexity of the work required. PSAA will establish a system for setting the fee which is fair to all opted-in authorities. As a not-for-profit organisation, PSAA will be able to return any surpluses to participating authorities after all costs have been met.
12. We have shared service arrangements with our neighbouring bodies and we are looking to ensure that we share the same auditor. Will the appointing person scheme allow for this?	PSAA will be able to make appointments to all principal local government bodies listed in Schedule 2 of the Local Audit and Accountability Act 2014 that are 'relevant authorities' and not excluded as a result of being smaller authorities, for example parish councils.

Question	Response
	<p>In setting up the new arrangements, one of our aims is to make auditor appointments that take account of joint working and shared service arrangements. Requests for the same auditor as other authorities will need to be balanced with auditor independence considerations. As we have set out in our prospectus, auditors must be independent of the bodies they audit. PSAA will have an obligation under the provisions of the Local Audit and Accountability Act 2014 and in compliance with the Ethical Standards issued by the Financial Reporting Council to ensure that every auditor appointment it makes passes this test. We will need information from opted-in authorities on potential independence considerations and joint working arrangements, and will also need information on independence issues from the audit firms. Risks to auditor independence include, for example, an audit firm having previously been engaged to advise on a major procurement which could, of course, later be subject to audit.</p>
<p>13. We have a joint committee which no longer has a statutory requirement to have an external auditor but has agreed in the interests of all parties to continue to engage one. Is it possible to use this process as an option to procure the external auditor for the joint committee?</p>	<p>The requirement for joint committees to produce statutory accounts ceased after production of the 2014/15 accounts and they are therefore not listed in Schedule 2. Joint committees that have opted to produce accounts voluntarily and obtain non-statutory assurance on them will need to make their own local arrangements.</p>
<p>14. How will the appointing person scheme ensure audit firms are not over-stretched and that the competition in the market place is increased?</p>	<p>The number of firms eligible to undertake local public audit will be regulated through the Financial Reporting Council and the recognised Supervisory Bodies (RSBs). Only appropriately accredited firms will be able to bid for appointments whether that is through PSAA or an auditor panel. The seven firms appointed by PSAA and the Audit Commission generally</p>

Question	Response
	<p>maintain a dedicated public sector practice with staff trained and experienced in public sector work.</p> <p>One of the advantages of the appointing person option is to make appointments that help to ensure that each successful firm has a sufficient quantum of work to make it possible for them to invest in public sector specific training, maintain a centre of excellence or hub that will mean:</p> <ul style="list-style-type: none"> • firms have a regional presence; • greater continuity of staff input; and • a better understanding the local political, economic and social environment.
<p>15. Will the appointing person scheme contract with a number of different audit firms and how will they be allocated to authorities?</p>	<p>PSAA will organise the contracts so that there is a minimum number of firms appointed nationally. The minimum is probably four or five (depending on the number of bodies that opt in). This is required, not just to ensure competition and capacity, but because each firm is required to comply with the FRC's ethical standards. This means that an individual firm may not be appointable for 'independence' reasons, for example, because they have undertaken consultancy work at an audited body. PSAA will consult on appointments that allow each firm a balanced portfolio of work subject to independence considerations.</p>
<p>16. What will be the process to feed in opinions from customers of current auditors if there are issues?</p>	<p>PSAA will seek feedback on its auditors as part of its engagement with the sector. PSAA will continue to have a clear complaints process and will also undertake contract monitoring of the firms it appoints.</p>
<p>17. What is the timetable for set up and key decisions?</p>	<p>We expect the key points in the timetable to be broadly:</p>

Question	Response
	<ul style="list-style-type: none"> • establish an overall strategy for procurement - by 31 October 2016; • achieve 'sign-up' of scheme members - by early January 2017; • invite tenders from audit firms - by 31 March 2017; • award contracts - by 30 June 2017; • consult on and make final auditor appointments - by 31 December 2017; and • consult on, propose audit fees and publish fees - by 31 March 2018.
18. What are the terms of reference of the appointing person?	PSAA is wholly owned by the IDeA (the IDeA is wholly owned by the LGA). PSAA will continue to operate as an independent company, although there will be changes to its governance arrangements and its founding documents to reflect the fact that it will be an appointing person rather than a transitional body.
19. Will the appointing person take on all audit panel roles and therefore mitigate the need for there to be one in each individual authority?	Opting into the appointing person scheme will remove the need to set up an auditor panel. This is set out in the Local Audit and Accountability Act 2014 and the Local Audit (Appointing Person) Regulations 2015.

Question	Response
<p>20. What will be the arrangements for overseeing the quality of audit work undertaken by the audit firms appointed by the appointing person?</p>	<p>PSAA will only contract with firms which have a proven track record in undertaking public audit work. In accordance with the 2014 Act, firms must be registered with one of the chartered accountancy institutes acting in the capacity of a Recognised Supervisory Body (RSB). The quality of their work will be subject to scrutiny by both the RSB and the Financial Reporting Council (FRC). Current indications are that fewer than ten large firms will register meaning that small local firms will not be eligible to be appointed to local public audit roles.</p> <p>PSAA will ensure that firms maintain the appropriate registration and will liaise closely with RSBs and the FRC to ensure that any concerns are detected at an early stage and addressed effectively in the new regime. The company will take a close interest in feedback from audited bodies and in the rigour and effectiveness of firms' own quality assurance arrangements, recognising that these represent some of the earliest and most important safety nets for identifying and remedying any problems arising. We will liaise with the NAO to help ensure that guidance to auditors is updated when necessary.</p>

Report to the Council

Committee: Licensing **Date:** 20 December 2016

Subject: Hackney Carriage & Private Hire Licensing Conditions and Guidance

Chairman: Councillor B Surtees

Recommending:

(1) That the new Hackney Carriage and Public Hire Licensing Conditions and Guidance be adopted.

1. On 8 April 2015, the Licensing Committee considered a report which outlined the current state of the Council's public hire licensing conditions and guidance. It was decided that an in depth revision should be undertaken and a Member/Officer Sub-Group was set up to consider if the conditions and guidance were fit for purpose and what (if any) changes should be made.

2. The Sub-Group considered a number of issues including:

- the licensing of MPV's;
- the licensing of vehicles for less than four passengers;
- advertising on vehicles;
- guidance on how to deal with infringements of the conditions; and
- any other updating measures thought necessary paying particular reference to safeguarding.

3. Subsequently the conditions and /guidance were amended and a full consultation with the trade and other interested parties undertaken. The consultation returns together with officer responses were attached at Appendix 1 of the report to the Licensing Committee on 19 October 2016 (report LCS-003-2016/17 refers).

4. Following the completion of the consultation, the revised conditions and guidance were considered by the Licensing Committee. The Licensing Committee requested two revisions to the guidance, as outlined in the table below:

<u>High Level Scenario</u>	<u>Scenario Detail</u>	<u>Original Decision Guidance</u>	<u>Revised Decision Guidance</u>
Isolated conviction of drink driving / driving while under influence of drugs	3. Isolated conviction and DVLA licence now restored	3a. Grant licence with a warning	3a. Refuse application until 12 months after the restoration of the DVLA licence
Isolated conviction of drink driving / driving while under influence of drugs	4. Isolated conviction which involved the use of a Public Hire vehicle and DVLA licence now restored	4. Refuse application until 12 months after the restoration of the DVLA licence.	4. Refuse application until 2 years after the restoration of the DVLA licence

5. The proposed Hackney Carriage and Private Hire conditions and guidance are attached at Appendix 1 of this report.

6. We recommend as set out at the commencement of this report.



**Epping Forest
District Council**

**HACKNEY CARRIAGE DRIVER'S
LICENCE GUIDANCE**

Epping Forest District Council (“the Council”) is the Licensing Authority in respect of Hackney Carriages.

In granting the licence the Council will regard adherence to the following guidance to be good practice and evidence of a driver being of “good character”.

This guidance has been approved by the Authority as its policy and Licence holders not adhering to this guidance may be referred to the Licensing Sub-Committee for determination of their licence.

Conduct of Driver

1. The licence holder shall not permit any person to drive a vehicle licensed as a Hackney Carriage without a Hackney Carriage Driver's Licence which shall be renewed every three years. The license holder shall require the driver to produce that Licence for examination by the proprietor of the vehicle, both at the commencement of his/her employment and immediately after its renewal.
2. The driver must renew his/her licence every three years. The driver must produce to the Hackney Carriage Vehicle Proprietor's Licence holder his or her driver's licence both before the commencement of his/her employment and immediately after its renewal.
 - . The driver must:
 - be clean, respectable and act with civility towards every person travelling in the vehicle and shall comply with the following requirements:
 - comply with minimum standards of dress and must not wear vests or singlets. Shorts may be worn only if properly tailored and of sufficient length when the driver is seated as not to offend against decency;
 - not smoke in the vehicle at any time;
3. If a driver carries a hirer to a certain place and the hirer asks the driver to wait, the driver may ask for his/her fare for driving there and ask also for a deposit against a mutually agreed waiting time. After accepting such a deposit, the driver should not drive away without the hirer until the expiry of the mutually agreed waiting time.
4. The driver of a Hackney Carriage who has agreed or has been hired to be in attendance with the vehicle at an appointed time and place should, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at the appointed time and place and should confirm the identity of the hirer.
5. When picking up the hirer, the driver should make his/her presence known in person and not attract the hirer's attention by sounding the car horn, shouting or making any other disturbing noise.

6. The driver of a Hackney Carriage, when hired to drive to any particular destination should, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
7. The driver should not drive a vehicle that is a Hackney Carriage unless it is properly displaying the licence plate in compliance with the vehicle licensing conditions. The light for the roof sign 'Taxi' must be extinguished when the Hackney Carriage has been hired.

Badges

8. A driver should, at all times, display his/her badge so that it is clearly visible.
9. The driver will return their badges to the Licensing Section of the Council upon the expiry, revocation or suspension of his or her licence.
10. After the expiry date shown on any drivers licence that is no longer valid any badge must be returned to the Licensing Section of the Council immediately.
11. A Licence holder, on changing his/her address should notify the Council of such a change within seven days.

Insurance /MoT/ DVLA Licence.

12. The driver is responsible for ensuring that any vehicle in his/her charge is insured for use as a Hackney Carriage prior to driving the vehicle.
13. The driver should ensure that the appropriate MOT Certificate and insurance documents covering the use of that vehicle and driver should be produced within seven days when required by the Council. A copy of these documents should also be carried on the vehicle and must be produced on request by an authorised officer of the Council or a police officer.
14. The driver of a Hackney Carriage should produce his/her Driver and Vehicle Licensing Authority ('DVLA') Licence on request for inspection by an authorised officer of the Council, or any police officer

Passengers and Luggage

15. A driver should not carry or permit to be carried in his/her vehicle any greater number of persons than the number specified in the licence issued to that particular vehicle and must not refuse to carry fewer persons than the number marked on the plate.
16. Once a Hackney Carriage has been hired, a driver should not carry anyone else during that hire, without the consent of the first hirer.
17. Adequate safe luggage facilities must be provided and the driver should, when requested by the hirer:
 - afford reasonable assistance in loading and unloading such luggage;

- afford reasonable assistance in removing such luggage to or from the entrance of any building, station or place at which he/she may take up or set down such person.
18. A driver must take reasonable precautions to ensure the safety of persons entering or alighting from the vehicle and also to ensure that the relevant legislation regarding seat belts and child restraints are complied with.

Lost Property

19. The driver of a Hackney Carriage shall immediately after the termination of the hiring search the vehicle for any property, which may have been accidentally left therein. The driver shall on finding such property, give details of the lost property to the licensing office and take all reasonable steps to return the property to the hirer.

Animals

20. Subject to condition 21, any animal belonging to or in the custody of any passenger can be conveyed in a licensed vehicle at the driver's discretion.
21. A driver of a licensed vehicle must carry the following assistance dogs free of charge, unless the driver has a proven medical condition that would preclude such actions:
- guide dogs for the blind;
 - hearing dogs;
 - dogs for the disabled;
 - support dogs (e.g. epilepsy).

All assistance dogs can be identified usually by their harness or their identification coat.

22. A driver shall only be exempt from condition 21 on medical grounds and on having obtained an exemption notice from the Council. The notice of exemption shall be displayed in a prominent position.

Fares

23. The driver shall not demand from the hirer a fare in excess of any previously agreed fare for that hiring.
24. Where a tariff is enforced, a tariff card shall be displayed on the inside of the vehicle in such a position as to be plainly visible to persons travelling in the vehicle.
25. If requested, the driver shall provide the hirer with a written receipt for the fare paid.

Use of Hackney Carriage

26. No driver shall act as a Hackney Carriage driver without the consent of the owner of the Hackney Carriage.

27. A driver shall not obstruct or hinder another Public Hire Vehicle driver in any way.

Trailers and Roof Boxes

28. A driver of a licensed hackney carriage vehicle will be permitted to tow a trailer provided that: -

- the trailer complies with all legal requirements.
- He/she holds the appropriate category on his/her DVLA driving licence, which must be produced to the Council.
- He/she ensures that the Hackney Carriage Vehicle Plate must be visible at all times
- He/she ensures that any trailer affixed to any Hackney carriage which he/she drives has been inspected and approved in accordance with the Council's conditions of the Hackney Carriage Proprietor's Licence.

29. A driver must not drive a hackney carriage vehicle with any form of roof box or luggage on the roof of the vehicle.

Medical Conditions

29. The driver shall notify the Council in writing of any medical condition that arises after the issue of the licence that may affect their ability to drive safely.

Criminal Convictions

30. In the event that a Licence holder is charged or summoned for any alleged criminal offence, then he/she shall within seven days of being charged or on receipt of the summons (as the case may be) report the fact, in writing, to the Council giving particulars of each alleged offence and in which court the proceedings are pending.
31. In the event that a licence holder is convicted of any criminal offence, or has an official caution administered, he/she shall within seven days of such conviction or caution report such conviction or caution in writing to the Council, and give particulars of each conviction or caution and any penalty points imposed in respect of it. **All driving offences shall be reported to the Council (this also includes a totting up of points.)**
32. Following any conviction or the issue of a fixed penalty notice which results in penalty points being endorsed on the Licence holder's DVLA driving licence, that Licence must be produced to the Council within seven working days of its return from the DVLA or a Court or a Fixed Penalty Office, following the endorsement of the offence thereon.

Safeguarding

33. All drivers must have available in the vehicle at all times any safety/ safeguarding information that the Council deems fit. NB This information will be supplied to the driver free of charge.

Failure to comply with any of the conditions will result in a referral to the appropriate officer of the Council or to the Licensing Sub Committee for consideration of suspension or revocation of licence.



**Epping Forest
District Council**

**HACKNEY CARRIAGE VEHICLE
LICENCE CONDITIONS**

Revised 10/2016

HACKNEY CARRIAGE VEHICLE LICENCE CONDITIONS

Epping Forest District Council (“the Council”) is Licensing Authority in respect of Hackney Carriages. The licence imposes the following conditions which it considers are reasonably necessary for the regulation of hackney carriages in its district. All applications that fall outside these conditions will be referred to the Licensing Sub-Committee for determination and may incur additional costs to be paid by the applicant.

VEHICLE LICENCE

Term of Licence

1. A Hackney Carriage Vehicle Licence shall be renewed annually unless the Council has agreed a shorter term.

Signs

2. A plate, bearing the number of the licence and the number of passengers for which the vehicle is licensed, shall be displayed in a vertical position, and fixed firmly to the outside of the vehicle close to the rear number plate. The vehicle shall not be used to convey a greater number of passengers than shown on the plate and licence. The plate must be returned to the Council on termination of the licence.
3. Window signs, as supplied by the Council, shall be displayed on each passenger window of the vehicle. A no smoking sign shall be displayed in the vehicle in a position visible to the passengers.
4. A licence holder shall not, and must ensure that the driver does not conceal from public view or deface the Hackney Carriage plate. The plate must be kept clean at all times.
5. A Hackney Carriage shall display a roof sign capable of being illuminated, and showing to the front and, at the option of the licence holder, at the rear the word “TAXI”, the light for which must be able to be extinguished when the vehicle is under hire.
6. The trade name, address and telephone number of the Proprietor’s business must be displayed on the doors of the vehicle and/or on a maximum three inches depth advertisement panel in the rear window in a position not restricting rearward vision.

Vehicle Specification

7. All vehicles shall be in satisfactory mechanical order and body condition and in operational order in every respect. Vehicles shall have:
 - a) A sufficient number of doors allowing safe access and egress from the vehicle. Where there is only one passenger door that door shall be on the nearside of the vehicle.
 - b) Be capable of carrying a wheelchair in a reasonable manner.
 - c) An adequate heating system for the passengers.

- d) Internal panelling or trimmed with such materials as would be suitable for passenger comfort and sound insulation.
- e) A serviceable spare wheel in accordance with manufacturer's instructions together with the necessary equipment to allow a wheel on the vehicle to be changed or run flat tyres or some other manufacturers approved method of dealing with a puncture.
- f) Adequate luggage facilities and either have a separate luggage compartment or a fixed screen (of sufficient construction to protect passengers from injury from items in the luggage compartment) between the rear seat and the luggage compartment which shall be kept in position at all times. This condition shall not apply to people carriers or multi purposes vehicles.
- g) Be equipped with fully functional nearside and offside exterior rear view mirrors.
- h) The vehicle must not be driven unless the driver's badge is clearly displayed.
- i) The vehicle shall be right hand drive.

Vehicles in category M1 of the **Consolidated Resolution on the Construction of Vehicles (R.E.3)** i.e. Vehicles used for the carriage of passengers and comprising not more than eight seats in addition to the driver's seat will normally comply with these regulations unless the Council has given prior written consent. Two door vehicles cannot be licensed to carry more than one passenger in the front passenger seat.

Vehicle Inspections

- 8. The proprietor shall submit the vehicle for inspection on first application for a licence and for every renewal.
- 9. If the vehicle is less than five years old the proprietor of a Hackney Carriage vehicle shall submit the vehicle for mechanical and/or such other inspection six months after the date when the licence is issued at premises that are approved by the Council.
- 10. If the vehicle is five years old or over the proprietor of a Hackney Carriage vehicle shall submit the vehicle for mechanical and/or such other inspection every four months after the date that the licence was issued at premises that are approved by the Council.
- 11. The Council may require a vehicle to be inspected at any other time.
- 12. Proprietors of a Hackney Carriage whose vehicle is refused or fails an inspection due to the condition of the vehicle, shall be liable to pay a fee for the inspection. If a vehicle is returned for re-testing and the milometer shows that more than 2000 miles have been travelled since

the original test, a full re-test will be undertaken and cost of a full test will be charged.

12. The interim inspection reports must be submitted to the licensing section of the Council within seven days of the inspection.
13. Applications for vehicles adapted for disabled users will be considered on their own merits.

TRAILERS AND ROOF BOXES

14. A proprietor of a licensed hackney carriage vehicle will be permitted to tow a trailer provided that:
 - the trailer is a box trailer manufactured for the purpose of carrying leisure, domestic or small business loads, built by a recognised manufacturer;
 - the trailer must carry a spare tyre;
 - the trailer must have a minimum un-laden weight of 200kg;
 - the gross weight does not when added to the gross weight of the vehicle exceed the gross train weight for the vehicle;
 - there must be a number plate and taxi plate, the same as the vehicle, securely attached the back of the trailer. An extra licensing plate may be purchased from the Council for this purpose;
 - prior to using a trailer the proprietor must notify the Council and submit the vehicle for inspection and thereafter trailer is to be presented for inspection with the towing vehicle at each interim inspection, or if used by more than one vehicle every six months. The Council may require a trailer to be inspected at any other time. The proprietor must pay the appropriate fee for inspections of the trailer to be carried out;
 - the proprietor must ensure that the driver of the vehicle towing the trailer holds the correct class of driving licence ;
 - the vehicle must have the correct level of insurance to tow the trailer;
 - the vehicle complies with all legal requirements.
15. A proprietor of a licensed hackney carriage vehicle will not be permitted to carry any form of roof box or luggage on the roof of the vehicle.

Accidents

16. Without prejudice to any statutory duty imposed under the Road Traffic Acts, the proprietor of a Hackney Carriage shall report to the Council as soon as reasonably practicable and in any case within seventy two

hours of the occurrence of any accident causing damage which materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of persons carried in the vehicle. The licence holder must present the vehicle for inspection immediately if required by the Council. In the event that the vehicle fails an examination for serious body damage or mechanical defects it shall be subject to prohibition by written notice for use as a Hackney Carriage, until such time as the defect has been corrected to the satisfaction of the Council.

Advertising

17. Third party advertising is permitted on the doors and internally on the back of the seat headrests subject to the Council retaining the right to request removal of any particular advertisement that is considered offensive, harmful to health or unsuitable. No advertising shall be displayed on the roof of the vehicle.

Condition of the Vehicle

18. The inside and outside of a Hackney Carriage vehicle shall be kept clean and free from damage, well maintained and in every way fit for public service.

Taximeters

19. The vehicle shall be fitted with a taximeter visibly recording the passenger fare payable in conformity with such a table of fares as may from time to time be approved by the Council or (where lower) the table of fares charged by the driver.
20. The position of the taximeter shall be agreed by the Council's inspecting officer and shall be maintained at all times so that the fare displayed can be readily seen by passengers.
21. The taximeter shall be tested for accuracy on initial application and following any changes to the table of fares or as required.
22. The taximeter shall be capable of being sealed by the Council to prevent changes being made to the fare tariff.

Change of Address

23. The proprietor shall notify the Council in writing of any change of address during the licensing period within seven days of such change taking place.

Failure to comply with any of the conditions will result in a referral to Licensing Sub Committee for consideration of suspension or revocation of licence.

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**Epping Forest
District Council**

**HACKNEY CARRIAGE DRIVER'S
LICENCE GUIDANCE**

Revised 5/2016

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

Epping Forest District Council is the licensing authority in respect of Private Hire Driver's licences. The Licence is granted subject to the following conditions which it considers are reasonably necessary for the regulation of private hire vehicles drivers within its district. All applications that fall outside these conditions will be referred to the Licensing Sub-Committee for determination and may incur additional costs to be paid by the applicant

Conduct of Driver

1. No person shall drive a vehicle licensed as a Private Hire Vehicle without a Private Hire Vehicle Driver's Licence which must be renewed every three years. The holder shall also produce that licence for examination by the proprietor of the vehicle, both at the commencement of his/her employment and immediately after its renewal.
2. The driver must:
 - (a) be clean, respectable and act with civility towards every person travelling in the vehicle and shall comply with their reasonable requirements;

NB. Minimum standards of dress prohibit the wearing of vests or singlets. Shorts may be worn only if properly tailored and of sufficient length when the driver is seated as not to offend against decency.
 - (b) not smoke in the vehicle at any time.
3. If a driver carries a hirer to a certain place and the hirer asks the driver to wait, the driver may ask for his/her fare for driving there and ask also for a deposit against a mutually agreed waiting time. After accepting such a deposit, the driver should not drive until the expiry of the mutually agreed waiting time.
4. The driver of a Private Hire Vehicle who shall have agreed or shall have been hired to be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at the appointed time and place and should confirm the identity of the hirer.
5. When picking up the hirer, the driver shall make his/her presence known in person and shall not attract the hirer's attention by sounding the car horn, shouting or making any other disturbing noise.
6. The driver of a Private Hire Vehicle, when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
7. The driver shall not drive a vehicle that is a Private Hire Vehicle unless it is displaying a licence plate in compliance with the vehicle licensing conditions.

Badges

8. A driver shall, at all times, display his badge so that it is clearly visible.
9. The driver will return their badges to the Licensing Office upon the expiry, revocation or suspension of their licence.
10. After the expiry date shown on any drivers licence that is no longer valid any badge must be returned to the Licensing Section immediately.
11. A licence holder, on changing his/her address shall notify the Council of such a change within seven days.

Insurance /MOT/ DVLA Licence.

12. The driver is responsible for ensuring that any vehicle in his/her charge is insured for use as a Private Hire Vehicle.
13. The appropriate MOT Certificate and insurance documents covering the use of that vehicle and driver shall be produced within seven days when required by the Council. A copy of these documents shall also be carried on the vehicle and must be produced on request by an authorised officer of the Council or a police officer.
14. The driver of a Private Hire Vehicle shall produce his/her DVLA licence on request for inspection by an authorised officer of the Council, or any police officer.

Passengers and Luggage

15. A driver shall not carry or permit to be carried in his/her vehicle any greater number of persons than the number specified in the licence issued to that particular vehicle and must not refuse to carry fewer persons than the number marked on the plate
16. Once a Private Hire Vehicle has been hired, a driver shall not carry anyone else during that hire, without the consent of the first hirer.
17. Adequate safe luggage facilities must be provided and the driver shall, when requested by the hirer:
 - afford reasonable assistance in loading and unloading such luggage;
 - afford reasonable assistance in removing such luggage to or from the entrance of any building, station or place at which he/she may take up or set down such person.
18. A driver must take reasonable precautions to ensure the safety of persons entering or alighting from the vehicle and also ensure that the relevant legislation regarding seat belts and child restraints are complied with.

Lost Property

19. The driver of a Private Hire Vehicle shall immediately after the termination of the hiring search the vehicle for any property, which may have been accidentally left therein. The driver shall on finding such property, carry it as soon as possible and in any case within 24 hours, to his/her operator.

Animals

20. Subject to condition 21, any animal belonging to or in the custody of any passenger can be conveyed in a licensed vehicle at the driver's discretion.
21. A driver of a licensed vehicle is required to carry the following assistance dogs free of charge, unless the driver has a proven medical condition that would preclude such actions:
 - guide dogs for the blind;
 - hearing dogs;
 - dogs for the disabled;
 - support dogs (e.g. epilepsy).

All assistance dogs can be identified usually by their harness or their identification coat.

22. A driver shall only be exempt from condition 21 on medical grounds and on having obtained an exemption notice from the Council. The notice of exemption shall be displayed in a prominent position

Fares

23. The driver shall not demand from the hirer a fare in excess of any previously agreed fare for that hiring.
24. Where a tariff is enforced, a tariff card shall be displayed on the inside of the vehicle in such a position as is plainly visible to persons travelling in the vehicle.
25. If requested, the driver shall provide the hirer with a written receipt for the fare paid.

Use of Private Hire Vehicle

26. No driver, licensed or otherwise, shall act as a Private Hire Vehicle driver without the consent of the owner of the Private Hire Vehicle.
27. A driver shall not obstruct or hinder another Public Hire Vehicle driver in any way.

28. Private Hire Vehicles may not wait on any stand designated for the use of Hackney Carriages.

Trailers

29. A driver of a licensed Private Hire vehicle will be permitted to tow a trailer provided that: -
- the trailer complies with all legal requirements
 - He/she holds the appropriate category on his/her DVLA driving licence, which must be produced to the Council.
 - He/she ensures that the Private Hire Vehicle Plate must be visible at all times
 - He/she ensures that any trailer affixed to any Private Hire Vehicle which he/she drives has been inspected and approved in accordance with the Council's conditions of licence for a Hackney Carriage Vehicle.

Medical Conditions

30. The driver shall notify the Council in writing of any medical condition that arises after the issue of the licence that may affect their ability to drive safely.

Criminal Convictions

31. In the event that a licence holder is charged or summoned for any alleged criminal offence, then he shall within seven days of being charged or on receipt of the summons (as the case may be) report the fact, in writing, to the Licensing authority, giving particulars of each alleged offence and in which court the proceedings are pending.
32. In the event that a licence holder is convicted of any criminal offence or has an official caution administered to them, he/she shall within seven days of such conviction, report that conviction in writing to the Council, and give particulars of each conviction and any penalty points imposed in respect of it. **All driving offences shall be reported to the Council (this also includes a totting up of points.)**
33. Following any conviction or the issue of a fixed penalty notice which results in penalty points being endorsed on the licence holder's DVLA driving licence, that licence must be produced to the Council within seven working days of its return from the DVLA or a Court or a Fixed Penalty Office, following the endorsement of the offence thereon.

Safeguarding

34. All drivers must have available in the vehicle at all times any safety/safeguarding information that the council deems fit. NB This information will be supplied to the driver free of charge.

Failure to comply with any of the conditions will result in a referral to the appropriate officer of the Council or to the Licensing Sub Committee for consideration of suspension or revocation of licence.



**Epping Forest
District Council**

**PRIVATE HIRE OPERATOR LICENCE
CONDITIONS**

Revised 5/2016

PRIVATE HIRE OPERATOR LICENCE CONDITIONS

Epping Forest District Council ('the Council') is the Licensing Authority in respect of Private Hire Operator Licences. On granting a licence it will impose the following conditions which it considers are reasonably necessary for the regulation of Private Hire Operators in its district. All applications that fall outside these conditions will be referred to the Licensing Sub-Committee for determination and may incur additional costs to be paid by the applicant.

No person shall be permitted to act as a private hire operator unless they hold a licence issued by the Council. The licence shall be renewed every five years.

Records

1. The operator must keep records of private hire bookings and of drivers and vehicles available to the operator and these shall be kept as follows:-
 - (a) Records must be kept in a form which gives easy access for inspection, e.g., in a bound book or if a booking is made by computer, a print out of each day's bookings, or bookings kept in computerised form so that the records can easily be made available for inspection by an authorised officer of the Council or Police Officer. Any record stored on computer must be capable of being printed from the computer. Records must be kept for at least one year;
 - (b) The operator shall keep at each Operating Centre, records of the Private Hire Vehicle drivers and vehicles (including a copy of their licences) available to the operator for carrying out bookings accepted at that centre.
 - (c) All records must be made and retained in written or electronic form and securely stored.
 - (d) Records of each hiring must contain the following details:
 - Date and time booking made
 - Name of hirer
 - Name of principal passenger (if different from above)
 - Agreed time of pick-up
 - Agreed place of pick up
 - Destination(s) specified at time of hiring by the hirer(s)
 - Identity of vehicle undertaking the hiring (vehicle registration or Private Hire Vehicle licence number)
 - Name and licence number of the driver undertaking the hiring
 - Fare quoted to hirer (if requested when hired)
 - Time and date of journey (if different from date of booking)
 - Whether the booking was sub-contracted; if so, the name of the sub-contractor, the Council the operator licence number.
 - The identity of the person who took the booking
 - (e) Records of the Private Hire Vehicle driver(s) used by the operator must contain the following details:
 - Full name of driver

- Date of birth
- Address (normal place of residence)
- Date driver became available to operator
- Category of vehicle for which eligible to drive
- Private Hire Drivers licence number
- Date driver ceased to be available to the operator

(f) Records of the Private Hire Vehicles used by the operator must contain the following details:

- Manufacturer, model and colour
- Registration number
- Private Hire licence/plate number
- Registered owner name and address (as it appears on the registration document)
- Date when vehicle became available to operator
- Copy of current valid certificate of insurance, road tax, MOT
- Date vehicle ceased to be available to the operator.
- Service history of each vehicle including details of any modifications thereto and details of all accident repairs.

Operation Centre

1. All Operating Centres where the public are invited to wait for a booking shall be clean, tidy and maintained in a reasonable condition. There must be adequate seating facilities provided for the public.
2. The operator shall notify the Council of any changes to the information supplied on the application form, eg change of address or telephone number, must be notified to the Council within two weeks of the change.
3. Operators will be required to notify the Council of the name of the person responsible for the day-to-day running of each Operating Centre named on the licence, and of any changes.
4. Operators shall display a copy of their licence at the Operating Centre in a position that is accessible to members of the public
5. Operators must display on public view, at Operating Centres with public access, evidence of their public liability insurance and must provide the Council with copies on request.
6. Operators must indicate clearly at the Operating Centre or within any letter head, advertising or promotion of their service, that the service provided is in respect of pre-booked journeys only.
7. Operators must display at all Operating Centres (in a position easily visible to the public) any safety/ safeguarding information that the council deems fit. NB This information will be supplied to the operator free of charge.

8. The operator must ensure that the Operating Centre complies with Health and Safety Legislation applicable to the public and staff alike and any Planning requirements /conditions.

Fares

9. Details of fare tariffs should be available to members of the public and displayed on public view at the Operating Centre or made available upon request.
10. Fares will be in accordance with the operator's advertised table of fares, unless otherwise agreed with the hirer at the time of booking.
11. The operator should give details of the fare for a particular hiring to the hirer when the booking is being made, if requested by the hirer.

General

12. Operators shall not employ or otherwise engage, whether directly or indirectly, any vehicle that has not been licensed by the Council or a driver who does not have a valid licence, for any bookings.
13. Operators shall only accept booking at an authorised Operating Centre.
14. Operators shall only sub-contract bookings to a licensed operator.
15. Operators must establish a complaints procedure, ensuring that all complaint records include the driver's name, nature of complaint, details of complainant and action taken.
16. Operators must establish a procedure for dealing with client's property lost or found in a Private Hire Vehicle operated by them or under contract to them or within the Operating Centre. This should include evidence that an attempt has been made to return the property to the owner, and a system for recording and storing lost property.
17. Operators must provide details to the Council of any licensed driver whose services are dispensed with by the operator, where the circumstances of the driver's dismissal relate to a breach of the licence conditions or his/her conduct is unsatisfactory in connection with the driving of a private hire vehicle.
18. Details of any conviction incurred by the licensee-operator during the currency of the licence must be reported in writing to the Council within two weeks of the date of the conviction.
19. Of required, operators must provide evidence that they comply with the requirements for audited accounts or certified accounts, and, if applicable, provide evidence that the business is VAT registered or awaiting VAT registration.

Failure to comply with the conditions will result in a referral to the appropriate officer of the Council or the Licensing Sub Committee for consideration of suspension or revocation of licence.



**Epping Forest
District Council**

**PRIVATE HIRE VEHICLE LICENCE
CONDITIONS**

Revised 10/2016

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

Epping Forest District Council (“the Council”) is the licensing authority in respect of Private Hire Vehicles. The licence is subject to the following conditions which it considers are reasonably necessary for the regulation of Private Hire Vehicles in its district. All applications that fall outside these conditions will be referred to the Licensing Sub-Committee for determination and may incur additional costs to be paid by the applicant.

VEHICLE LICENCE

Term of Licence

1. A Private Hire Vehicle licence shall be renewed annually unless the Council has agreed a shorter term.

Signs

2. A plate, bearing the number of the licence and the number of passengers for which the vehicle is licensed, shall be displayed in a vertical position, and fixed firmly to the outside of the vehicle close to the rear number plate. The vehicle shall not be used to convey a greater number of passengers than shown on the plate and licence. The plate must be returned on the termination of the licence.

NB. An exemption from displaying a private hire vehicle plate may be granted in certain circumstances where to display a plate would materially affect the ability to trade in an identified sector of the private hire market. Plate exemptions will be granted in accordance with a separate policy, a copy of which is available on request.

3. Window signs, as supplied by the Council, shall be displayed on each passenger window of the vehicle. A no smoking sign shall be displayed in the vehicle in a position visible to the passengers.
4. A licence holder shall not, and must ensure that the driver does not conceal from public view or deface the Private Hire Vehicle plate. The plate must be kept clean at all times.
5. The trade name, address and telephone number of the operator may be displayed on the doors of the vehicle and/or on a maximum three inches depth advertisement panel in the rear window in a position not restricting rearward vision.
6. There shall be **no** display of roof signs of any description.

Vehicle Specification

7. All vehicles shall be in satisfactory mechanical order and body condition and in operational order in every respect. Vehicles shall have:
 - a) A sufficient number of doors allowing safe access and egress from the vehicle. Where there is only one passenger door that door shall be on the nearside of the vehicle.

- b) Be capable of carrying a wheelchair in a reasonable manner.
- c) An adequate heating system for the passengers.
- d) Internal panelling or trimmed with such materials as would be suitable for passenger comfort and sound insulation.
- e) A serviceable spare wheel in accordance with manufacturer's instructions together with the necessary equipment to allow a wheel on the vehicle to be changed or run flat tyres or some other manufacturers approved method of dealing with a puncture.
- f) Adequate luggage facilities and either have a separate luggage compartment or a fixed screen (of sufficient construction to protect passengers from injury from items in the luggage compartment) between the rear seat and the luggage compartment which shall be kept in position at all times. This condition shall not apply to people carriers or multi purposes vehicles.
- g) Be equipped with fully functional nearside and offside exterior rear view mirrors.
- h) The vehicle must not be driven unless the driver's badge is clearly displayed.
- i) The vehicle shall be right hand drive.

Vehicles in category M1 of the **Consolidated Resolution on the Construction of Vehicles (R.E.3)** i.e. Vehicles used for the carriage of passengers and comprising not more than eight seats in addition to the driver's seat will normally comply with these regulations unless the Council has given prior written consent. Two door vehicles cannot be licensed to carry more than one passenger in the front passenger seat.

Vehicle Inspections

- 8. The licence holder shall submit their vehicle for inspection on first application and on every renewal.
- 9. If the vehicle is less than five years old licence holder of a Private Hire Vehicle shall submit the vehicle for mechanical and/or such other inspection six months after the date that the licence is issued at premises that are approved by the Council.
- 10. If the vehicle is over five years or over the driver of a Private Hire Vehicle shall submit the vehicle for mechanical and/or such other inspection every four months from the date when the licence is issued at premises that are approved by the Council.
- 11. The Council may require a vehicle to be inspected at any other time.
- 12. A licence holder whose vehicle is refused or failed an inspection due to the condition of the vehicle shall be liable to pay a fee for the

inspection. If a vehicle is returned for re-testing and the milometer shows that more than 2000 miles have been travelled since the original test, a full re-test will be undertaken and cost of a full test will be charged.

12. The interim/final inspection reports must be submitted when renewing the vehicle licence to the licensing office within seven days of the inspection.
13. Applications for vehicles adapted for disabled users will be considered on their own merits.

TRAILERS AND ROOF BOXES

14. A proprietor of a licensed private hire vehicle will be permitted to tow a trailer provided that:
 - the trailer is a box trailer manufactured for the purpose of carrying leisure, domestic or small business loads, built by a recognised manufacturer;
 - the trailer must carry a spare tyre;
 - the trailer must have a minimum un-laden weight of 200kg;
 - the gross weight does not when added to the gross weight of the vehicle exceed the gross train weight for the vehicle;
 - there must be a number plate and taxi plate, the same as the vehicle, securely attached the back of the trailer. An extra licensing plate may be purchased from the council for this purpose;
 - prior to using a trailer the proprietor must notify the Council and submit the vehicle for inspection and thereafter trailer is to be presented for inspection with the towing vehicle at each interim inspection, or if used by more than one vehicle every six months. The Council may require a trailer to be inspected at any other time. The proprietor must pay the appropriate fee for inspections of the trailer to be carried out;
 - the proprietor must ensure that the driver of the vehicle towing the trailer holds the correct class of driving licence ;
 - the vehicle must have the correct level of insurance to tow the trailer;
 - the vehicle complies with all legal requirements.
15. A proprietor of a licensed private hire vehicle will not be permitted to carry any form of roof box or luggage on the roof of the vehicle.

Accidents

16. Without prejudice to any statutory duty imposed under the Road Traffic Acts, the proprietor of a Private Hire Vehicle shall report to the Council as soon as reasonably practicable, and in any case within seventy two hours of the occurrence of any accident causing damage which materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of persons carried in the vehicle. The licence holder must present the vehicle for inspection immediately if required by the Council. In the event that the vehicle fails an examination for serious body damage or mechanical defects it shall be subject to prohibition by written notice for use as a Private Hire Vehicle, until such time as the defect has been corrected to the satisfaction of the Council.

Advertising

17. Third party advertising is permitted on the doors and internally on the back of the seat headrests subject to the Council retaining the right to request removal of any particular advertisement that is considered to be offensive, harmful to health or considered unsuitable. No advertising shall be displayed on the roof of the vehicle.

Condition of the Vehicle

18. The inside and outside of a Private Hire Vehicle shall be kept clean and free from damage, well maintained and in every way fit for public service.

Change of Address

19. The proprietor shall notify the Council in writing of any change of address during the licensing period within seven days of such change taking place.

Failure to comply with any of the conditions will result in a referral to the appropriate officer of the Council or to the Licensing Sub Committee for consideration of suspension or revocation of licence.

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**Epping Forest
District Council**

Public Hire Licence Applications Guidance
Guidance to new applicants and existing licence holders

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1. Introduction

1.1 This guidance

This document is written for the guidance of licence holders and applicants. Each application will be considered on its own particular merits.

Decisions will be made in accordance with the delegated authorities detailed in the Constitution of the Epping Forest District Council (“the Council”) which is the Licensing Authority for the District. Whilst the delegated authorities provide for the majority of cases, **if there is any doubt whatsoever** as to an applicant’s suitability to be licensed or licensee’s fitness to remain licensed, the case must be referred to a Licensing Sub-Committee.

2. Driver Licences - General

2.1 General

If the Council is satisfied that an applicant meets the necessary requirements, it may grant a licence for three years.

Licences may be refused if the applicant fails to satisfy the Council that they:

- § are of good character; or
- § are fit to act as a driver.

'Fitness' to act as a driver encompasses evidence of:

- § medical fitness; and
- § appropriate knowledge of the Council’s district and knowledge of the Highway Code;
- § appropriate knowledge of the Council’s safeguarding requirements;
- § the ability to speak and understand the English language to a reasonable standard.

3. Driver Licences - New Applicants

3.1 Applications

An applicant must complete and submit:

- § an application form;
- § a medical declaration (issued by their own GP).

The forms must be accompanied by the following supporting documentation:

- § the applicant’s birth certificate or passport;
- § a full, current DVLA/NI driving licence (see 3.2 below)or

a full, current EC/EEA driving licence;

- § an enhanced Disclosure and Barring Service (DBS) check or a DBS application reference number;
- § a valid check code to access your DVLA record;
- § your national insurance number.

If there are any previous surnames/forenames and the applicant cannot produce a passport in their current name the following will also be required, as appropriate:

- § marriage certificate; or
- § deed poll certificate. (Although it is not necessary to follow any formal process to start using a new name, it is necessary to obtain a Deed Poll Certificate to apply for official documents such as driving licence, passport etc)

The application must be accompanied by the appropriate application fee.

Any omission or misrepresentation within the application documentation could suggest dishonesty which may result in the application being refused.

Where the applicant is the subject of an outstanding criminal or other charge, they will be advised that their application will be processed, but no final decision on the application will be made pending the conclusion of proceedings (see paragraph 3.3.23).

3.2 Driving and Vehicle Licensing Authority ('DVLA') Driving Licences

All applicants must have a full valid UK or European Economic Area (EEA) driving licence. In order to be issued with a driver's licence, the applicant must have held this licence for a minimum of three years.

3.3 Character

Character will normally be assessed on the basis of information supplied by the Disclosure and Barring Service (DBS).

The DBS searches police records and in relevant cases, barred list information and then issues a DBS certificate which allows employers and licensing authorities to make informed decisions.

3.3.1 Types of DBS check

There are two levels of DBS check, known as 'standard' and 'enhanced'.

Both the standard and enhanced checks contain details of:

- § spent convictions
- § unspent convictions
- § cautions

§ reprimands and final warnings

This information comes from the Police National Computer (PNC).

In addition to the information held on the PNC, the enhanced check will also include information held on the DBS's children and adults barred lists together with any information held locally by police forces that is reasonably considered to be relevant to the licence applied for.

The enhanced check is the higher level of DBS check and is only available for those in certain roles that involve working with children or vulnerable adults.

Given the role can, at any time and without prior knowledge, involve being in sole charge of passengers under 18 years old and vulnerable adults, the Council has determined that the **enhanced** DBS check is appropriate in respect of all applicants for hackney carriage and private hire drivers' licences.

3.3.2 DBS checking process

Before submitting an application, the applicant must apply for a DBS check.

The applicant will receive a certificate from the DBS detailing the result of the check. This certificate must then be supplied to the Council who will take a copy.

As is usual practice and in accordance with DBS requirements, we will destroy our copy once the licensing process has been concluded.

In the event that an applicant fails to provide their DBS certificate when requested to do so, the application will be treated as incomplete and discontinued.

Any DBS certificates submitted to the Council must have been issued no more than three months prior to the date of application.

3.3.3 Portability of DBS checks

In 2013, the DBS launched its Update Service. This enables anyone who applies for a criminal record check to then pay an annual subscription which will allow them to keep their criminal record certificate up-to-date so that they can take it with them from role to role, within the same workforce.

The Update Service will allow the Council to carry out free, instant online checks of an individual's certificate, to check that it is up-to-date. When someone is subscribing to this service, we will only have to seek a new criminal record check if the DBS tells us something has changed. In all other cases the Council will require a new DBS check each year.

3.3.4 Recording convictions/DBS Code of Practice

The Council will comply with DBS's Code of Practice in regard to use/retention of Disclosure information.

The Code of Practice prohibits the recording of information contained in DBS certificates for longer than is necessary. Therefore:

- § no information in respect of criminal convictions (other than Hackney Carriage offences) will be entered on any applicant's or driver's record;
- § registered Body DBS certificates and copies of applicants' DBS certificates will only be retained for the duration of and purposes of informing our decision making process.

However,

- § self-declarations of convictions by applicants and licensed drivers can be retained within the body of their file;
- § conviction information provided to the Council by third parties (e.g. police) for the purposes of informing our decision making process can be retained within files;
- § references to convictions in minutes and reports that are made as part of the decision making process can be retained within files.

3.3.5 Spent convictions

The enhanced DBS check may include any spent convictions and the Council is entitled to consider these when coming to a decision provided these are relevant to the role of carrying passengers for hire and reward.

3.3.6 Adult Cautions

Adult Cautions (also known as Police or Simple Cautions) are not convictions but, being admissions of guilt, are taken into consideration in the determination of good character. In considering a caution the following factors will be taken into account:

- § the nature of the offence
- § the driver's offending history; and
- § the guidelines applicable had it been a conviction.

3.3.7 Absolute and Conditional Discharges

A court can dispose of a case by issuing an Absolute or Conditional Discharge which although results from a finding of guilt is not a conviction. However, the Council can take the circumstances that resulted in the discharge into consideration when determining fitness. In the event that an applicant has been the subject of an Absolute or Conditional Discharge for an offence that would have resulted in refusal should he have been convicted, further information regarding the case will be requested.

3.3.8 Suspended sentences

Suspended sentences will be treated the same as if they had been put into effect immediately. However, as a court decided to suspend the sentence, this can be taken into consideration when determining an applicant's fitness to be licensed.

Consideration will also be given to the applicant's behaviour during the period of suspension.

3.3.9 Barred Lists

Part of the role of the DBS is to help prevent unsuitable people from working with vulnerable groups including children, barring them where necessary.

As part of the enhanced DBS check the Council is provided with information about whether an applicant is barred from working within regulated activity with children or adults. In most cases, someone on a barred list would not be legally prevented from being a Hackney Carriage or PHV driver, so the Council can use its discretion in making decisions. However, in the interests of public safety, unless there are exceptional circumstances, an application will normally be refused where the applicant appears on either barred list.

3.3.10 Overseas criminal history checks

Any applicant who has lived in a country other than the UK for one or more continuous periods of exceeding three months (other than periods of extended vacation) within three years of the date of application is required to produce a 'Certificate of Good Conduct' from the relevant country. The responsibility for obtaining such a document falls to the applicant and not the Council. The 'Certificate of Good Conduct' will be an extract from the judicial record or equivalent document issued by a competent judicial or administrative authority for the relevant country.

This Certificate will document any convictions recorded against the individual or to confirm 'good conduct'. This requirement is in addition to the enhanced DBS check which is required for all applicants.

To obtain a Certificate of Good Conduct the applicant will approach the relevant embassy or legation. A translation is required if it is not provided in English.

Where an applicant is unable to provide the above they must explain why and provide references from individuals/bodies who can confirm their conduct for their time in the country (the referee must not be a family member).

The absence of a 'Certificate of Good Conduct' or references will not prevent an application from being considered but the failure to do so will be taken into account at the decision making stage.

Each case must be considered on its merits. Particular consideration will be given to assess whether the applicant has demonstrated that they have provided all the available evidence or made every effort to obtain the information.

3.3.11 Asylum seekers

Any applicant who has been granted or is awaiting a decision to be granted asylum/refugee status will **not** be required to produce a Certificate of Good Conduct from the country he is claiming asylum from.

The applicant will, however, be required to obtain a Certificate of Good Conduct from

any other country he has resided within the three years prior to the date of application in line with the guidelines at paragraph 3.3.10.

To gain this exemption, the applicant must provide a clear and legible photocopy of either his Certificate of Registration or a letter issued by the Border and Immigration Agency, an executive agency of the Home Office.

3.3.12 Consideration of disclosed criminal history

Where the DBS reports previous criminal convictions and/or other significant comments, consideration will be given to each applicant's suitability for licensing against the following criteria:

- § nature of the offence(s);
- § circumstances in which any offence was committed;
- § subsequent periods of good behaviour;
- § overall conviction history;
- § sentence imposed by the court;
- § any other character check considered reasonable (e.g. personal references).

3.3.13 Violence

Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved loss of life.

Given the range of offences that involve violence consideration will be given to the nature of the conviction.

In particular:

- (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:
 - § Murder;
 - § Manslaughter;
 - § Manslaughter or culpable homicide while driving;
 - § Terrorism offences.
- (b) Before an application is allowed, an applicant will be free of conviction for at least 7 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for an offence such as:
 - § Aggravated burglary;

- § Arson;
- § Grievous bodily harm;
- § Kidnapping;
- § Racially/religiously aggravated assault occasioning actual bodily harm;
- § Racially/religiously aggravated common assault;
- § Racially/religiously aggravated criminal damage;
- § Racially/religiously aggravated threatening/disorderly behaviour;
- § Assault occasioning actual bodily harm;
- § Assault on Police;
- § Assault with intent to resist arrest;
- § Robbery;
- § Riot, violent disorder and affray;
- § Threats to kill;
- § Wounding with intent to cause grievous bodily harm.

(c) Before an application is allowed, an applicant will be free of conviction for at least 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for an offence such as:

- § Common assault;
- § Criminal damage;
- § Harassment;
- § Threatening/disorderly behaviour.

An application will normally be refused if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

In the event of an application being allowed to proceed, a strict written warning will be administered.

3.3.14 Possession of a weapon

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

Depending on the circumstances of the offence, an applicant should be free of conviction for such an offence for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before an application is

allowed.

3.3.15 Sex and Indecency Offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences will be closely scrutinised. Those with convictions for the more serious sexual offences will be refused. For other offences, applicants will be expected to show a substantial period free of conviction for such offences before an application will be allowed.

In particular:

(a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:

§ Rape;

§ Assault by penetration;

§ Offences involving children or vulnerable adults;

§ Sexual assault;

§ Indecent assault;

§ Possession of indecent photographs, child pornography etc....;

§ Exploitation of prostitution;

§ Bestiality;

§ or any similar offences or offences which replace the above;

§ or **any** sex or indecency offence that was committed in the course of employment as a Hackney Carriage or PHV driver.

(b) Before an application is allowed, an applicant will be free of conviction for at least 7 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for an offence such as:

§ Indecent exposure;

§ Soliciting (including kerb crawling);

§ or any similar offences or offences which replace the above.

In addition to the above the Council will not normally grant a licence to any applicant who is currently on the Sex Offenders Register (see Appendix B).

An application will normally be refused if an applicant has more than one conviction for a sex or indecency offence.

3.3.16 Human trafficking and smuggling

Human trafficking and smuggling exploits vulnerable people, often by the use of force, violence, deception, intimidation or coercion. Such behaviour is incompatible with that of a licensed driver. Those with convictions for the more serious trafficking offences will be refused. For other offences, applicants will be expected to show a substantial period free of conviction for such offences before an application will be allowed.

In particular:

- (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:

§ Trafficking for prostitution;

§ Trafficking for sexual exploitation;

§ Trafficking for exploitation;

§ or any similar offences or offences which replace the above.

- (b) Before an application is allowed, an applicant should be free of conviction for at least 7 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for an offence such as:

§ Assisting unlawful immigration;

§ or any similar offence which replace the above.

3.3.17 Dishonesty

A licensed PHV or Hackney Carriage driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Hackney Carriage drivers are required pass on details of lost property to the Council and to make reasonable efforts to return any lost property to its rightful owner. PHV drivers must pass lost property to their operator.

The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) will be required before allowing an application to proceed. Offences involving dishonesty include:

§ benefit fraud;

§ burglary;

§ conspiracy to defraud;

- § forgery;
- § fraud;
- § handling or receiving stolen goods;
- § obtaining money or property by deception;
- § other deception;
- § perverting the course of justice;
- § taking a vehicle without consent;
- § theft;
- § and any similar offences.

An application will normally be refused if an applicant has more than one conviction in the last 10 years for an offence of dishonesty.

3.3.18 Drugs

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered.

An application from an applicant who has an isolated conviction for an offence related to the **possession** of drugs within the last 3-5 years may be considered, but consideration must be given to the nature and quantity of the drugs, as well as the sentence imposed by the court. A more severe court penalty will indicate that a sterner stance will be taken.

An application will normally be refused where the applicant has more than one conviction for offences related to the **possession** of drugs and has not been free of conviction for 5-7 years, again taking into consideration the nature and quantity of the drugs.

An application will normally be refused where the applicant has a conviction for an offence related to the **supply, importing or production** of drugs and has not been free of conviction for 7 years (or at least 3 years must have passed since the completion of the sentence, whichever is the longer).

If there is evidence of persistent drugs use, misuse or dependency (e.g. two or more convictions for possession) a specialist medical examination may be required to ensure that the applicant meets the DVLA Group 2 medical standards in relation to drug misuse and dependency.

3.3.19 Driving offences involving the loss of life

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

Before an application is allowed, an applicant will be free of conviction for 7 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

- § Causing death by dangerous driving;
- § Causing death by careless driving whilst under the influence of drink or drugs;
- § or any similar offences.

Before an application is allowed, an applicant will be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:

- § Causing death by careless driving;
- § Causing death by driving: unlicensed, disqualified or uninsured drivers.

3.3.20 Drink Driving/Driving Under the Influence of Drugs

As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but they will be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a second drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a special medical report must be provided before the application can be allowed to proceed which advises that the applicant is fit to be able to hold a driver's licence.

3.3.21 Endorsable Traffic Offences

All current endorsable offences will be shown on an individual's DVLA record and will be taken into account, since a poor driving record may raise doubts about the applicant's fitness to drive the public or indicate disrespect for the law.

An endorsable offence will usually attract penalty points and/or a period of disqualification. Some endorsable offences can be only be dealt with by a court prosecution, others can be dealt with by either prosecution or fixed penalty notice.

Endorsable offences include:

- § Accident offences;
- § Careless driving;
- § Construction and Use offences;
- § Dangerous driving;

- § Drink or drugs offences;
- § Driving whilst disqualified;
- § Driving without due care and attention;
- § Insurance offences;
- § Licence offences;
- § Speed limit offences;
- § Traffic direction and sign offences;
- § Theft or Unauthorised Taking.

An isolated conviction for a serious driving offence e.g. without due care and attention, no insurance etc., would normally merit a warning being given as to future driving and advice on the standard expected of licensed drivers. More than one conviction for this type of offence within the last two years would merit refusal and no further application would be considered until a period of one to three years free from conviction had elapsed.

Convictions for minor (non-endorsable) traffic offences, e.g. obstruction, waiting in a restricted street will not prevent an application from proceeding. Non-endorsable traffic offences are not recorded on driving licences.

3.3.22 Illegally Plying for Hire and Touting

Only Hackney Carriages have the right to ply or stand for hire and it is an offence for any other vehicle to ply for hire.

Section 167 of the Criminal Justice and Public Order Act 1994 created the offence of 'touting', in a public place to solicit persons to hire vehicles to carry them as passengers.

Following a conviction or caution for either offence, at least twelve months will elapse before an application will be considered. Unless there is significant mitigation, an application will normally be refused where the applicant has more than one conviction or caution one of this nature in the last five years.

An applicant with an isolated conviction or caution for either offence that is more than one year old, may be licensed subject to a written warning.

3.3.23 Outstanding charges or summonses

If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

If the outstanding charge or summons is for an offence that would result in refusal if convicted, then the application will be put on hold until proceedings are concluded.

3.3.24 Non-conviction information

If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration will be given to refusing the application.

In all cases of serious offences, including allegations of sex and serious violent offences full details regarding the circumstances of the case will be obtained from the police before making a decision. If there are reasonable grounds to suggest that the driver presents a risk to the travelling public, consideration will be given to refusing the application.

Any applicant who has been the subject of more than one allegation of a sex offence (even if all allegations have not resulted a prosecution, conviction or caution) will normally have his application refused unless significant mitigation is provided.

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

3.3.25 Summary

To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 7 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

3.4 Medical fitness

3.4.1 Medical Standards

Regulation states that Hackney Carriage and PHV drivers must satisfy the Council that they are medically fit to hold a driver's licence. In assessing whether an applicant is medically fit, the Council will have regard to the medical standard that would apply in relation to a DVLA Group 2 licence.

Group 2 licences are required for large goods vehicles and buses and the medical standards for Group 2 drivers are much higher than those for Group 1 (ordinary motor cars and motor cycles). This higher standard requirement reflects the view that the nature of a licensed driver's employment places him in the category of vocational driver. Additionally the fact that drivers' work patterns are unregulated

affords further weight to the need for Group 2 requirement. The Group 2 standard is set out in the DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to Drive' and the recommended form will be provided to applicants.

3.4.2 Medical reports

The medical report form requires the doctor to answer either 'yes' or 'no' to set questions with space for explanation/amplification where appropriate. Medical reports will be completed by a medical practitioner who has access to the patient's **full** medical records, this will usually be the applicants own GP.

The medical reports, together with the DVLA guidelines mentioned above, will generally enable the applicant's fitness to be licensed to be determined. It must be emphasised that each case will be considered on its merits. Where doubt exists, the applicant's doctor or consultant may be asked for additional information. When it appears from these enquiries that an applicant does not meet the required standard, he is to be informed of this in writing and given the opportunity to present further (written) medical evidence before a decision is made.

Council staff will not seek to interpret medical conditions in determining fitness. In areas of doubt the advice of the Council's specialist occupational medical advisor will be taken. However staff may seek additional information on conditions identified in the medical report to assist the Council's advisor.

It is the role of the Council's medical advisor to recommend when an application will be refused on medical grounds. However, where an applicant fails to meet DVLA Group 2 medical standards for one of the following conditions and there are no other complicating conditions, the application may be refused without referral to the medical advisor:

- § Visual acuity (applicants will always be given the opportunity to obtain verification of their visual acuity from an ophthalmic optician before a decision is made to refuse their application);
- § Hypertension (if an applicant's blood pressure fails to meet the prescribed standard or there is evidence of a history of hypertension, they will always be given the opportunity to obtain additional blood pressure readings before a decision is made to refuse their application);
- § Epilepsy (other than cases involving head injury).

3.4.3 Diabetes

Applicants for a PHV or Hackney Carriage driver licence will be required to:

- a) hold a DVLA C1 category Group 2 licence (i.e. one issued after 1 January 1998);
- or
- b) satisfy the Council that he meets the medical requirements which would allow a C1 Group 2 licence to be issued.

In regard to option b), the applicant will need to provide a medical report from a hospital consultant specialising in diabetes confirming:

- § the applicant has been undergoing insulin treatment for over four (4) weeks;
- § during the twelve (12) months prior to the date of the licence application, the applicant has not suffered a hypoglycaemic episode requiring the assistance of another whilst driving; and,
- § the applicant has a history of responsible diabetic control and is at minimal risk of a hypoglycaemic attack resulting in incapacity.

The applicant will also be required to submit a signed declaration that:

- § he will comply with the directions for treatment given to him by the doctor supervising that treatment;
- § immediately report to the Council, in writing, any change in diabetic condition; and,
- § provide to the Council, as and when necessary, evidence that blood glucose monitoring is being undertaken at least twice daily and at times relevant to driving a Hackney Carriage or private hire vehicle during employment.

3.4.4 Holders of DVLA Group 2 Licences

After 1 January 1998, any driver who holds a DVLA Group 2 full or provisional licence would have already had a medical prior to being granted this entitlement. This entitlement will be shown on the driver's DVLA driving licence. Any drivers who have this entitlement after 1 January 1998 will not have to complete a Medical Declaration.

3.5.1 Drivers with disabilities

Should a report, or any other specialist advice, i.e. from a medical specialist, indicate that a driver with a physical disability is only fit to drive certain types of vehicles, e.g. those with automatic transmission or those fitted with specified adaptations, the nature of the limitation must be suitably endorsed upon the licence.

3.6 Topographical skills testing

Driver applicants are required to have a significant depth of topographical knowledge. Licences will only be issued to those applicants who have passed the Council's knowledge test.

3.7 Right to live and work in the UK

All applicants for a PHV or Hackney Carriage driver's licence must provide documentary evidence confirming their right to live and work in the United Kingdom.

The UK Border Agency has produced a list of documents that can provide this evidence. These are listed at Appendix C. Documents provided from List A establish that the person has an ongoing entitlement to work in the UK; documents from List B indicate that the person has restrictions on their entitlement to be in the UK. A copy of every document produced will be kept.

The provision of a National Insurance number in isolation is not sufficient for the purposes of establishing the right to live and work in the UK. The National Insurance number can only be used for this purpose when presented in combination with one of the documents listed in Appendix C.

Licences granted to drivers whose leave to remain in the UK is time-limited will only be valid for the period for which they are entitled to work in the UK. In order for the licence to be extended (up to the maximum three years) drivers must produce further evidence to prove that they have the right to work in the UK.

In the event of a driver submitting this evidence after, but within three months of the initial expiry of the licence, subject to there being no other concerns, the licence can be extended. However, any driver submitting this evidence more than three months after the expiry of the initial licence will not be afforded this privilege. In such cases the driver will be treated as a new applicant. This will require the driver to obtain a new medical examination and wait until all necessary checks have been completed before a licence can be issued.

In the event that a driver does not have his licence extended, he will, on request, be entitled to a refund of a pro-rata proportion of the grant of licence fee.

3.8 Appeals against a decision to refuse a licence

3.8.1 Hackney Carriage driver applicants

Any applicant for a driver's licence who is dissatisfied with the decision to refuse to grant a licence may appeal in the first instance (and if not already considered by a sub-committee) to of a Licensing Sub-Committee and thereafter to the Magistrate's Court.

3.9 Previous licence holders

In considering an application from an individual who has previously been licensed as a Hackney Carriage or PHV driver, their previous history as a licensed driver will be examined.

There will be occasions when a previously licensed driver is making a new application because he failed to renew his licence within three months of it expiring. When deciding whether or not to re-license, consideration will be given to the following factors:

- § has the driver renewed late previously?
- § did the driver work as a Hackney Carriage or PHV driver with an expired licence having been warned that he could not work?
- § did the driver continue to work as a Hackney Carriage or PHV driver for more

than three months after the licence expired?

If the answer to any of these questions is 'yes', the driver will have been 'touting' and consideration will be given to refusing the application in accordance with its guidance for this type of offence and at least 12 months will elapse before a further application is considered.

3.10 Action by other licensing authorities

Applicants are obliged to declare if they have had an application for a Hackney Carriage or PHV driver's licence refused, or such a licence revoked or suspended by any other licensing authority. If such information is disclosed, the relevant authority will be contacted to establish when the licence was refused, suspended or revoked and the reasons why. Such information can be obtained under the provisions of section 31 the Data Protection Act 1988.

The information disclosed will be assessed and if the driver fails to meet the standards to be licensed or there is any threat to the safety of travelling public, consideration will be given to refusing the application.

If the applicant is currently suspended by another licensing authority, the application will be put on hold pending further enquiries with the authority concerned and the completion of the suspension. Consideration will then be given to the reasons for the suspension when making a licensing decision.

4. Driver Licences – Current Licence Holders

4.1 General

If the Council is satisfied that an applicant meets the necessary requirements, it will normally renew a licence for three years except in exceptional circumstances.

In any consideration it must be assumed that drivers do not have other employment. Consideration to revoke or suspend a licence will never be considered lightly. However, the licensing system is designed to protect the public and it would be wrong to avoid this course of action where it is clearly appropriate.

4.2 New convictions

Action taken in respect of new convictions coming to attention will depend upon:

- § the seriousness of the latest offence(s);
- § any previous criminal history;
- § any earlier suspensions, warnings, etc.; and
- § promptness of advising the Council.

When considering what action to take, the Council has four options:

- § revocation;

- § suspension;
- § written warning;
- § no further action.

In serious cases resulting in imprisonment (including suspended prison sentences), the revocation of a driver's licence is likely to follow. However, where an offence is less serious; mitigating circumstances are introduced; or the offence appears out of character; a period of suspension or a written warning could be considered appropriate.

Convictions which suggest the public may be at risk are of particular concern.

4.2.1 Adult Cautions

Adult Cautions (also known as Police or Simple Cautions) are not convictions but, being admissions of guilt, will be taken into consideration in the determination of good character. In considering a caution the following factors will be taken into account:

- § the nature of the offence;
- § whether the offence was committed in the course of employment;
- § the driver's offending history; and
- § the guidelines applicable had it been a conviction.

4.2.2 Absolute and Conditional Discharges

A court can dispose of a case by issuing an Absolute or Conditional Discharge which although results from a finding of guilt is not a conviction. However, the Council can take the circumstances that resulted in the discharge into consideration when determining fitness. In the event that a licensed driver has been the subject of an Absolute or Conditional Discharge for an offence that would have resulted in suspension or revocation will he have been convicted, further information regarding the case will be requested.

Although an Absolute or Conditional Discharge may not be a conviction, drivers are still required to declare the matter to the Council.

4.2.3 Violence

Offences against the person must be considered in the light of circumstances surrounding the offence. A very serious view will be taken where the victim is the passenger in a licensed vehicle, if the incident occurs in the course of licensed employment or if the offence is racially or religiously aggravated. A conviction for a violent offence will normally result in suspension or revocation unless significant mitigation is forthcoming.

Offences that will be treated as violent offences are listed at 3.3.13.

4.2.4 Possession of a weapon

A conviction for possession of a weapon or any other weapon related offence will normally result in suspension or revocation unless significant mitigation is forthcoming. A very serious view will be taken if a licensed driver is found in possession of a weapon when working.

4.2.5 Sex and Indecency Offences

As licensed drivers often carry unaccompanied and vulnerable passengers, any case of a driver incurring a conviction for a sexual offence e.g. rape, sexual assault, indecent exposure, soliciting, must be dealt with as a matter of urgency. Convictions for sexual offences will be the subject of immediate disciplinary action which is likely to result in suspension/revocation.

If a licence is revoked for a serious sex or indecency offence, or for an offence committed in the course of employment as a Hackney Carriage or PHV driver, it is unlikely that the Council will ever consider the individual fit to hold a driver's licence again. Furthermore, the Council will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

4.2.6 Dishonesty

The honesty of drivers is essential for the reputation of the Councils licensing scheme. Hackney Carriage drivers are required pass on details of lost property to the Council and to make reasonable efforts to return any lost property to its rightful owner. PHV drivers must pass lost property to their operator.

Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and become 'fair game' for an unscrupulous driver.

A conviction or caution for a dishonesty related offence, which was committed during the course of employment as a Hackney Carriage or PHV driver, will normally result in suspension or revocation unless significant mitigation is forthcoming. If the licence is revoked, this would debar a driver for being licensed for a minimum of 5 years. A conviction or caution for an offence committed outside the course of employment will normally result in a warning or suspension for a first offence; any subsequent cautions or convictions are likely to lead to the revocation of the licence.

4.2.7 Drugs

Any drug related offence has significant safety implications. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered. A driver with a conviction for a serious offence will have his fitness to remain licensed reviewed.

If the licence is revoked the driver will generally be required to show a period of at least 5 years free of conviction before being allowed to proceed with a new application. More than one conviction for a drugs related offence will usually debar a driver for a minimum of 7 years. If the convictions are for drug use/misuse a specialist medical examination (in accordance with DVLA Group 2 medical

standards) will be required before any application may be allowed to proceed.

4.2.8 Drink Driving/Driving Under the Influence of Drugs

When a driver is convicted of driving or being in charge of a motor vehicle while under the influence of drink or drugs, disciplinary action will be considered. If the conviction is for an offence that attracts obligatory disqualification, revocation of the Hackney Carriage/PHV driver's licence will be considered regardless of the sentence imposed by the court.

In the event that the driver was not disqualified yet revocation followed, a further application will not be considered until a period equivalent to the minimum period of disqualification for the offence has lapsed since the date of revocation.

Following a second conviction, at least three years will elapse following the return of the DVLA licence before an application will be considered.

4.2.9 Driving offences

Endorsable driving offences:

All live endorsable offences will be shown on an individual's DVLA record. For major driving offences action will be considered in accordance with the table below, taking into account the penalty imposed which will be an indication of the seriousness of the offence.

Table 1 - Major driving offences

i)	Causing death by dangerous driving	Revocation
i)	Dangerous driving	Revocation
iii)	Causing death by careless driving	Revocation
iv)	Causing death by careless driving whilst under the influence of drink or drugs	Revocation
v)	Driving whilst uninsured Driving without due care and attention/without reasonable consideration Fail to stop/fail to report an accident	One month suspension plus warning letter
	Second conviction within 2 years	Revocation

In normal circumstances any driver accumulating 12 penalty points on his driving licence in a three year period will be disqualified from driving for a minimum of six months. However, the courts have the discretion not to disqualify in exceptional hardship. Where this discretion is exercised and the driver has not been convicted of more than one major offence (see Table 1 above) The Council will not revoke the

driver's licence but will issue a written warning highlighting the risk of revocation will the driver receive further penalty points and is subsequently disqualified.

4.2.10 Disqualification from driving

A driver cannot hold a Hackney Carriage or PHV driver's licence without a DVLA driving licence, therefore disqualification from driving automatically results in revocation of the Hackney Carriage licence. Revocation will still result even if the driver does not inform the Council about a disqualification until the disqualification has ended and he has had his DVLA driving licence restored and an application to be re-licensed will not be considered until a period equivalent to the period of disqualification has lapsed.

Where the period of disqualification is short term (i.e. 28 days or less) revocation is unlikely to be possible such that it would be concurrent with the period of disqualification. In such circumstances the driver will be invited to voluntarily surrender his badge and licence for the duration of the disqualification. The driver will be advised in writing that;

- a) revocation would be the normal course of action but in view of the short timescales it is not reasonable; and
- b) any further disqualifications may result in automatic revocation.

In the event that a driver fails to surrender his badge and licence, revocation must be considered.

4.2.11 Touting

Section 167 of the Criminal Justice and Public Order Act 1994 created the offence of 'touting', in a public place, to solicit persons to hire vehicles to carry them as passengers. The Council takes a serious view of licensed drivers who have been convicted or cautioned for touting (it will also be noted that a conviction for touting is normally accompanied by a conviction for no insurance).

a) PHV drivers:

Any licensed PHV driver convicted or cautioned for touting will have his licence revoked.

An application to be re-licensed will not be considered until at least 12 months after the date of revocation, subject to him having had no previous similar convictions or cautions. Unless there is significant mitigation, it is unlikely that the Council will re-license an applicant who has more than one conviction and/or caution for touting in the last 5 years.

In the event that the Council becomes aware of a conviction or caution for touting within three months prior to the expiry of the driver's licence, whilst revocation would be the normal course of action, it is unlikely to be practicable to complete the revocation process (including allowing time for an appeal) before the licence expires.

In such circumstances the licence will be allowed to expire and any further applications will be considered in line with the guidelines above. The driver will also

be advised that any renewal application submitted at this time will be refused.

Offences identified by Council officers can be treated in the same way as a conviction or caution. On each occasion a full written report of the facts accompanied by witness statements must be submitted by the officer concerned prior to any disciplinary action being taken.

Licensed PHV operators will also need to be informed that their fitness to remain licensed may also come under scrutiny if significant numbers of their drivers are apprehended.

b) Hackney Carriage drivers:

In the event that a licensed Hackney Carriage driver is convicted of touting his fitness to remain licensed must be reviewed. Options available are a strict written warning, suspension and revocation. Revocation for a first time conviction may be too harsh but a period of suspension would be an appropriate option dependent upon the circumstances. Subsequent convictions will attract more severe penalties.

Hackney Carriage drivers who receive a police caution for the offence will be dealt with by way of a strict warning by letter as to their future behaviour and advised that any further caution/warning/conviction for a similar offence will result in suspension or revocation of the licence.

4.2.12 Illegally plying for hire

Only licensed Hackney Carriages have the right to ply or stand for hire and it is an offence for any vehicle other than a licensed Hackney Carriage to ply for hire.

a) PHV drivers:

A serious view is taken of any licensed PHV driver who illegally plies for hire as there will be no record of any journeys undertaken and vehicles that are used to illegally ply for hire are almost always not insured for that usage.

Any licensed PHV driver who is convicted or cautioned for illegally plying for hire will normally have his licence revoked unless significant mitigation is forthcoming (like touting, a conviction is normally accompanied by a conviction for no insurance).

An application to be re-licensed will not be considered until at least 12 months after the date of revocation, subject to him having had no previous similar convictions or cautions. Unless there is significant mitigation, it is unlikely that the Council will re-license an applicant who has more than one conviction and/or caution for illegally plying for hire in the last 5 years.

b) Hackney Carriage drivers:

In the event that a licensed Hackney Carriage driver is convicted or cautioned for illegally plying for hire (e.g. in an unlicensed Hackney Carriage) his fitness to remain licensed must be reviewed.

Options available are a strict written warning, suspension and revocation. Revocation for a first time conviction may be too harsh but a period of suspension would be an

appropriate option dependent upon the circumstances. Subsequent convictions will attract more severe penalties.

For both Hackney Carriage and PHV drivers, offences identified by Council officers can be treated in the same way as a conviction or caution. On each occasion a full written report of the facts accompanied by witness statements must be submitted by the officer concerned prior to any disciplinary action being taken.

4.2.13 Equality Act offences

Sections 168 and 171 of the Equality Act 2010 require Hackney Carriage and PHV drivers to carry guide, hearing and other assistance dogs accompanying disabled people and to do so without any additional charge.

The power to prosecute such offences lies with licensing authorities, therefore if the Council had already prosecuted the driver it could be considered unreasonable if we were to seek to punish the driver twice by suspending or revoking his licence. However, more than one incident of this type could give the Council reason to consider the driver's fitness to be licensed.

4.2.14 Arrests, charges and summonses

If a licensed driver is arrested, charged or summonsed for a serious offence which suggests he would be a danger to the public, consideration will be given to immediate suspension of his licence. Such offences would include serious violent offences; all sex and indecency offences; and use of illicit drugs or excess alcohol whilst at work.

In the event that the allegation does not result in a prosecution, conviction or caution, full details regarding the circumstances of the case will be obtained from the police before making a decision regarding the restoration of the driver's licence. If there are reasonable grounds to suggest that the driver presents a risk to the travelling public, consideration must be given to revoking his licence.

A driver who has been the subject of more than one allegation of a sex offence (even if all allegations have not resulted a prosecution, conviction or caution) will normally have his licence revoked unless significant mitigation is provided.

4.2.15 Drivers admitting to sexual contact in a licensed vehicle

If a licensed driver is accused of a sexual offence by the police or other credible source and subsequently admits to having sexual contact with a passenger, consensual or otherwise, he will have his licence revoked.

This decision will be made regardless of whether or not the driver is charged, cautioned or convicted for any offence.

Unless there are exceptional circumstances, any application to be re-licensed will normally be refused.

4.2.16 Failure to advise the Council of convictions

It is a condition of licensing that a driver informs the Council of any convictions or

cautions he receives. Therefore, a more serious view will be taken if the driver has failed to declare a conviction or caution.

If, during the renewal of a licence, a DBS check or driving licence check reveals an undeclared conviction consideration will be given to refusing the renewal application. A further application will be refused for a period of at least 12 months unless the applicant can show new mitigating circumstances at which point the new applicant guidelines for the relevant offence will be applied.

Furthermore, if a licensed Hackney Carriage or PHV driver has been disqualified from driving and has not informed the Council, the renewal application will be refused unless the applicant can show new mitigating circumstances until a period equivalent to the period of disqualification has lapsed.

4.3 Hackney Carriage and PHV offences

4.3.1 Hackney Carriage offences

- § refusing to be hired without good reason
- § demanding more than the legal fare
- § abusive language
- § misbehaviour
- § plying for hire outside of licensed area*
- § failure to carry a copy of Hackney Carriage driver's licence*
- § failure to display badge*
- § failure to issue a receipt when requested
- § leaving a Hackney Carriage unattended on a rank*

4.3.2 PHV offences

The following are specific offences identified under PHV law:

- § failure to display badge (unless exempt)
- § failure to produce licence for inspection (within six days of request)

Whilst the majority of allegations of these offences will be the result of customer complaint, any driver receiving a conviction or caution for Hackney Carriage specific offences will result in his previous licensed history being examined. 'One off' offences will normally result in a warning letter being sent to the driver. A series of offences being committed will result in consideration of continued fitness to hold a Hackney Carriage driver's licence.

Specific guidelines for the offences marked * can be found in paragraphs 4.3.2 - 4.3.5 and 4.3.10.

Offences identified by police or Council officer's activity but not resulting in a conviction will be considered in a similar manner to a conviction.

4.3.3 Failing to display a Hackney Carriage or Private Hire Vehicle driver badge

All licensed drivers must display their badge whilst working.

In this context display means wear on the lapel or equivalent height or attach to the dashboard of the vehicle in such a position as to be clearly visible to passengers entering or seated in the vehicle.

A written warning will be the norm for a first offence of not displaying their badge. Unless there is significant mitigation, a second offence will result in a suspension for one month, and a third offence will result in revocation of the driver's licence.

If the driver is not wearing his badge because it has been lost or stolen and he has informed the Council, no further action is necessary. However, if the driver fails to inform the Council action as above will be considered.

4.3.4 Failing to wear PHV driver's badge

All PHV drivers must display their badge whilst working.

In this context display means wear on the lapel or equivalent height or attach to the dashboard of the vehicle in such a position as to be clearly visible to passengers entering or seated in the vehicle.

A written warning will be the norm for a first offence in the period of the current and preceding licence. Unless there is significant mitigation, a second offence will result in a suspension for one month, and a third offence in the same period will result in revocation of the driver's licence.

If the driver is not displaying his badge because it has been lost or stolen and he has informed the Council, no further action is necessary. However, if the driver fails to inform the Council action as above will be considered.

4.3.5 Leaving a Hackney Carriage unattended on a Hackney Carriage rank

Hackney Carriage ranks are appointed for the purpose of providing an identifiable place where the public can hire a Hackney Carriage. They also allow Hackney Carriage drivers to ply for hire without the need to drive around.

The drivers of the first two Hackney Carriages on any rank must be with their Hackney Carriages and available for immediate hire, and no Hackney Carriage will be left on a rank unless the driver is willing to be hired. Any Hackney Carriage driver who leaves his Hackney Carriage unattended on a rank is not only committing an offence but is also denying other drivers the opportunity to work.

As ranks are specifically for Hackney Carriages, there is no reason whatsoever for a

private hire vehicle to either park or wait on a rank. Any private hire driver doing so is at the very least committing a parking offence and their presence could also be interpreted as illegally plying for hire.

In taking steps to identify the driver it will be assumed that an owner-driver was driving his vehicle. If the vehicle is rented the vehicle owner will be approached and requested to identify the driver.

4.4 Complaints

4.4.1 Hackney Carriage drivers

There are a number of different types of complaint and depending within which category they fit results in them being investigated in different ways.

4.4.2 Private Hire

PHV regulations require PHV operators to record details of complaints made by customers in respect of service, vehicles and drivers, action taken and the outcome. In the first instance complainants are advised to make their complaint to the operator if they have not already done so. If this has been done and the complainant remains dissatisfied, the Council will investigate the operator's handling of the complaint.

In the most serious cases e.g. where the standard of behaviour falls far below that expected of a licensed PHV driver, or if it is not appropriate to refer the matter to the operator or other authority, the Council will carry out the investigation.

As with complaints about Hackney Carriage drivers, there are a number of different types of complaint and depending within which category they fit results in them being investigated in different ways.

4.4.3 Reviewing a driver's complaints record

The loss of a licence removes the driver's ability to work at their chosen profession, therefore suspension or revocation could be seen as disproportionate in respect of a single lapse in the standard of service provided.

At the conclusion of a complaint investigation, the licensee's complaints history will be examined. Isolated minor complaints will not give any cause for concern but if a driver has attracted a number of complaints (typically three within the preceding two years) the Council will review his fitness to remain licensed.

In all cases one of the following actions will result:

a) No further action

The history of complaints does not give any cause for concern or the complaint is deemed too trivial.

b) Warning

A pattern of poor behaviour or history of complaints has been identified, but not serious enough to warrant suspension or revocation at this stage. Dependent on the nature of the complaints, the warning can be made in writing or in person.

The opportunity can also be taken to provide advice and guidance on how the driver can improve their behaviour.

c) Suspension

The driver has demonstrated a pattern of poor behaviour or attracted further complaints since having been warned or previously suspended. If a driver has previously been suspended, a further, longer period of suspension can be considered as an alternative to revocation. The length of any suspension will be determined on an individual basis.

d) Revocation

The driver continues to demonstrate a pattern of poor behaviour or attracts further complaints despite having been warned or suspended.

At the conclusion of the investigation into any complaint of abuse or poor behaviour that was made by Council staff or our policing partners in the course of their work, the case will be referred to a Licensing Sub-Committee for a decision.

4.5 PHV Driver Dismissal Notices

PHV operators are required to advise the Council if a driver becomes unavailable by virtue of that driver's unsatisfactory conduct in connection with the driving of a PHV i.e. he is dismissed.

Receipt of all driver dismissal notices must be recorded and the driver's record updated.

A single occurrence of being dismissed will not normally result in any further action, but if a history or pattern of behaviour is evident then the driver's fitness to remain licensed must be reviewed.

4.6 Immediate suspension of licences

If it comes to notice that a licensed driver has been arrested, charged or cautioned for a serious offence which suggests he would be a danger to the public, consideration will be given to immediate suspension of his licence. Such offences would include serious assaults; rape, paedophilia and other serious sexual and indecency offences; and use of illicit drugs or excess alcohol whilst at work.

In assessing the action to take, the safety of the travelling public must be the paramount concern. If the driver is remanded in custody or subject to bail conditions which preclude him from working as a driver, appropriate disciplinary action will still be initiated.

Any decision by the Council to immediately suspend a licence until the outcome of criminal proceedings are known will be conveyed to the licence holder as soon as possible following the decision being made. This will involve the assistance of a Council officer who will either hand deliver the letter to the individual concerned or leave it at the registered office address of that Company. Recovery of the licence will only be pursued when it is considered safe to do so.

4.7 Return of licence following suspension/revocation

Except for medical reasons, a licence is suspended for a predetermined period and is returned on the expiry of the suspension. However in the case of revocation, the licensee loses all right to the licence and in order to become re-licensed the driver has to make a new application and has the same status as a new applicant.

In practice an application can be made at any time, but a new licence will not normally be issued until the applicant can show a suitable period free from further conviction. Each case must be considered on its merits and drivers **will not** be given a date when an application would be successful. The Council is unlikely however to give serious consideration to any application for re-licensing until after the minimum guideline periods as shown in Table 3 below.

Whenever a licence has been revoked because of criminal, driving or Hackney Carriage/Private Hire convictions, the applicant is to be warned as to the significance to his or her licence status if there is any reoccurrence at some time in the future before being allowed to proceed. A new licence will only be issued after all enquiries have been completed satisfactorily.

Table 3 – Guideline Minimum periods before re-licensing

Offence type		Period before re-licensing	
Sex & indecency	Outside employment	At least 7 years	
	In the course of employment	At least 7 years	
Violence	Outside employment	To be referred to sub-committee	
	In the course of employment	At least 2 years in addition to the guidelines at 3.3.13	
Dishonesty	Outside employment	At least 3 years*	
	In the course of employment	At least 5 years*	
Touting/Illegally plying for hire	First caution/conviction	1 year [†]	
	More than one caution/conviction	See guidelines at 3.3.22	
Drugs	First conviction	See guidelines at 3.3.18	
	More than one conviction	At least 2 years in addition to the guidelines at 3.3.18	
Driving under the influence of drink or drugs	Not involving use of a Hackney Carriage or PHV	first conviction	Disqualified - On return of DVLA driving licence
		more than one conviction	Not disqualified – after a period equivalent to the minimum period of disqualification a minimum of 1 year [‡]
	Involving Hackney Carriage or PHV	first conviction	1 year [‡]
		more than one conviction	3 years [‡]

Driving offences involving the loss of life	Outside employment In the course of employment	See guidelines at 3.3.19 At least two years in addition to the guidelines at 3.3.19
Other serious driving convictions		On return of DVLA driving licence or 1 year* whichever is the later.
Persistent serious Hackney Carriage offences (convictions and complaints) including:	Refusal Abusive language Misbehaviour Demanding more than the legal fare Plying for hire elsewhere Plying for hire outside of licensed area	3-5 years [†]
Knowingly working as an Hackney Carriage or PHV driver after expiry of licence		1 year [†]

* from date of conviction, [‡] from date of return of DVLA driving licence, [†] from date of revocation/refusal

NB Care must be taken not to regard these periods as rigid and they can be varied (i.e. shortened or lengthened) according to the merits of the particular case.

4.8 Medical fitness considerations

4.8.1 Hackney Carriage

Drivers are required to continue to satisfy the Council that they are medically fit to hold a driver's licence throughout their career. In assessing whether an applicant is medically fit, the Council will have regard to the medical standard that would apply in relation to a DVLA Group 2 licence.

Following the initial medical report at application stage, Hackney Carriage drivers are required to undergo a medical examination at the ages of 50, 55, 60, 65 and annually thereafter. If circumstances dictate, medicals may be required at such other times as may be considered appropriate.

In general the same standard of fitness is required as for new applicants and each case must be considered on its merits.

4.8.2 Private Hire

Drivers are required to continue to satisfy the Council that they are medically fit to hold a driver's licence throughout their career. In assessing whether an applicant is medically fit, the Council will have regard to the medical standard that would apply in relation to a DVLA Group 2 licence.

Following the initial medical report at application stage, PHV drivers are required to undergo medical examination at age 45 and subsequently on renewal until the age of 65 when these will be required annually. If circumstances dictate medicals may be required at such other times as may be considered appropriate.

In general the same standard of fitness is required as for new applicants and each case must be considered on its merits.

4.8.3 Diabetes

Annually the licensee will be required to:

- a) submit to the Council, for examination, their valid DVLA C1 category Group 2 licence; or
- b) provide a medical report from a hospital consultant specialising in diabetes confirming:
 - § that during the preceding 12 months the licensee has not suffered a hypoglycaemic episode requiring the assistance of another whilst driving; and,
 - § the licensee has a history of responsible diabetic control and is at minimal risk of a hypoglycaemic attack resulting in incapacity.

4.8.4 Retirement age

No specific retirement age is applied to drivers and subject to providing satisfactory medical evidence of continued fitness to drive and all other licensing criteria are met they can continue to be licensed.

4.8.5 Consideration of immediate suspension of licence

Where a licence holder appears to fail to meet the required medical standard he is to be invited to voluntarily surrender his licence pending clarification of his medical condition(s). Failure to do so will necessitate the Council considering formal immediate suspension action on the basis of safety of the travelling public.

The driver will be invited to present further (written) medical evidence on the medical condition(s) or issue. Should he fail to do so his fitness to remain licensed must be reviewed. Where evidence suggests that it would be dangerous to allow a driver to continue driving for even a short period, the Council will suspend the licence forthwith. The driver will be informed that the decision may be reconsidered if and when he provides further medical evidence.

If, having voluntarily surrendered his licence, a driver subsequently asks for it to be returned without having provided further medical evidence, the Council will refuse to comply with the request. The driver must be advised that the licence cannot be returned until such time as he can prove that he meets the medical standards.

If it is reported that a driver has collapsed at the wheel whilst driving, immediate steps must be taken to ensure that he does not drive again until medical clearance has been obtained. The driver's licence must be suspended as soon as possible and not restored until satisfactory medical evidence is produced by the driver.

4.8.6 Failure to provide medical evidence

When a driver fails to submit an age related or annual medical, the Council can no longer be certain that he remains medically fit to be licensed. If the driver fails to supply the necessary evidence following a reminder giving him 21 days' notice and due warning of the risk of not supplying the information, consideration must then be given to revoking his licence with immediate effect.

4.10 Action by other licensing authorities

In the event that a Hackney Carriage or PHV driver has an application refused or a licence suspended or revoked by another licensing authority, full details will be obtained from that authority including the date of the refusal, suspension or revocation and the reasons for it. Such information can be obtained under the provisions of section 31 the Data Protection Act 1988.

Consideration must be given to the information disclosed and if the driver no longer meets the standards to be licensed by the Council or there is any threat to the safety

of travelling public, consideration will be given to suspending or revoking his licence.

4.11 Debts/Bankruptcy

Any information received on issues of debt will be considered in determining fitness to remain licensed but will not solely give cause for the instigation of disciplinary action.

If the Council receives notification that a licensed driver has been made the subject of a Bankruptcy Restriction Undertaking (BRU) or Bankruptcy Restriction Order (BRO), this indicates that the conduct of the individual has been dishonest or blameworthy in some way. In this instance the driver must provide details of the BRU or BRO and consideration must then be given to his continued fitness to hold a licence.

4.12 Appeals against a decision to suspend or revoke a licence

Any public hire driver who is dissatisfied with the decision of the Council to suspend or revoke his driver's licence may, within the prescribed period, (21 days) appeal to the appropriate magistrates' court.

4.13 Renewals

A licence can only be issued when:

- § The Council has received notification from the DBS that the criminal record check has been undertaken; and
- § ~~if requested to do so,~~ the driver has submitted his DBS certificate for examination.

In the event that a driver fails to provide their DBS certificate when requested to do so, the licence renewal application will be treated as incomplete and discontinued.

4.14 Expired DVLA photo cards

DVLA photo cards are valid for 10 years after which they must be renewed.

However, as it is the photo card that expires not the driving licence, DVLA advise that a driver can continue to drive before a new photo card is issued as long as he:

- § has held a Great Britain or Northern Ireland licence issued since 1 January 1976 or another exchangeable licence;
- § is not disqualified from driving;
- § has not been refused a licence for medical reasons or for failing to comply with medical enquiries;
- § would not be refused a licence for medical reasons; and
- § keeps to any special conditions which apply to the licence.

As long as the driver meets the criteria above, the Council has no objection to a driver

continuing to work as a Hackney Carriage or PHV driver while he awaits the issue of a new photo card. However, an expired photo card must be renewed before a new Hackney Carriage or PHV driver's licence can be issued.

4.15 Late renewals

In the event of a driver submitting an application for renewal of his licence after the expiry of the previous licence there will be no guarantee of the immediate issue of a new licence. The driver may have to wait until all processes, including the return of a satisfactory DBS check, have been completed.

The new licence shall have effect from the date it is issued, not the date of expiry of the preceding licence or the date of application.

Any driver applying to renew his licence more than three months after the expiry of the preceding licence will not be afforded this privilege. In such cases the driver will be treated as a new applicant. This will require the driver to obtain a new medical examination and wait until all necessary checks have been completed before a licence can be issued.

Any driver who submits a renewal application after the expiry of his licence will be advised that he is no longer licensed and cannot work until a new licence is issued.

4.16 Drivers working after the expiry of their licence

It is an offence for a Hackney Carriage or PHV driver to work without a valid licence and any driver that continues to work after his licence has expired is also likely to invalidate his hire and reward insurance.

Any driver who fails to renew his licence will be advised in writing that his licence has expired and he is no longer permitted to work. The driver will be advised to submit a renewal application immediately. Alternatively, if the driver does not intend to renew he will be instructed to return his badge and expired licence.

In the event that a driver is found working post-licence expiry, he must be reported for the appropriate offence. Regardless of whether any prosecution follows, this information will then be taken into consideration when considering a subsequent renewal application.

It would be appropriate to re-license subject to a written warning if the offence was an isolated occurrence, there were genuine reasons for the driver failing to renew his licence, and he had renewed promptly previously. However, if a driver is found to be working:

- a) after having been warned that his licence has expired; or
- b) more than three months after his licence has expired,

consideration will be given to refusing his application.

4.17 Exemption from having to wear badge (PHV drivers only)

The Council has determined that exemption will only be granted when the nature of the service is such that:

- § to wear a badge presents a specific risk to the personal safety of the driver and/or passengers that would not be present (at least to the same degree) were a badge not to be worn;
- § the passenger specifically requests the driver to refrain from wearing the badge for the duration of the individual booking concerned having confirmed to their satisfaction the driver's licensed status and wearing a badge would significantly detract from the service provided.

There is no legal right of appeal against decisions to refuse exemption.

Where an exemption is granted, the driver must be issued with an exemption notice that he will carry at all times when working as a PHV driver.

4.18 Exemption from having to carry guide and assistance dogs

Sections 168 and 170 of the Equality Act 2010 require Hackney Carriage and PHV drivers to carry guide, hearing and other assistance dogs accompanying disabled people and to do so without any additional charge.

Drivers can only seek exemption from these duties on medical grounds. To apply for an exemption a driver must complete and submit the prescribed form.

The main reasons a Hackney Carriage or PHV driver may wish to apply for a medical exemption are if they have a condition, such as severe asthma, which is aggravated by contact with dogs; if they are allergic to dogs; or if they have an acute phobia to dogs.

Drivers must provide medical evidence to support their application. If a driver has severe asthma or a known allergy to dogs, they are likely to have a medical history and an appropriate medical specialist will hold relevant information about their condition. A driver's General Practitioner will only be approached as a last resort where no other alternatives are available.

If a driver has a chronic phobia to dogs, this would need to be supported by a report from a psychiatrist or clinical psychologist before a driver is granted an exemption.

Where an exemption is granted, the Licensing Team will advise the driver accordingly and issue him with an exemption. The Notice must then be displayed in the windscreen of the driver's vehicle.

Exemptions are not indefinite and the length of the exemption will be based on the medical need. The Notice of Exemption displays the expiry of the exemption and this will not exceed the expiry date of the driver's current licence. If the medical condition is not permanent a further exemption application must be submitted with the licence renewal application. If the driver's medical condition is permanent further exemption applications are not required but a new Notice must be issued with each licence.

Under section 172 of the Equality Act drivers can appeal to a magistrates' court against a decision to refuse an exemption within 28 days of the decision, therefore

any driver whose application is refused must be advised of his rights of appeal. The following Department for Transport publications provide full guidance in respect of considering exemption applications:

- § Carriage of Assistance Dogs in Hackney Carriages - Guidance for Licensing Authorities
- § Carriage of Guide, Hearing and other Assistance Dogs in Private Hire Vehicles - Guidance on the Duties, Medical Exemptions and Enforcement

4.19 Exemption from having to assist wheelchair users

Section 165 of the Equality Act 2010 will place a duty on the drivers of Hackney Carriages and PHVs that have been designated by the Council as wheelchair accessible to carry a passenger in a wheelchair and to do so without any additional charge. Drivers will also have a duty to assist the passenger get into and out of the vehicle and to give the passenger such mobility assistance as is reasonably required. This will normally involve the driver deploying the wheelchair ramps or other aid to loading a wheelchair and helping the passenger into the vehicle while the passenger remains in his wheelchair.

The Council can exempt a driver from these duties on medical grounds or on the grounds that his physical condition makes it impossible or unreasonably difficult for him to comply with the duties.

Section 165 has yet to come into force but since 1 October 2010 drivers have been able to apply for an exemption in advance of its enactment. To apply for an exemption a driver must complete and submit an exemption form. Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist (consultant) medical practitioner. It is therefore expected that evidence from a specialist will be provided with the exemption application.

In determining whether to issue an exemption certificate The Council will consider whether the evidence provided confirms that the driver is unable to safely complete one or more of the following tasks, giving due regard to the type of vehicle the driver will be driving:

- § securely erect wheelchair ramps (if applicable);
- § safely install a wheelchair and occupant into their vehicle (this may involve pushing a wheelchair up sloping ramps into the vehicle);
- § ensure the wheelchair and occupant are secure in readiness for the journey (this may require the driver to help the passenger to get out of the wheelchair and into a seat); and
- § reverse the entire process.

Where an exemption is granted, the Licensing Section of the Council will advise the driver accordingly and issue him with an exemption certificate and Notice of Exemption. Once section 165 comes in to force the Notice must then be displayed in the windscreen of the driver's vehicle whenever he is working.

Exemptions are not indefinite and the length of the exemption will be based on the medical need. The Notice of Exemption displays the expiry of the exemption and this will not exceed the expiry date of the driver's current licence. If the medical condition is not permanent a further exemption application must be submitted with the licence renewal application. If the driver's medical condition is permanent further exemption applications are not required but a new Notice must be issued with each licence.

Under section 167 of the Equality Act drivers can appeal to a magistrates' court against a decision to refuse an exemption within 28 days of the decision, therefore any driver whose application is refused must be advised of his rights of appeal.

4.20 Refund of licence fees

The PHV driver regulations make specific references as to when licence fees can be refunded. Although there are so similar requirements in Hackney Carriage regulations, the PHV principles can be applied to Hackney Carriage drivers.

A refund of the fee paid for the *grant of a licence* can be made where a driver's licence ceases to have effect (whether by revocation or otherwise) in the following circumstances:

- § the holder is no longer physically fit to hold the licence;
- § the licence is surrendered; or
- § the holder dies.

The request must be made in writing and accompanied by the licence and badge. The amount refunded will be in proportion to the number of whole **months** remaining on the licence.

5. Vehicle Licences - General Regulatory

5.1 Hackney Carriage

Applicants may be granted a licence if:

- § the vehicle conforms with statutory requirements,
- § the conditions set out in the licensing conditions and;

5.2 Private Hire Vehicles

The Council shall grant a licence in respect of the vehicle if the authority is satisfied.

- § that the vehicle is suitable in type, size and design for use as a private hire vehicle
- § is safe, comfortable and in a suitable mechanical condition for that use,
- § is not of such design and appearance as would lead any person to believe that

the vehicle is a Hackney Carriage.

There is no requirement for the owner of the vehicle to prove he is of good character.

6. Vehicle Licences - New Applicants

6.1 Name on the licence

Hackney Carriage and PHV licences will be issued in the name of the vehicle's registered keeper. The registered keeper can be a company or other entity. Where the application is for a Hackney Carriage licence and the registered keeper is a company or other entity, details of a person who will be responsible for the vehicle will be captured at the point of application.

6.2 Appeals

6.2.1 Hackney Carriage

Any applicant for a Hackney Carriage licence who is dissatisfied with the decision of The Council to refuse to grant him a Hackney Carriage licence may, within the prescribed period (21 days), appeal to the appropriate magistrates' court. If the applicant is not satisfied with the result he may appeal to the crown court.

6.2.2 Private Hire

Any applicant for a private hire vehicle licence who is dissatisfied with the decision of the Council to refuse to grant him a vehicle licence may, within the prescribed period (21 days) appeal to the appropriate magistrates' court. If the applicant is not satisfied with the result he may appeal to the crown court.

7. Vehicle Licences – Licence Holders

7.1 General

The aim is to protect the public interest by ensuring that Hackney Carriages and PHVs are properly maintained and owners comply with the statutory requirements and general standards expected of them.

Suspension and revocation of vehicle licences.

The Council may suspend or revoke, or refuse to renew a vehicle licence on any of the following grounds:

- § that the Hackney Carriage or private hire vehicle is unfit for use as a Hackney Carriage or private hire vehicle
- § any offence under, or non-compliance with, the provisions of the legislation by the operator or driver; or
- § any other reasonable cause.

Where the Council suspends, revokes or refuses to renew any licence under this Section 60 of the Local Government (Miscellaneous Provisions) Act 21976 it shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.

7.2 Breach of conditions (Hackney Carriage)

The conditions set out in the *Hackney Carriage Licensing Inspection Manual* are designed to ensure that an owner maintains his/her Hackney Carriages properly and complies with all the requirements of his licence. When proprietors neglect their obligations in this respect, action must be taken to remind them of their responsibilities and to apply uniform standards in all cases.

Each case must be dealt with on its merits and, whilst a warning may suffice in many cases, serious breaches or failure to heed an earlier warning may result in revocation or suspension.

Failure to comply with the conditions also affords grounds for refusal of subsequent Hackney Carriage licence applications. Such action will be considered if it is in the public interest to prevent an irresponsible proprietor from re-entering the trade.

7.3 Breach of conditions (PHV)

A PHV licence can only be suspended or revoked where either the vehicle is no longer fit for use as a PHV (i.e. it does not comply with conditions set out in the PHV Licensing Inspection Manual) or the owner has failed to comply with a condition of the licence.

Each case must be dealt with on its merits and, whilst a warning may suffice in many cases, serious breaches or failure to heed an earlier warning may result in revocation or suspension.

7.4 Appeals

7.4.1 Hackney Carriage

Any proprietor who is dissatisfied with the decision of the Council to revoke or suspend his Hackney Carriage licence may appeal, within the prescribed period (28–21-days), to the appropriate magistrates' court.

7.4.2 Private Hire

The holder of a PHV who is dissatisfied with the decision of the Council to revoke or suspend his PHV licence may appeal the decision of the Council to the appropriate magistrates' court within the prescribed period (21 days from the day on which that notice is served on the licence holder or owner). If the applicant is not satisfied with the result he may appeal to the crown court.

7.6 Exemption from having to display licence plate (PHV only)

In granting an exemption the Council will need to be satisfied that it is inappropriate for the plate to be displayed. Applicants must make their case in writing detailing the reasons for the exemption and include supporting evidence from customers.

In coming to a decision the following factors must be taken into consideration:

- § whether there are exceptional circumstances;
- § the nature of the work to be carried out;
- § the security of the passengers.

The decision to refuse to grant an exemption is final and there is no statutory right of appeal.

The exemption is only valid for the duration of the licence applied for, therefore a new exemption application must be made with each annual licence application.

No fee will be levied of an aforementioned exemption.

8. Operator Licences – General

8.1 General regulatory

If the Council is satisfied that an applicant meets the necessary requirements, it may grant a licence for five years in the terms applied for.

8.2 Requirement to be licensed

A private hire vehicle as a vehicle constructed or adapted to seat fewer than nine passengers which is made available with a driver for hire for the purpose of carrying passengers, other than a licensed Hackney Carriage or a public service vehicle.

8.3 Internet based booking platforms

With ongoing technological advancements, particularly in relation to mobile phone apps, companies have developed, or are in the process of developing, internet based platforms that put potential passengers in touch with licensed operators.

To fall within the definition of an operator the web based booking platform must be making provision for the invitation or acceptance of private hire bookings.

If an online booking facility is simply facilitating a booking by automatically linking potential clients directly to licensed private hire operators then an operator's licence will not be required. Such third party websites are only providing the front line IT aspects and the bookings are made directly with the licensed operators.

However, if the internet based booking platform proposes to take bookings online for private hire journeys and pass these bookings to licensed private hire operators then

an operator's licence may be required, and the entity once licensed, must comply with all the conditions under which the licence has been issued.

9. Operator Licences – New Applicants

9.1 Who is the licensee?

The Council will grant a PHV operator's licence to any individual, registered company or any unregistered business/firm or partnership considered fit and proper:

- § where the applicant is an individual the licence, if granted, will be issued in the name of that individual;
- § where the applicant is a registered company (or other body corporate) the licence, if granted will be issued in the name of that body;
- § where the applicant is an unregistered firm (two or more people trading in partnership) the licence, if granted will be issued in a name nominated by the firm in its application.

A PHV operator's licence does not entitle an individual (e.g. a single person operator) to drive a private hire vehicle. To act as a PHV driver the individual must obtain a PHV driver's licence. The regulations governing suitability to be a driver are quite distinct from those governing suitability to be an operator. It is quite feasible for an applicant to be granted a PHV operator's licence but refused a driver's licence.

9.2 Applications

An applicant must complete and submit an application form.

In addition, every person named in the application form must complete a personal declaration form.

In accordance with the regulations, applications and declarations must be signed in person. Applications cannot be made by proxy.

It is intended that originals of certificates connected with an application will be checked upon inspection of an operator's premises.

9.3 Declarations

The applicant for a licence or renewal or variation of a licence will be required to make a declaration that the information given on the form, and material provided, is true. If the declaration proves false or the material misleading, the licence, renewal or variation can be refused on the grounds that the person is not 'fit and proper'. Additionally, false information could lead to the suspension or revocation of any licence granted and to formal legal proceedings being initiated against the applicant.

9.4 Fit and proper person

In order for an individual to be licensed as a PHV operator, the Council will need to be satisfied that the individual applicant is 'fit and proper'.

In order for a company to be considered 'fit and proper', The Council will need to be satisfied that the individuals who make up that company i.e. the company secretary and the board of directors are themselves 'fit and proper'.

In order for an unregistered firm or partnership to be considered 'fit and proper', the Council will need to be satisfied that the individuals who make up that firm or partnership, i.e. the partners, are themselves 'fit and proper'.

To ensure that an applicant is a 'fit and proper person', the Council has established a number of criteria, or administrative rules, that the applicant will need to meet. Listed below are the administrative rules that the Council will follow in reaching decisions on applications for operator licences.

9.5 Administrative rules

Criteria for assessing operator licence applications:

- § **Convictions:** subject to the Rehabilitation of Offenders Act 1974 applicants must declare any convictions and supply a Disclosure and Barring Service (DBS) check against, where applicable, in respect of the applicant if an individual, all partners in a partnership or the director(s) and secretary of a company;
- § **Business repute:** applicants must declare whether they ever been made bankrupt and if so whether they have had a discharge from bankruptcy suspended for failing to co-operate with the Official Receiver. Applicants must also declare whether they have ever had a disqualification order under the Company Directors Disqualification Act 1986 made against them, thereby disqualifying them from being a director, or taking part in the management, of a limited company;
- § **Right of abode and to work:** if required, applicants must supply evidence of their right to work and reside in the United Kingdom (this will be according to the list of specified documents as listed in the Home Office publication 'Asylum and Immigration Act 1996 -Section 8 Prevention of Illegal Working - Guidance for employers');
- § **Previous applications:** if anyone named on an application has previously been refused an operator's licence or held an operator's licence which was suspended or revoked elsewhere in the country, he will be expected to provide details of the refusal, suspension or revocation upon application.
- § **Radio circuit:** if required, applicants must provide evidence that they have an appropriate radio licence and that the radio system used is in accordance with that licence;
- § **Insurance:** if required, applicants must provide evidence that they are complying with any insurance requirements with regard to their employees or the premises or the public where the operating centre has public access;

§ **Health and Safety:** if required, applicants must be able to show that they are complying with any requirements applicable to their premises, their staff or the public, e.g. environmental health, fire safety;

§ **Accounts:** if required, applicants must provide evidence that they comply with the requirements for audited or certified accounts; and, if applicable, provide evidence that the business is VAT registered or awaiting VAT registration.

9.6 Consideration of criminal history

A PHV operator is not an excepted profession under the Rehabilitation of Offenders Act 1974; therefore only unspent convictions will be taken into consideration when determining the fitness of an applicant.

In assessing an application for an operator's licence, the guidelines in respect of drivers within section 3.3 will be referred to. However, the relevance of the convictions to the licence applied for must be taken into consideration.

In making a recommendation as to whether an operator application will be refused or approved based on declared convictions the number of convictions per person and the total number of convictions recorded against the individuals that make up the operator also needs to be taken into account in the overall evaluation.

Ultimately, the overriding consideration in reaching a decision will be based on if the operator (namely the individuals which make up the organisation) can fulfil their roles and run the centre without posing any likely threat to the general safety of the public.

If a situation arises where an operator licence application from a registered company is likely to be refused solely on the declared convictions of one individual within the organisation, the application may still proceed if the applicant decides to withdraw the name of that individual. It would not be possible for applications from individuals or partnerships to be handled in this way.

To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. Some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

9.7 Business repute

In order to be considered 'fit and proper', individuals who make up the organisation will be expected to demonstrate that they have complied with other legal requirements connected with running a business and are of good business repute.

The following factors need to be considered collectively when assessing whether the applicant is of good business repute.

9.7.1 Bankruptcy

§ An applicant who is the subject of a Bankruptcy Restriction Order (BRO) or

Bankruptcy Restriction Undertaking (BRU) indicates that the conduct of the bankrupt has been dishonest or blameworthy in some other way. If a BRO or BRU has been made, the application will be referred for refusal.

- § The fact that an individual has been declared bankrupt is not sufficient in itself to refuse an application.

9.7.2 Company directorship

If an individual has been disqualified from being a company director, or from taking part in the management of a limited company, they can still set up as an operator in partnership or individually. However each application needs to be assessed on its own merits and the following points need to be taken into account:

- § The length of the disqualification from being a company director and the reasons and/or circumstances surrounding the disqualification.
- § The length of time since the disqualification and any subsequent period where they have demonstrated good business repute or been able to maintain a stable financial position.
- § The number of partners who have been disqualified: If both of the partners (or the majority of partners) have been disqualified then the application needs to be assessed carefully and may be refused if the partners are directly involved in the day to day running of the business.
- § If only one of the partners has been disqualified and they are not involved in the day to day running of the business then the application will be allowed to proceed.

9.9 **Right to live and work in the UK**

For each personal declaration it first needs to be ascertained if the individual needs to have the right to live and work in the UK in order to fulfil their role within the business. For instance a director, partner or company secretary does not necessarily need the right to live and work in the UK, as long as they are legally fulfilling their business role within the organisation.

- § If the person is directly involved in the day to day running of the operating centre (i.e. an individual applicant and company representative) then they must have the right to live and work in the UK;
- § If the individual has declared a UK home address and is involved in running the business then they must have the right to live and work in the UK;
- § Licences granted to single applicants whose leave to remain in the UK is time-limited must only be valid for the period for which they are entitled to work in the UK. In order for the licence to be extended (up to the maximum five years) individuals must produce further evidence to prove that they have the right to work in the UK. In the event that an operator does not have his licence extended, he will, on request, be given a refund of a pro-rata proportion of the grant of licence fee.

Applications where the individual's business role requires them to have the right to live and work in the UK, but they do not possess this right, will be refused.

9.10 Other PHV applications

If an individual has ever been involved with a PHV operator licence that has been subject to refusal, suspension or revocation it does not preclude them from having a further operator licence application considered.

In the first instance the Council will establish:

- § the date of the refusal, suspension or revocation;
- § the reason for the refusal, suspension or revocation;

If further investigation is necessary before a licensing decision can be made, the applicant will be asked to provide the following information:

- § the role and responsibilities the person had within the business at the time;
- § permission to approach any other licensing authority that has refused an operator's licence application or revoked or suspended an operator's licence.

If an individual's previous history whilst holding an operator's licence is such that there is a doubt that they can fulfil their roles in the business and run their operating centre without posing any likely threat to the general safety of the public, then the application may be refused.

9.11 Pre-licensing inspections

Once the applicant's good character, business repute and right to live and work in the UK have been established, and any previous PHV operator licence applications have been considered, the application will proceed to the pre-licensing inspection stage.

All proposed operating centres will be inspected by Council officers. As part of the inspection the applicant will be required to provide evidence that they comply with the remaining administrative rules i.e. insurance, radio licences (see below).

The officer will also verify that the applicant has in place:

- § a system of record keeping that complies with the Private Hire Operators Licence Conditions;
- § a system for handling complaints that complies with the Private Hire Operators Licence Conditions; and
- § a system for handling customers' property lost or found in vehicles.

9.12 Insurance

9.12.1 Employer's liability insurance

Under the terms of the Employers' Liability (Compulsory Insurance) Act 1969,

Employers' Liability Insurance (ELI) is a legal requirement for most employers.

Employers' liability cover enables businesses to meet the costs of compensation and legal fees for employees who are injured or made ill at work through the fault of the employer.

By law, an employer must have ELI and be insured for at least £5 million (most insurers automatically provide cover of at least £10 million).

Whilst the Council will check to ensure that PHV operators have the necessary insurance, the Health and Safety Executive is responsible for enforcing the law on ELI.

9.12.2 Public liability insurance

For any operating centre specified that is accessible to the public, the PHV operator must have an insurance policy against public liability risks which provides a minimum indemnity of £5 million in respect of any one event.

9.13 Radio Licences

Any PHV operator that communicates with its drivers by radio will be required to hold an appropriate licence issued by Ofcom (Office of Communications).

Licensed PHV operators cannot use CB radio apparatus in connection with a private hire booking at any operating centre or in any private hire vehicle available for carrying out bookings accepted at any such operating centre.

9.14 Pre-licensing inspection results

On completion of the inspection the officer will prepare an inspection report.

- § If **all** operating centres do not pass their licensing inspection then the application must be refused on the grounds that it failed to comply with the necessary requirements of the Private Hire Operator Licence Conditions..
- § If **not all, but one or more** operating centres do not pass their licensing inspection then the application may be 'approved, but not as applied for', with the failed operating centre(s) excluded on grant of the licence.
- § If **all** operating centres pass their licensing inspection then the application may be 'approved' in the terms applied for.
- § If **any** of the proposed operating centres have been specified in another licence or application that has been refused or revoked, then the Council may wish to take into account the reasons for that decision. If the decision was based upon public safety reasons that still exist then the application may be refused.

9.15 Considering an application - Summary

When considering an application for a licence, the overriding consideration in reaching a decision will be based on whether the applicant can fulfil his role without posing any

likely threat to the general safety of the public.

If an applicant is not considered 'fit and proper' the application must be refused.

As each case must be treated on its own merits, some discretion can be afforded. An application from an applicant who is considered 'fit and proper', but only after consideration of a declared criminal history for example, could be allowed to proceed subject to an appropriate warning rather than referring it for refusal.

Alternatively, if the Council is not completely satisfied as to the applicant's fitness, it can grant a licence subject to conditions.

9.16 Trading names

An operator is required to notify the Council of all names that they advertise to members of the public.

Any trading names that contain the words 'Hackney Carriage', 'Hackney Carriages', 'cab' or 'cabs', or any word so closely resembling any of those words as to be likely to be mistaken for it, are not acceptable as their use may be seen to be in contravention of the legislation. The words minicab(s), mini-cab(s), or mini cab(s) are acceptable.

There is no reason why the Council will not license operators who have trading names in a language other than English or contain non-English words. However, any such names will be translated into English by the applicant and such translation to be included in his/her application to ensure that they do not contain any of the words prohibited by the legislation.

9.17 Appeals

Appeals against The Council's decision must be lodged with a magistrates' court no later than 21 days from the date the applicant is notified of the refusal.

9.18 Outstanding Costs

Following an unsuccessful appeal against a decision by the Council to refuse, suspend or revoke a licence, it is likely that the operator/applicant will be ordered by the court to pay the Council's costs.

As part of any fresh application to be licensed an operator/applicant is required to declare any outstanding licensing debt. The Council cannot refuse an application on the grounds of outstanding costs not connected with that application. However, the Council will apply all monies received from the applicant to discharge any outstanding debts. Only when all licensing debts are paid to the Council will the Council treat monies received as part of the application fee. Until the application fee is paid in full repayment of previous debts the Council will treat the application as incomplete and decline to process it.

Therefore, in the event that the operator/applicant submits a further application to be licensed before all outstanding costs have been paid, the application will not be processed. Furthermore, all monies accompanying that application will be kept and off-set against the outstanding debt.

Only when the debt is fully discharged **and** the application fee is provided in full will the application be processed.

10. Operator Licences - Licence Holders

10.1 General

Once licensed, individuals who make up the organisation holding the licence will be expected to demonstrate that they remain 'fit and proper' to hold the licence and that they continue to comply with all legal requirements and the Private Hire Operators Licence Conditions connected with running a business.

The overriding consideration in determining an operator's continued fitness to hold the licence will be based on whether he/she can continue to fulfil his/her role and run his/her operating centre(s) without posing any likely threat to the general safety of the public.

Consideration to revoke a licence will never be considered lightly. However, the licensing system is designed to protect the public and it would be wrong to avoid this course of action where it is clearly appropriate.

10.2 Suspensions and Revocations

If the Council determines that a licensed operator is no longer fit to be licensed, it can either suspend or revoke the licence.

If The Council cannot be satisfied that the operator is providing or in a position to provide a safe service, then the licence may be suspended or revoked with immediate effect in the interest of the safety of the travelling public. Examples of this may include operators who have been convicted of a serious criminal offence or have demonstrated they are using un-licensed drivers and vehicles, or vehicles with no insurance.

In practice the suspension of an operator's licence is rarely practicable as once the licence is suspended and the operator is no longer able to lawfully accept bookings, their licensed private hire drivers and customers move on to a different licensed operator. In reality the operator, whilst still holding an operator's licence (albeit a currently suspended one) no longer has a 'business' to operate, and by the time a suspension is completed the operator has effectively lost his business.

Therefore, as a period of suspension for an operator (however short) has the same impact as a revocation the option to revoke is likely to be taken in all cases.

10.3 New convictions

Any person associated with the licence is required to inform the Council within 14 days if they are convicted of any offence.

Action taken in respect of new convictions coming to attention will depend upon:

- § the seriousness of the offence(s);
- § whether conviction was incurred in the course of the role as an operator;

- § any previous criminal history;
- § any earlier warnings; and
- § promptness of advising the Council

When considering what action to take, the Council may consider:

- § revocation;
- § suspension
- § written warning;
- § no further action

In assessing an operator's continued fitness to hold a licence the guidelines in respect of drivers within paragraph 4.2 will be referred to. However, the relevance of the conviction(s) to an operator's licence must be taken into consideration.

In serious cases resulting in imprisonment, the revocation of the licence could follow. However, where an offence is less serious; mitigating circumstances are introduced; or the offence appears out of character a written warning could be considered appropriate.

To summarise, incurring a criminal conviction (whilst licensed) would not automatically result in the revocation a licence, but the overriding consideration is the protection of the public and any decision will be based on whether the operator (i.e. the individuals which make up the organisation) can fulfil their roles and run the centre without posing any likely threat to the general safety of the public.

10.3.1 Touting

Section 167 of the Criminal Justice and Public Order Act 1994 created the offence of 'touting', in a public place, to solicit persons to hire vehicles to carry them as passengers. The Council takes a serious view of licensed operators who have been convicted for touting, and operators that use touts or encourage the practice of touting.

Should a licensed operator, or an individual associated with an operator's licence be convicted of touting then revocation of the licence will most likely follow.

The fitness of an operator to remain licensed may also come under scrutiny if any of their drivers or other employees are convicted or cautioned of touting and they were found to be acting under the operator's instructions at the time.

10.4 Business Repute

10.4.1 Bankruptcy

There is nothing in law to prevent a bankrupt from being self-employed and running their own business, therefore if the Council receives notification that an individual

holding a licence has been declared bankrupt there is no need to review their fitness to hold a licence.

If the Council receives notification that the holder of a licence has been made the subject of a Bankruptcy Restriction Undertaking (BRU) or Bankruptcy Restriction Order (BRO), this indicates that the conduct of the individual has been dishonest or blameworthy in some way. In this instance the licensee must provide details of the BRU or BRO to allow consideration of his continued fitness to hold a licence.

A bankrupt person cannot be a director of a limited liability company. Therefore, in the event that the sole director of a licensed operator that is a limited liability company is made bankrupt, the company would be left without a director. In these circumstances, the fitness of the operator would need to be reviewed.

10.4.2 Disqualification from running a limited company

Any person associated with an operator's licence and who is subsequently disqualified from being a company director or from taking part in the management of a limited company will need to have his fitness to hold a licence re-assessed. This is regardless of whether the disqualification arose from a conviction or a County Court Judgement.

Factors to take into account when considering the information will be:

- § the length of the disqualification;
- § the reasons for/circumstances surrounding it; and
- § the person's role within the business.

Upon receipt of this information their continued fitness to hold the licence will be reviewed, regardless of their role within the business and whether the licence is held by an individual, partnership, or a limited company.

10.4.3 Liquidated and Dissolved Companies

Having established with Companies House that a company holding an operator's licence has been liquidated or dissolved, a letter will be sent to the nominated representative of the company seeking the return of the licence as the company is no longer able to trade (in the event that a liquidated company is allowed to continue to trade the nominated representative must provide a letter from the Insolvency Practitioner confirming this).

If the licence of a dissolved company is not surrendered to the Council the licence will be formally revoked.

If a new application is submitted by the former directors of the dissolved/liquidated company, it will be processed as a new application. The fact that an individual has been associated with a company that has gone into liquidation or been dissolved will be taken into account when considering their new application although it will not necessarily preclude them from being granted a new operator's licence.

Factors that may be taken into consideration when considering the new application are whether the individuals concerned informed the Council of the liquidation or dissolution within the required time and whether they returned the licence when asked to do so.

If an individual has failed to notify the Council and/or return their licence, they will be sent an appropriately worded warning letter, but the new application will still be allowed to proceed. Where appropriate, the warning letter will inform the recipient that the licence of the dissolved/liquidated company may be revoked unless it is returned to the Council.

If the directors of the dissolved company can demonstrate that they are seeking the restoration of the company to the register, any licensing action will be delayed pending the result of the restoration application. Nevertheless, the company cannot trade while seeking restoration and the licence must still be surrendered.

If the company is restored to the Companies House register, the licence may be returned to the operator after it has passed a licensing inspection.

10.5 Change of/acquisition of new operating centre

If an operator wishes to change the address of an operating centre or add an operating centre to his licence he must submit a variation application form. Arrangements will be made for the new operating centre to be inspected before the licence is changed. A licence will not be varied to add reference to a new centre until that centre has been approved by an officer following an inspection. The operator must **not** begin trading from the new address until it has been included on his licence.

If an operator is found to be trading from an operating centre not specified in his licence he will be reported, told to cease trading from that premises and submit a variation application immediately. In most cases this will not preclude the variation application being considered favourably. However, if an operator is found trading from a nightclub or other late night venue (see section 10.15) that is not specified as an operating centre in his licence any subsequent application to vary the licence to include that centre will be refused.

If the Council becomes aware that an operator has started trading from a centre not on his licence on more than one occasion, consideration will be given to revoking his licence.

If, having been told to cease trading, an operator continues to trade from the unlicensed premises and fails to submit a variation application within 14 days of the visit from an officer, consideration will be given to revoking the licence.

10.6 Removal of an operating centre

As all centres specified on an operator's licence will be subject to regular compliance inspections, it is vital that an operator keeps his licence up to date by arranging for any premises that he has stopped operating private hire vehicles from, to be removed from his licence. This is done by submitting a licence variation application together with the appropriate fee.

Upon receipt of the new varied licence the operator will be asked to return all copies of the previous version of the licence to the Council.

If the Council establishes that an operator has failed to notify it that he has ceased trading from an address specified on their licence (yet is still operating from other specified addresses) the Council will invite the operator to submit a variation application. If no variation is received within 14 days of the form being sent, the Council may take action by way of an imposed variation to the licence.

If the operator has previously had a centre removed from his licence for failing to notify the Council that he is no longer operating from that premises, then consideration will be given to the revocation of the licence.

10.7 Someone other than the licensee trading at an operating centre

If someone other than the entity specified on the operator's licence is operating from an operating centre, a check will be made as to whether the entity trading from there already holds a PHV Operator's Licence at another address.

If the operator does hold a licence at another address, but requires this address to be added to their licence they will be provided with a new variation application form.

If they do not hold a licence the operator will be reported for trading illegally.

The operator who is licensed for the premises will be referred to the Council for the revocation of the licence on the grounds that the holder has moved from their operating centre address without notifying the Council.

10.8 Operators whose whereabouts are unknown

10.8.1 Small operators

If it is established that a 'small' licensed operator has moved from the address specified on his licence and no other address can be found for them, the Council driver and vehicle records will be checked to see whether it has already been notified of the change of address of that individual (most small operators are also licensed drivers and/or vehicle licensees and may have already informed us in one of those capacities). If there is a record of a change of address, the operator will be invited to complete a variation form.

If no other address can be established for them consideration will be given to revoking the licence on the grounds that the Council cannot be sure that the operator is complying with the Act and associated regulations or is in a position to provide, a safe service to the public.

10.8.2 Standard operators

If it is established that a 'standard' licensed operator has moved from their operating centre address without notifying the Council and no further details of his whereabouts are known, consideration will be given to revoking the licence.

10.9 Small operators becoming standard operators

An applicant for a PHV Operator's licence may elect to be a 'small' or 'standard' operator. A 'small' operator can have no more than one private hire vehicle available to him for carrying out bookings accepted by him at all of the operating centres specified in his licence.

The holder of a 'small' operator's licence must apply for and obtain a 'standard' licence before he can legally have two or more private hire vehicles available to him for carrying out private hire bookings.

Once the 'standard' licence has been granted the regulations allow the Council to issue a refund for a proportion of the fee paid for the grant of the 'small' operator licence. In accordance with the regulations, such a refund will only be remitted upon receipt of a written request from the operator, accompanied by the return of the 'small' operator licence.

If the holder of a 'small' operator's licence fails a licensing inspection on the grounds that he is operating more than two vehicles, he is in breach of a condition of his licence. At this point consideration will be given to revoking their licence. However if the operator makes a fresh application within seven days of the failure notice the new application will be allowed to proceed with a warning and the file will not need to be referred.

10.10 Change of entity

PHV Operator licences are not transferable from one person (legal entity) to another. Any operator that wishes, for example, to change from being an individual to a limited company must submit a new application for a licence under this new entity. In this instance the operator must continue to trade as an individual until they have obtained an operator's licence as a limited company.

Should an operator change entity but fail to obtain a new licence and surrender the now redundant licence, consideration will be given to revoking the redundant licence on the grounds that the entity to which the licence was issued is no longer operating PHVs and the licence has not been surrendered. Operators found to be trading under an invalid licence may face prosecution and the revocation of that operator licence.

10.11 Death of a licensed operator

If an operator who holds a licence as an individual dies during the life of the licence, the Council can allow another person carrying on the business of the operator to be treated as if he were the operator for a period of up to 6 months. A temporary licence will be issued in that person's name.

This means that subject to submitting a copy of the deceased person's death certificate, the new person will be issued with a temporary licence and thereafter may act as the operator for a maximum period of six months from the date stated on the Council's direction. Shortly after the new person has been allowed to take over the licence, a compliance inspection will be undertaken to ensure that they are meeting the regulatory requirements. Should the new individual wish to carry on the business beyond the six month limit they will need to have applied for, and obtained, another

operator's licence. Upon the expiry or withdrawal of the direction, both the direction and the licence specified on it, will need to be returned to the Council within 7 days.

10.12 Temporarily cessation of trading

The Council will consider putting an operator's licence 'on hold' providing that the licence is returned to the Council for safe-keeping, the holder notifies us of his intentions towards his licence in writing, and agrees to comply with the following conditions:

- a) confirm in writing that they undertake not to accept private hire bookings whilst the licence is on hold;
- b) confirm the address where their private hire operator records will be kept and made available for any inspection required; and
- c) confirm in writing that they will continue to comply with any conditions of the licence, or any other obligations imposed on them, that are still be applicable to them during the period that the licence is on hold (while the licence is 'on hold' the operator is required to comply with these conditions for the entire period they are not trading).

Only requests to put the whole licence on hold will be considered. It is not permissible to put individual operating centres on hold.

Allowing operators to put their licences on hold is primarily aimed at sole operators who are temporarily unable to trade e.g. sickness, prolonged absence from the UK. Licenses will not be put on hold purely for commercial reasons e.g. trade is slack and the operator wishes to follow some other pursuit; or the operator is failing to meet regulatory licensing requirements. However, where there are exceptional circumstances e.g. an operator is forced to leave their premises, the licence may be put on hold until such time as the operator is able to resume trading. Such action will always be treated as temporary and regular checks will be made with the operator to establish when they intend to resume trading.

When the licensee is ready to resume trading he will ask for the return of his licence and once he has resumed trading, a compliance inspection will be undertaken at the earliest opportunity. If the licensee resumes trading without first informing the Council and having his licence restored, he would be trading illegally and risks prosecution.

Should the licensee wish to resume trading from a different address to that specified on the licence, they must first submit a request in order to obtain a variation to the licence. As part of that process, a licensing inspection will need to be carried out at the new address, prior to the return of the licence.

In the event that the licence expires while it is on hold, the operator will need to submit a new application. The practice of putting a licence on hold does not extend the life of the licence.

10.13 Compliance visits

The Council has a duty to check that all licensed operators are complying with

regulations and meeting the conditions and obligations of their licences. For the most part, this duty is discharged by way of compliance inspections carried out by Council officers.

In the event that a compliance inspection reveals that the operator fails to meet the required standard, the officer will issue a notice which identifies the reasons.

Any operator who fails to meet the required standard could face the revocation of his licence or removal of one or more operating centres from the licence.

The Council considers that the findings of the compliance inspection are so serious that a risk is posed to the safety of the travelling public then consideration will be given to revoking the licence. Examples of this may include an operator having failed to demonstrate that he is using licensed drivers and vehicles, and vehicles without valid hire and reward insurance policies.

In instances where more minor failings are identified a written warning would be more appropriate.

10.14 Refund of licence fees

In order to qualify for a refund an operator must meet all of the following conditions:

- a) he has ceased trading at all the centres on his licence or any reason other than the revocation of his/her licence;
- b) he has transferred some or all of his business to another operator; and
- c) the operator taking on the business must be licensed to trade from the premises before the date of the transfer.

The only other circumstances when a refund can be granted is when a small operator becomes a standard operator.

The size of any refund will be based on the number of full years remaining on the licence.

Refunds cannot be granted when an operator ceases trading due to ill health or simply chooses to retire during the life of his licence.

10.15 Complaints

10.15.1 Complaints handling

Responsibility for reviewing a licensee's fitness in the light of complaints and any consequent suspension or revocation action remains with the Council.

Complaints about PHV operators that the Council is able to pursue are those that relate to breaches of licensing regulations and Private Hire Operators Licence Conditions.

Complaints about the service provided by PHV drivers working for the operator must not be confused with complaints about the operator. In all such instances the

complainant must be advised to report the complaint to the operator in the first instance.

10.15.2 Reviewing an operator's complaints record

The loss of a licence removes the operator's ability to work and can also put innocent drivers out of work, therefore revocation could be seen as disproportionate in respect of a single lapse in meeting the licensing conditions. However, the Council does monitor operators' behaviour and if an operator attracts a number of complaints then his fitness to remain licensed is reviewed.

At the conclusion of a complaint investigation, the licensee's complaints history will be examined. The following actions may result:

a) No further action

There is no pattern or history of complaints.

b) Warning letter

A pattern or history of complaints has been identified, but not serious enough to warrant revocation at this stage.

c) Revocation

Where a pattern of complaints has been identified and where warning(s) have already been issued.

10.18 Use of the term 'Hackney Carriage' etc. in advertisements

10.18.1 General

A licensed PHV operator must not use the terms 'Hackney Carriage', 'Hackney Carriages', 'cab' or 'cabs' or any word so closely resembling any of those words as to be likely to be mistaken for it, in any advertisement that invites bookings at a particular address or using a particular telephone number registered to that address.

In the event that a licensed PHV operator uses one of these terms in its advertising, he will be written to advising that he is breaching the regulations. If the operator fails to heed the advice he will be warned that continued breach could result in his licence being revoked.

If the operator fails to heed the warning, consideration will be given to revoking the licence.

Appendices

Appendix A The Rehabilitation of Offenders Act, 1974

1. The Rehabilitation of Offenders Act, 1974, enables criminal convictions to become 'spent', or not taken into account, after a 'rehabilitation period'.

A rehabilitation period is a set length of time from the date of conviction. After this period, with certain exceptions, an ex-offender is not normally obliged to mention the conviction when applying for a Hackney Carriage driver's licence or when involved in criminal or civil proceedings.

2. However, Section 7(3) of the Act affords the opportunity to consider 'spent' convictions if the Council is satisfied that an application cannot be properly considered unless account is taken of those convictions that could relate directly to an individual's fitness to hold a licence.
3. This power will not be used lightly and blanket inclusion of all 'spent' convictions in the consideration process is usually not appropriate. The decision to take into account any 'spent' convictions must be supported by a justifiable reason and that reason must be put forward to the Council.
4. Should particular 'spent' convictions play a part in the consideration process the applicant will need to be advised of this, if the application be refused, in the letter of notification.
5. 'Spent' offences which would be appropriate to be considered by the Council, or courts, in an application for a licence will include:
 - § all types of sexual/indecency offences;
 - § convictions for aggravated assault;
 - § offences involving drugs (either supply or personal use);
 - § offences of dishonesty which show a degree of sophistication of execution, premeditation or are carried out over a lengthy period;
 - § a number of serious road traffic offences;
 - § more than one drink/drive offence.

The protection and safety of the fare paying passenger and the public at large will be the overriding consideration in determining whether a 'spent' conviction(s) will be considered.

6. The length of the rehabilitation period depends on the penalty imposed - not the offence committed. For a custodial sentence, the length of time actually served is irrelevant: the rehabilitation period is determined by the original sentence given.

Sentences of more than 2½ years can never become 'spent'.

Other sentences become 'spent' after fixed periods from the date of conviction:

a sentence of imprisonment or preventative detention over 2½ years (and equivalents for young offenders)	convictions can never be spent
a sentence of imprisonment between 6 months and 2½ years	10 years*
a sentence of imprisonment of 6 months or less	7 years*
a fine or community service order	5 years*
a conditional discharge, bind over, probation, supervision or care order	1 year from date of conviction or the date when the order expires whichever is the longer
an attendance centre order	1 year after the order expires
an absolute discharge	6 months
a hospital order	5 years or 2 years after the order expires

Notes:

- i) All figures marked * above, are halved for individuals convicted when under the age of 17 years.
- ii) The rehabilitation periods relate to the sentence imposed by the court, even if it is a suspended sentence, not the time spent in prison.
- iii) For the purpose of calculating the date a conviction becomes 'spent' the start is from the date of conviction.
- iv) If a further conviction is accrued before an earlier one is 'spent', the earlier conviction remains 'live' until the latest conviction is 'spent'.

Rehabilitation Periods for Young Offenders

In addition to sentences quoted above, the following may apply:

- | | | |
|---|------------------------------------------------------|---------|
| § | a sentence to a borstal (abolished in 1983) | 7 years |
| § | a sentence to a detention centre (abolished in 1988) | 3 years |

Appendix B Sex Offenders Register

What is the Sex Offenders Register?

The Sex Offenders Register contains the details of anyone convicted, cautioned or released from prison for sexual offences against children or adults since September 1997, when it was set up.

The offences that result in a person being placed on the register are listed in Schedule 3 of the Sexual Offences Act 2003.

The register, which is run by the police, is not retro-active, so does not include anyone convicted before 1997. There are around 29,000 people on the register in the UK.

How long do offenders remain on the register?

It depends on the sentence:

Sentence	Period on the Sex Offenders Register
Imprisonment for 30 months or more	Indefinite*
Admitted to hospital subject to a restriction order	Indefinite [†]
Imprisonment for more than 6 but less than 30 months	10 years* (or 5 years if under 18)
Imprisonment for 6 months or less	7 years* (or 3½ years if under 18)
Admitted to hospital without being subject to a restriction order	7 years* (or 3½ years if under 18)
Caution	2 years [‡] (1 year if under 18)

* from date of conviction

† from date of finding

‡ from date of Caution

Appendix C Evidence to support the right to work in the UK

List A

Documents which establish ongoing entitlement to work in the UK

1. A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.
2. A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of the European Economic Area or Switzerland.
3. A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office, Border and Immigration Agency or UK Border Agency to a national of a European Economic Area country or Switzerland.
4. A permanent residence card issued by the Home Office, Border and Immigration Agency or UK Border Agency to the family member of a national of a European Economic Area country or Switzerland.
5. A Biometric Immigration Document issued by the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
6. A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.
7. An Immigration Status Document issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
8. A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents, **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
9. A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

10. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland, **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
11. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
12. A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
13. A letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

List B

Documents which indicate restricted entitlement to work in the UK

1. A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit.
2. A Biometric Immigration Document issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
3. A work permit or other approval to take employment issued by the Home Office, Border and Immigration Agency or UK Border Agency **when produced in combination with** either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or the employer or prospective employer confirming the same.
4. A certificate of application issued by the Home Office, Border and Immigration Agency or UK Border Agency to or for a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old **when produced in combination with** evidence of verification by the UK Border Agency Employer Checking Service.

5. A residence card or document issued by the Home Office, Border and Immigration Agency or UK Border Agency to a family member of a national of a European Economic Area country or Switzerland.
6. An Application Registration Card issued by the Home Office, Border and Immigration Agency or UK Border Agency stating that the holder is permitted to take employment, **when produced in combination with** evidence of verification by the UK Border Agency Employer Checking Service.
7. An Immigration Status Document issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question, **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
8. A letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

Source: www.ukba.homeoffice.gov.uk

Appendix D Filtering rules for criminal record check certificates

For those 18 or over at the time of the offence:

An adult conviction will be removed from a DBS criminal record certificate if:

- § 11 years have elapsed since the date of conviction; **and**
- § it is the person's only offence; **and**
- § it did not result in a custodial sentence.

Even then, it will only be removed if it does not appear on the list of offences relevant to safeguarding. The list of offences that will never be filtered is available on the DBS website at www.dbs.gov.uk.

If a person has more than one offence, then details of all their convictions will always be included.

An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

For those under 18 at the time of the offence:

- § The same rules apply as for adult convictions, except that the elapsed time period is 5½ years
- § The same rules apply as for adult cautions, except that the elapsed time period is 2 years.

Source: www.gov.uk/dbs

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**Epping Forest
District Council**

**PUBLIC HIRE LICENSING
GUIDANCE ON DECISION MAKING**

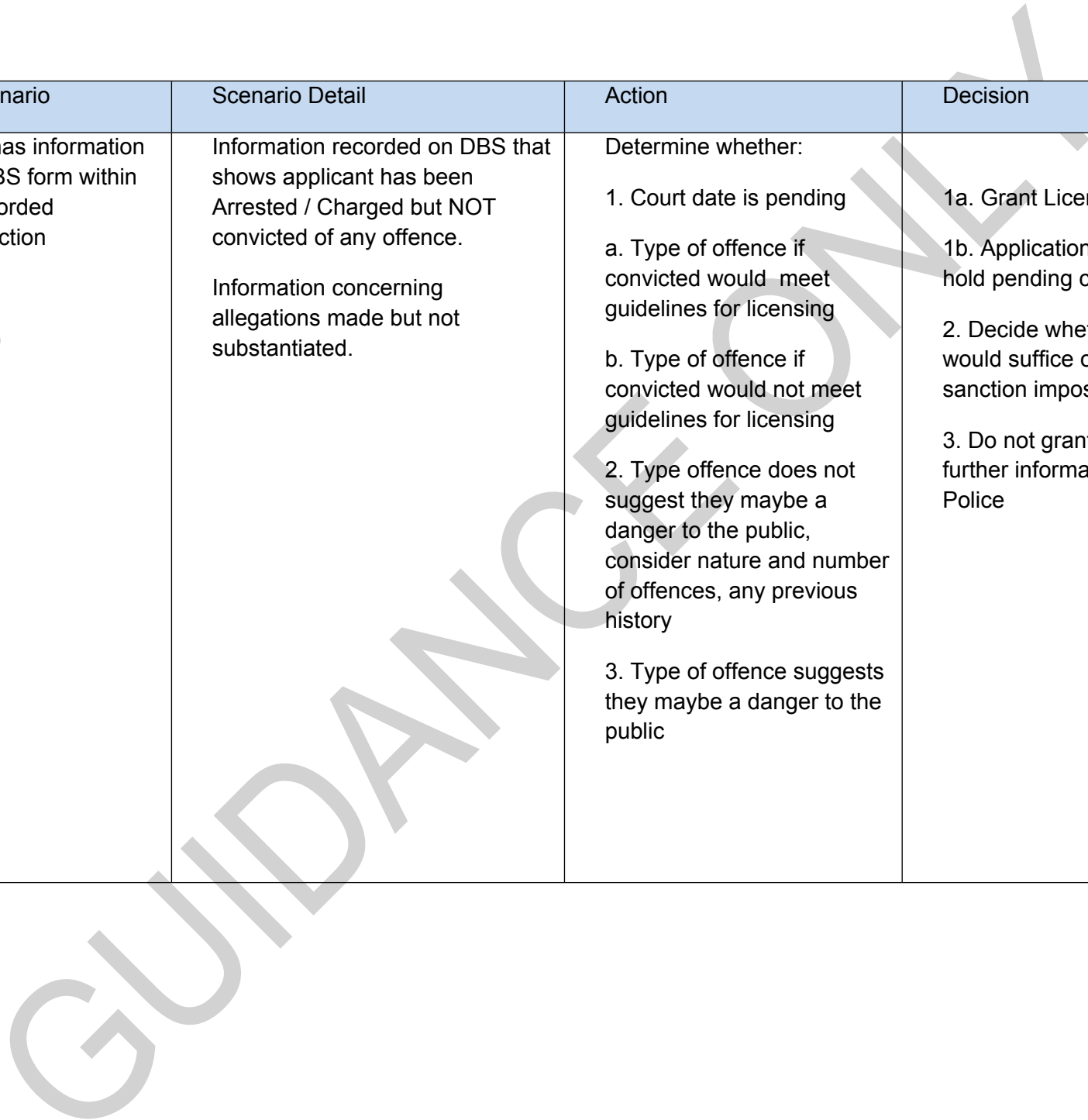
The following document is to be used for the guidance of Members and Officers in reaching a decision.

None of the suggested courses of action are to be deemed binding and each case must be treated on its own merits.

Officers are reminded that where a decision could be seen as controversial or involve long term loss of employment or at the request of the applicant, the decision must be referred to a Licensing Sub-Committee

High Level Scenario	Scenario Detail	Action	Decision
<p>The applicant has received a custodial sentences for any offence(including suspended sentences).</p> <p>(new applicant)</p>	<p>Court has imposed a custodial sentence, for any type of offence & sentence is still current.</p>	<p>If sentence is still current, irrespective of 'early' release the application should be refused.</p> <p>If sentence is no longer current refer to specific business rule for offence type below.</p>	<p>Application Refused.</p>
<p>The applicant has received a simple or conditional caution</p> <p>(new applicant)</p>	<p>Excludes these Offence Types:</p> <p>major & serious violent offences sexual offences touting driving offences public hire vehicle offences</p>	<p>Consideration should be given to:</p> <p>the nature of the offence the time passed since the offence the outcome of the matter</p>	<ol style="list-style-type: none"> 1. More than 1 caution in last 12 months refuse 2. Up to 3 cautions in last 6 years grant licence with a warning 3. More than 3 cautions in last 6 years refuse 4. Cautions over 6 years old grant licence

High Level Scenario	Scenario Detail	Action	Decision
<p>The applicant has information recorded on DBS form within the “Other Recorded Information” section</p> <p>(new applicant)</p>	<p>Information recorded on DBS that shows applicant has been Arrested / Charged but NOT convicted of any offence.</p> <p>Information concerning allegations made but not substantiated.</p>	<p>Determine whether:</p> <ol style="list-style-type: none"> 1. Court date is pending <ol style="list-style-type: none"> a. Type of offence if convicted would meet guidelines for licensing b. Type of offence if convicted would not meet guidelines for licensing 2. Type offence does not suggest they maybe a danger to the public, consider nature and number of offences, any previous history 3. Type of offence suggests they maybe a danger to the public 	<ol style="list-style-type: none"> 1a. Grant Licence with warning 1b. Application to be placed on hold pending court outcome 2. Decide whether a warning would suffice or a sterner sanction imposed 3. Do not grant but request further information from DBS/ Police



High Level Scenario	Scenario Detail	Action	Decision
<p>Conditional or Absolute Discharge</p> <p>(New applicant)</p>	<p>The offence committed is likely to lead to the refusal of application of the licence.</p> <p>Excludes these Offence Types:</p> <p>major & serious violent offences sexual offences touting driving offences phv / taxi offences</p>	<p>Consideration should be given to the nature of the offence, the time passed since the offence and the outcome of the matter.</p>	<ol style="list-style-type: none"> 1. More than 1 Conditional / Absolute Discharge in last 12 months refuse 2. Up to 3 Conditional / Absolute Discharge's in last 6 years grant licence with a warning 3. More than 3 Conditional / Absolute Discharge's in last 6 years – refuse 4. Conditional / Absolute Discharge's over 6 years old grant licence
<p>A series of offences over a period of time</p> <p>(i.e. Criminal record identifies multiple offences having been committed)</p> <p>(new applicant)</p>	<p>Excludes these Offence Types:</p> <p>Major Violent Offence Sexual Offences Driving Offences</p>	<p>Subcommittee to decide if applicant is a fit and proper person to hold a licence based on the number and nature of offences.</p>	<ol style="list-style-type: none"> 1. Grant 2. Refuse 3. Conditional grant
<p>Major Violent Offence</p> <p>(new applicant)</p>	<p>Murder Manslaughter Culpable homicide whilst driving Terrorism offences Any similar offences</p>	<p>Irrespective of when offence occurred the application should be refused</p>	<p>Application Refused</p>

High Level Scenario	Scenario Detail	Action	Decision
Serious Violence, Immigration and Trafficking Offences (new applicant)	Arson Threats to Kill Wounding with intent to cause GBH GBH ABH that is racially aggravated Robbery Aggravated Burglary Racially aggravated criminal damage Racially or religiously aggravated threatening/disorderly behaviour Riot / Violent Disorder & Affray Trafficking People for Exploitation Any immigration offence Any similar offences	Determine whether 7 years free of conviction or 3 years after completion of term of imprisonment, whichever is greater. Add 2 years to above if offence incurred in the course of employment as a Public Hire Driver	If yes grant a licence with warning If no refuse application
Lesser Violent Offence (new applicant)	Common assault ABH Assault with intent to resist arrest Assault on Police Threatening or disorderly behaviour Criminal damage Harassment Other similar offences	Determine whether 3 years free of conviction or 3 years after completion of term of imprisonment, whichever is greater Add 2 years to above if offence incurred in the course of employment as a Public Hire Driver	If yes grant a licence with warning If more than 5 years since conviction completed grant licence If no refuse application

High Level Scenario	Scenario Detail	Action	Decision
<p>More than 1 Violent Offence within last 10 years</p> <p>(new applicant)</p>	N/A	Application should be refused	Application Refused
<p>Serious sex, indecent & Trafficking for Sexual Exploitation offences</p> <p>(new applicant)</p>	<p>Rape</p> <p>Assault by penetration</p> <p>Offences involving children or vulnerable adults</p> <p>Sexual assault</p> <p>Indecent assault</p> <p>Possession of indecent photos, child pornography</p> <p>Exploitation of prostitution</p> <p>Trafficking for sexual Exploitation</p> <p>Other similar offences</p> <p>Or any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver</p>	Irrespective of when offence occurred the application should be refused	Application Refused
<p>Other Sexual Offences</p> <p>(new applicant)</p>	<p>Indecent exposure</p> <p>Soliciting (kerb crawling)</p> <p>Other similar offences</p>	<p>Determine whether 7 years free of conviction or 3 years after completion of term of imprisonment, whichever is greater</p> <p>Add 2 years to above if offence incurred in the course of employment as a Public Hire Driver</p>	<p>If yes grant a licence with warning</p> <p>If no refuse application</p>

High Level Scenario	Scenario Detail	Action	Decision
<p>More than 1 Sexual Offence (irrespective of type)</p> <p>(New applicant)</p>	N/A	Application should be refused	Application Refused
<p>Dishonesty Offences</p> <p>(new applicant)</p>	<p>Theft</p> <p>Burglary</p> <p>Fraud</p> <p>Benefit Fraud</p> <p>Handling or receiving stolen goods</p> <p>Forgery</p> <p>Conspiracy to defraud</p> <p>Obtaining money or property by deception</p> <p>Other deception</p> <p>Taking a vehicle without consent</p> <p>Perverting the course of justice</p> <p>Any similar offences</p>	<p>Determine whether 3 years free of conviction or 3 years after completion of term of imprisonment, whichever is greater</p> <p>Determine if more than 1 conviction of this type within last 10 years</p> <p>Add 2 years to above if offence incurred in the course of employment as a Public Hire Driver</p>	<p>If yes grant a licence with warning</p> <p>If more than 10 years since conviction or sentence completed grant licence</p> <p>If no refuse application</p> <p>If more than 1 conviction of this type within the last 10 years refuse application</p>
<p>Drugs Offences</p> <p>(new applicant)</p>	Isolated conviction for the possession of drugs	<p>Consideration needs to be given to the nature and quantity of drugs, as well as the sentence imposed by the court.</p> <p>If conviction is for Class A 5 years free of conviction.</p> <p>If conviction is for Class B or lower 3 years free of conviction</p>	<p>If yes grant a licence with warning</p> <p>If more than 10 years since conviction or sentence completed grant licence</p> <p>If no refuse application</p>

High Level Scenario	Scenario Detail	Action	Decision
Drugs Offences (new applicant)	More than 1 conviction for the possession of drugs	Determine whether: Convictions include Class A 7 years free of conviction Convictions are Class B or lower 5 years free of conviction	If yes grant a licence with warning If more than 10 years since conviction or sentence completed grant licence If no refuse application
Drugs Offences (new applicant)	Conviction for the supply, importing or production of drugs	Determine whether 7 years free of conviction or 3 years after completion of term of imprisonment, whichever is greater	If yes grant a licence with warning If more than 10 years since sentence completed grant licence If no refuse application
Possession of a Weapon offence (new applicant)	N/A	Determine whether 3 years free of conviction or 3 years after completion of term of imprisonment, whichever is greater	If yes grant a licence with warning If more than 10 years since conviction or sentence completed grant licence If no refuse application

High Level Scenario	Scenario Detail	Action	Decision
<p>Touting & Illegally plying for hire</p> <p>(new applicant)</p>	<p>N/A</p>	<p>Determine if isolated conviction and if convicted, caution or other penalty within last 12 months or if more than 1 offence in last 5 years</p>	<p>1. Isolated conviction, caution or other penalty more than 12 months old:</p> <p>yes - grant licence with a warning</p> <p>no - refuse application</p> <p>2. More than 1 conviction, caution or other penalty in last 5 years, refuse application</p> <p>3. More than 1 conviction, caution or other penalty over 5 years old, grant licence with a warning</p>
<p>Driving Offences Involving Loss of Life</p> <p>(new applicant)</p>	<p>1. Causing death by dangerous driving Causing death by careless driving whilst under influence of drink or drugs Any other similar offence</p> <p>2. Causing death by careless driving</p>	<p>1. Determine whether free of convictions for 7 years or 3 years after completion of sentence whichever is greater</p> <p>2. Determine whether free of conviction or completion of sentence for 3 years</p> <p>Add 2 years to above if offence incurred in the course of employment as a Public Hire Driver</p>	<p>If yes grant a licence with warning</p> <p>If no refuse application</p>

High Level Scenario	Scenario Detail	Action	Decision
<p>Isolated Conviction of Drink Driving / Driving while under Influence of Drugs</p> <p>(new applicant)</p>	<ol style="list-style-type: none"> 1. Isolated conviction and still disqualified from driving 2. Isolated conviction which involved the use of a Public Hire and still disqualified from driving 3. Isolated conviction and DVLA now restored 4. Isolated conviction which involved the use of a Public Hire and DVLA now restored 	<p>Determine when DVLA licence was restored and whether conviction involved use of a Public Hire</p> <p>If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed</p>	<ol style="list-style-type: none"> 1. Application should be deemed incomplete and withdrawn. Reapplication should not be considered until the restoration of the DVLA licence 2. Application should be deemed incomplete and withdrawn. Reapplication should not be considered until 12 months after the restoration of the DVLA licence 3a. Refuse application until 12 months after the restoration of the DVLA licence 3b. If more than 10 years since disqualification completed then grant licence 4 . Refuse application until 2 years after the restoration of the DVLA licence

High Level Scenario	Scenario Detail	Action	Decision
<p>More than 1 Drink Driving / Driving while under Influence of Drugs Conviction (new applicant)</p>	<p>1. More than 1 conviction and still disqualified from driving</p> <p>2. More than 1 conviction and DVLA now restored</p>	<p>Determine when DVLA licence was restored</p> <p>If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed</p>	<p>1. Application should be deemed incomplete and withdrawn. Reapplication should not be considered until 3 years after the restoration of the DVLA licence</p> <p>2a. If less than 3 years since restoration of DVLA licence refuse application</p> <p>2b. More than 3 years since restoration of DVLA licence grant licence with a warning</p> <p>2c. More than 10 years since restoration of DVLA licence grant licence</p>

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High Level Scenario	Scenario Detail	Action	Decision
<p>Conviction/disqualification from driving (has been declared within the last 3 years)</p> <p>(Renewal applicant)</p>	<p>Renewal application declares that a Conviction/disqualification from driving was incurred within the last 3 years</p>	<p>Consider whether matter has already been disclosed and taken into consideration</p> <p>Further escalation may be required were necessary</p> <p>If not previously declared/dealt with, need to also consider:</p> <p>Whether nature of the offence would've led to the revocation of the licence had immediate notification of the conviction been received at the time</p> <p>The length of time that has passed since the conviction</p> <p>The sentence imposed by the court</p> <p>If the licence has expired, how long has it been since licence expiry</p>	<p>1. If matter has already been considered NFA and consider issuing further, continual licence</p> <p>2. If matter has not been previously considered Do not issue further, continual licence</p> <p>Consideration could be given to refusal of the renewal application, if deemed appropriate</p>

High Level Scenario	Scenario Detail	Action	Decision
<p>Endorsable Traffic Offences (new applicant)</p>	<p>Accident offences Driving whilst disqualified Careless Driving Construction and use offences Dangerous driving Drink or drugs offences Insurance offences Licence offences Theft or Unauthorised Taking</p>	<p>Need to consider: Number and nature of offences Consider the penalty imposed for an indication as to the seriousness of the offence</p>	<p>1. If still disqualified from driving due to "totting up" application should be deemed incomplete and withdrawn. Reapplication should not be considered until the restoration of the DVLA licence</p> <p>2. Isolated offence and DVLA licence restored grant a licence with a warning</p> <p>3. More than 1 offence in the last 2 years refuse application. Reapplication would not be considered for 1 3 years (depending on number and nature of offences incurred)</p>

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High Level Scenario	Scenario Detail	Action	Decision
Endorsable Traffic Offences (new applicant)	Speed limit offences Traffic direction offences No Insurance Driving without Due Care and Attention Driving whilst disqualified Accident offences	Need to consider: Number and nature of offences. Consider the penalty imposed for an indication as to the seriousness of the offence	<ol style="list-style-type: none"> 1. If still disqualified from driving due to "totting up" application should be deemed incomplete and withdrawn. Reapplication should not be considered until the restoration of the DVLA licence 2. If 10 or fewer points on DVLA licence grant licence with a warning. 3. If more than 1 offence in the last 2 years of a serious driving offence (no insurance, driving without due and attention etc) Refuse (may reapply when 12months have elapsed since last offence)
Criminal Behaviour Order (new applicant)	Dependent on the nature of the order	Sub-committee to decide if applicant is a fit and proper person to hold a licence based on the number and nature of offences.	<ol style="list-style-type: none"> 1. Grant 2. Refuse 3. Conditional grant
DBS Barred List (new applicant)	DBS shows applicant is on the 'barred list'	Refuse	Application Refused

High Level Scenario	Scenario Detail	Action	Decision
<p>Previous Licence Revoked for PHV / Taxi Offences</p> <p>(new applicant)</p>	<p>Applicant is previous licence holder whose licence was revoked.</p>	<p>Determine whether 3 years since revocation</p>	<ol style="list-style-type: none"> 1. If less than 3 years since revocation. Refuse. 2. Between 3 and 6 years since revocation. Grant licence with warning. 3. More than 6 years since revocation. Grant licence.
<p>Applicant has been previously licensed by another Licensing Authority</p> <p>(new applicant)</p>	<p>Applicant has indicated they have been previously licensed by another Local Authority on application form.</p>	<p>Request for Information to be submitted to other Local Authority under Data Protection Act Section 31.</p> <p>Determine from other LA's response whether:</p> <ol style="list-style-type: none"> 1. The applicant is currently suspended 2. Has served a period of suspension that is now completed 3. Has been previously revoked. Need to consider reasons for revocation and if there is a threat to public safety 	<ol style="list-style-type: none"> 1. Application to be placed on hold until suspension served. 2. Grant licence with warning. 3. If threat to public safety refuse. <p>Otherwise Subcommittee to decide whether warning would suffice or a sterner sanction imposed</p>

High Level Scenario	Scenario Detail	Action	Decision
<p>Previous Licence Holder has submitted late renewal (renewal applicant)</p>	<p>Applicant was previously licensed and has submitted a late renewal</p>	<p>1.Consideration must be given to the following factors and the length of time since expiry of the previous licence, prior to any decision to issue a licence:</p> <p>Is it within 3 months of expiry & has the driver renewed late previously?</p> <p>Did the driver work as a taxi or PHV driver with an expired licence having been warned that he could not work?</p> <p>Did the driver continue to work as a taxi or PHV driver three months after the licence expired?</p> <p>2. Is it more than 3 months since expiry</p>	<p>1. If no Grant licence with warning If yes Refuse application (can reapply after 12 months from refusal)</p> <p>2. Refuse application (can reapply after 12 months from refusal)</p>
<p>Previously revoked or suspended driver submits new or renewal application (new / renewal applicant)</p>	<p>There are outstanding court costs owed to the council</p>	<p>Application payment is to be processed and offset against outstanding debt.& application to be placed on hold until outstanding costs are paid in full and new / renewal application paid</p>	<p>Application Placed on Hold</p>

High Level Scenario	Scenario Detail	Action	Decision
Custodial Sentences (including suspended sentences) All Offences (Licensed Driver)	Court has imposed a custodial sentence, for any type of offence		1. If sentencing imposed at Court is a term of imprisonment (including suspended sentences) Revocation of the licence 2. If still serving term of imprisonment and was convicted of a violent or sexual offence Immediate revocation of the licence

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High Level Scenario	Scenario Detail	Action	Decision
<p>Non-Custodial Sentences Except Specified Offences (Licensed Driver)</p>	<p>Court has imposed any type of sentence excluding Custodial Sentences, Conditional Discharge & Absolute Discharge.</p> <p>Excludes these Offence Types:</p> <ul style="list-style-type: none"> Serious Violent Offence Sexual Offence Touting Driving Offences Public Hire Offences Forged / Stolen Identifiers 	<p>Need to consider: Nature of the offence Severity of sentence imposed by the Court Any previous history</p> <p>If immediate notification received</p> <p>Driver notified at renewal</p> <p>If offence occurred whilst in employment as Public Hire Driver, a sterner sanction maybe applicable</p>	<p>Single offence in last 6 years Warning</p> <p>Further offence and warning issued in last 6 years</p> <p>Suspend (1month)</p> <p>More than 1 offence in last 6 years and No Warnings on File</p> <p>Suspend (1 month) (Can consider longer depending on number and nature of offences)</p> <p>Driver suspended in last 6 years Revoke / Refuse.</p>

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High Level Scenario	Scenario Detail	Action	Decision
<p>Cautions Except Specified Offences</p> <p>(Licensed driver)</p>	<p>Excludes these Offence Types:</p> <p>Serious Violent Offences</p> <p>Sexual Offences</p> <p>Touting Driving Offences</p> <p>Public Hire Offences</p> <p>Forged / Stolen Identifiers</p>	<p>Consideration should be given to:</p> <p>The nature and number of offences</p> <p>The time passed since the offence</p> <p>The outcome of the matter</p> <p>Any previous history of offences (particularly convictions)</p> <p>If immediate notification received</p>	<p>1. Single Offence in last 6 years – Warning</p> <p>2. Multiple offences or previously warned in last 6 years, consider a period of suspension (1 month), or for persistent offenders revocation may be appropriate.</p>
<p>Conditional or Absolute discharge except Specified Offences</p> <p>(Licensed driver)</p>	<p>If offence committed is likely to lead to the revocation of the licence</p> <p>Excludes these Offence Types:</p> <p>Serious Violent Offences</p> <p>Sexual Offences</p> <p>Touting Driving Offences</p> <p>Public Hire Offences</p> <p>Forged / Stolen Identifiers</p>	<p>Sub-committee to decide if applicant is a fit and proper person to hold a licence based on the number and nature of offences.</p>	<p>1. Grant</p> <p>2. Refuse</p> <p>3. Conditional grant</p>

High Level Scenario	Scenario Detail	Action	Decision
Arrests, charges and summonses (Licensed driver)	Arrested/charged but NOT convicted relating to a serious nature i.e., assaults, rape, paedophilia, drugs or excess alcohol whilst at work Note: Ongoing	Immediate suspension of licence	Licence to be suspended with immediate effect, pending the outcome of the investigation/court hearing
Arrests, charges and summonses (Licensed driver)	Arrested/charged but NOT convicted relating to any other type of offence (which does not suggest they may be a danger to the public) Note: Ongoing	Consideration should be given to: The nature and number of offences The time passed since the offence The outcome of the matter Any previous history of offences (particularly convictions) If immediate notification received	Subcommittee to decide whether further escalation required for consideration of immediate suspension If immediate suspension not being considered (due to no concerns about public safety), a period of suspension (until the outcome of the criminal proceedings) could be considered appropriate
A series of offences over a period of time (i.e. Criminal record identifies multiple offences having been committed) (Licensed driver)	N/A	Escalate to Subcommittee	If sentencing imposed at Court = term of imprisonment (including suspended sentences) Revocation of the licence is likely to follow

High Level Scenario	Scenario Detail	Action	Decision
Serious Violent, Immigration and Trafficking Offences (Licensed Driver)	Arson Threats to Kill Wounding with intent to cause GBH ABH that is racially aggravated Robbery Aggravated Burglary Racially aggravated criminal damage Racially or religiously aggravated threatening/disorderly behaviour Riot / Violent Disorder & Affray Trafficking People for Exploitation Any immigration offence Any other similar offences	Need to consider: Nature of the offence Severity of sentence imposed by the Court Any previous history If immediate notification received	If a lesser penalty imposed at court, such as a community order, curfew etc. Revocation of the licence will normally follow, unless there is significant mitigation, whereby a period of suspension maybe considered Note: Can be reconsidered for licensing as per the New Applicant times periods for such an offence
Serious sex, indecent & Trafficking for Sexual Exploitation offences (Licensed Driver)	Rape Assault by penetration Offences involving children or vulnerable adults Sexual assault Indecent assault Possession of indecent photos, child pornography Exploitation of prostitution Trafficking for sexual Exploitation Other similar offences	Irrespective of when offence occurred the licence should be revoked	Immediate revocation of the licence

High Level Scenario	Scenario Detail	Action	Decision
<p>Other sexual offences (Licensed driver)</p>	<p>Indecent exposure' Soliciting (kerb crawling) Other similar offences.</p>	<p>Need to consider: Nature of the offence Whether it was incurred whilst as a Public Hire driver. Severity of sentence imposed by the Court. Any previous history If immediate notification received.</p>	<p>If offence occurred whilst in capacity as a Public Hire driver Immediate revocation of the licence.</p>
<p>Admission of sexual contact with a passenger (Licensed driver)</p>	<p>Licensed driver is accused of a sexual offence by the police or other credible source and subsequently admits to having sexual contact with a passenger, consensual or otherwise.</p>	<p>Regardless of whether or not the driver is charged, cautioned or convicted for any offence the licence should be revoked.</p>	<p>Immediate revocation of the licence.</p>

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High Level Scenario	Scenario Detail	Action	Decision
<p>Drink driving/driving under the influence of drugs</p> <p>(Licensed driver)</p>	<ol style="list-style-type: none"> 1. Isolated conviction and still disqualified from driving 2. Isolated conviction with fare paying passengers on board and still disqualified from driving 3. Isolated conviction, but DVLA now restored 4. Isolated conviction with fare paying passengers on board, but DVLA now restored 5. More than 1 conviction and still disqualified from driving 6. More than 1 conviction, but DVLA now restored 7. Convicted but not disqualified 	<p>Need to consider:</p> <p>Nature of the offence</p> <p>Severity of sentence imposed by the Court</p> <p>Any previous history</p> <p>If immediate notification received</p>	<ol style="list-style-type: none"> 1. Immediate revocation of the licence 2. Immediate revocation of the licence until 12 months after the restoration of the DVLA licence 3. Revocation of the licence 4. Revocation of the licence until 12 months after the restoration of the DVLA licence 5. Immediate revocation of the licence until 3 years after restoration of DVLA licence 6. Revocation of the licence until 3 years after restoration of DVLA licence 7. Revocation of the licence a period equivalent to the minimum period of disqualification for the offence has lapsed since the date of revocation

High Level Scenario	Scenario Detail	Action	Decision
<p>Specified Serious Endorsable Traffic Offences</p> <p>(Licensed driver)</p>	<p>Causing death by dangerous driving</p> <p>Dangerous Driving</p> <p>Causing death by careless driving</p> <p>Causing death by careless driving whilst under the influence of drink/drugs</p>	<p>Need to consider:</p> <p>Nature of the offence</p> <p>Severity of sentence imposed by the Court</p> <p>Any previous history</p> <p>If immediate notification received</p> <p>Driver notified at renewal</p>	<p>Revocation of the licence</p>
<p>Specified Endorsable Traffic Offences</p> <p>(Licensed driver)</p>	<p>Driving whilst uninsured</p> <p>Driving without due care and attention/reasonable consideration</p> <p>Failure to stop / report an accident</p>	<p>Need to consider:</p> <p>Nature of the offence</p> <p>Severity of sentence imposed by the Court</p> <p>Any previous history</p> <p>If immediate notification received</p> <p>Driver notified us at renewal</p>	<p>1. Single offence within a 12 month period OR multiple offences more than 12 months apart</p> <p>Warning</p> <p>2. Second offence within 12 months</p> <p>Revocation of licence</p>

High Level Scenario	Scenario Detail	Action	Decision
<p>Disqualification from driving (Licensed driver)</p>	<p>Notified by Police</p> <p>Notified by driver</p> <p>Failed to notify of disqualification at the time, but identified upon renewal</p> <p>Licence restored by DVLA following disqualification</p> <p>Short term disqualification i.e. 28 days</p>	<p>Need to consider: Length of disqualification</p> <p>Whether DVLA licence has since been restored</p> <p>If immediate notification of the disqualification was received</p> <p>Nature of the offence</p> <p>Severity of sentence imposed</p> <p>Any previous history</p>	<p>Short term disqualification (28 days or less) Request for licence to be surrendered.</p> <p>Can be reissued upon restoration of DVLA licence</p> <p>Disqualified for longer term (28 days+)</p> <p>Immediate revocation of the licence</p> <p>DVLA restored following longterm disqualification (28 days+)</p> <p>Revocation of the licence.</p> <p>If identified upon renewal</p> <p>Renewal application should be refused for a period equivalent to the disqualification period</p>

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High Level Scenario	Scenario Detail	Action	Decision
<p>Touting & Illegally plying for hire</p> <p>(Licensed driver)</p>	<p>1. Convicted, cautioned or subject to any other penalty</p> <p>2. Convicted, cautioned or subject to any other penalty and was disqualified from driving</p> <p>3. Convicted, cautioned or subject to any other penalty, but only identified upon renewal</p>	<p>Need to consider:</p> <p>If immediate notification received</p> <p>Request written reps</p> <p>Team leader considers response to determine whether mitigation is relevant</p>	<p>No response and 1st offence 1 month Suspension of licence</p> <p>No relevant mitigation and 1st offence 1 month suspension</p> <p>Relevant mitigation and 1st offence Members to decide action to be taken (likely to be warning)</p> <p>More than 1 conviction would result in revocation</p> <p>Immediate revocation if still disqualified</p>

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High Level Scenario	Scenario Detail	Action	Decision
Public Hire offences (Licensed driver)	<p>Examples of Offences include but are not restricted to:</p> <p>Plying for Hire outside of licensed area</p> <p>Refusing to be hired (to a destination within the licensing district)</p> <p>Demanding more than legal fare</p> <p>Abusive language</p> <p>Misbehaviour</p> <p>Failure to carry a copy of a taxi drivers licence</p> <p>Failure to wear a badge (unless exempt)</p> <p>Failure to issue a receipt when requested</p> <p>Failure to produce licence for inspection (within 6 days)</p> <p>Obstructing an Authorised Officer</p> <p>Note: Offences maybe reported by a Compliance Officer, via Police Disclosure, DBS or reported via Complaint</p>	<p>Consideration should be given to:</p> <p>The nature and number of offences</p> <p>The time passed since the offence</p> <p>The outcome of the matter</p> <p>Any previous history of offences (particularly convictions)</p> <p>If immediate notification received</p>	<p>Single offence – Warning</p> <p>Up to 2 different offences in the last 6 years - Warning</p> <p>More than 2 different offences in the last 6 years and no previous warnings - Warning</p> <p>Can consider suspension depending on nature and number of offences</p> <p>If the driver has been suspended in the last 6 years Revoke / Refuse</p>

High Level Scenario	Scenario Detail	Action	Decision
<p>Forged / Stolen Identifiers (Licensed Driver)</p>	<p>Driver has been found in possession of forged / stolen identifiers (plate, badge etc.)</p>	<p>Revocation of Licence</p>	<p>Immediate Revocation Will consider significant mitigation within 14 days of decision</p>
<p>Applicant has been previously licensed by another Licensing Authority (licensed driver)</p>	<p>The council is made aware that driver is currently licensed by another Local Authority, the other LA has taken disciplinary action against the driver.</p> <p>Note: It is possible for this information to appear in the ORI section of DBS or via other known intelligence.</p>	<p>Request for Information to be submitted to other Local Authority under Data Protection Act Section 31</p> <p>Determine from other LA's response whether:</p> <ol style="list-style-type: none"> 1. The driver is currently suspended 2. Has served a period of suspension that is now completed 3. Has been revoked. Need to consider reasons for revocation and if there is a threat to public safety 	<ol style="list-style-type: none"> 1. Consider suspension for same time period as other LA unless significant mitigation provided 2. Warning 3. If threat to public safety revoke <p>Otherwise Subcommittee to decide whether warning would suffice or a sterner sanction imposed</p>

High Level Scenario	Scenario Detail	Action	Decision
Failed Payments (Licensed driver)	Driver has been issued renewal licence, application (renewal) fee has been returned to the council as unpaid	Send rejected payment letters to licensee (Initial Letter, Reminder Letter, Final Letter)	If payment not made within 7 days of Final Letter Immediate Revocation of Licence
DBS Barred List (Licensed driver)	Driver is placed on the DBS 'barred list'	Revocation of Licence	Immediate Revocation
Leaving vehicle unattended on a Taxi Rank (Licensed driver)	Report received from Police or Authorised Officer that a vehicle has been identified and confirmed as left unattended on a taxi rank. Note: Action will be taken irrespective of any conviction / cautions or penalty charge notices		1st offence Written warning 2nd offence One month suspension 3rd offence Three month suspension 4th offence Revocation

High Level Scenario	Scenario Detail	Action	Decision
<p>Renewal Applicant declares conviction/caution on Renewal Form which DOES NOT match the received DBSorNo conviction/cautions are declared(Renewal Applicant)</p>	<p>Applicant has declared a conviction or caution on the renewal application OR included details with the renewal form. The declared offences do not match details of the offences listed on the DBSorApplicant has not declared any convictions or cautions on the renewal application OR included details with the renewal form. Note: This is the first notification to The council of the offence (i.e. not previously known or dealt with)</p>	<p>Determine if; 1. The offences listed on the DBS would have led to a revocation or 2. The offences committed would have led to a suspension or warning Note: To determine the above review the licensee business rules for the appropriate offence</p>	<p>1. Refuse application Note: Will be able to reapply for a licence inline with the timescales for a new applicant for the appropriate offence 2. Refuse application Note: Will be able to reapply for a licence 12 months from the date of the refusal</p>

Report to the Council

Committee: Licensing

Date: 20 December 2016

Committee Chairman: Councillor B Surtees

Recommending:

(1) That the statement of principles made under the Gambling Act 2005 attached as an Appendix to this report, be adopted.

GAMBLING ACT 2005 – PERIODIC REVISION OF STATEMENT OF PRINCIPLES

1. The Gambling Act 2005 modernised the legislation governing gambling by creating a single regulatory body, the Gambling Commission, and giving responsibility for licensing premises where gambling takes place to local authorities. Periodically Licensing Authorities must revisit their Statement of Principles to see if they remain fit for purpose in the light of any new guidance or developments.
2. The Gambling Commission were due to publish revised guidance to Local Authorities at the end of 2015 however this did not happen until early 2016.
3. At their meeting in October of last year the Licensing Committee agreed that following the publication of the guidance officers would update and circulate the revised policy to members individually prior to undertaking a full consultation with interested parties.
4. The consultation was carried and no comments of a substantial nature were received.
5. The adoption of the statement of principles is a function reserved to the full Council but the functions set out in the statement or principles are delegated to the Licensing Committee.
6. In order to comply with the requirements of the Gambling Act 2005, the Council is asked to adopt the attached statement of principles.

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Gambling Act 2005

Statement of Licensing Policy

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PART A The Licensing Objectives

Fundamental Principles

In exercising their functions under the Gambling Act 2005, Epping Forest District Council, as the Licensing Authority, will promote the licensing objectives as set out in Section 1 of the Act.

The licensing objectives are:

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

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

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

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives;
- in accordance with this Statement of Policy.

1. Introduction

Epping Forest District Council (the Licensing Authority) is situated in the County of Essex, which contains twelve district or borough councils and two unitary authorities. The district has six main centres of population (Buckhurst Hill, Chigwell, Epping, Loughton, Chipping Ongar and Waltham Abbey) and numerous picturesque villages and hamlets, but no natural centre. The majority of the district lies within the Metropolitan Green Belt, designed to restrict the spread of London into the Home Counties.

The district has a population of approximately 123,900. Approximately half of the population live in the southwest of the district (Buckhurst Hill, Chigwell and Loughton). Most of the rest of the population live in a mixture of market towns, villages and rural hamlets. The local population is set to grow in the coming years. The population is ageing, with the 2001 census profile showing a reduction of under-fives and an increase in over seventy fives.

Unemployment in the district is generally low and many residents enjoy a very high standard of living. However, there are also areas of significant disadvantage and the district has four of the wards amongst the ten most deprived in Essex.

This Policy will be published every three years. It will also be reviewed from “time to time” and any amended parts re-consulted upon. It will then be re-published.

The Gambling Act requires that licensing authorities the following parties on their Licensing Policy:

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

The list of persons this authority consulted is attached as Appendix B. The full list of comments made in response to the consultation is available via the Council's website.

The policy was approved at a meeting of the Full Council on XXX. Copies were placed in the public libraries of the area as well as being available in the Civic Offices and on the website in January 2013.

Should you have any comments as regards this policy statement please send them via email or letter to the following contact:

Name: Licensing Manager
Address: Civic Offices, High Street, Epping, Essex CM16 4BZ
E-mail: licensing@eppingforestdc.gov.uk

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2. Declaration

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

3. Responsible Authorities

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

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area, and;
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc..

This authority designates the Essex County Council's Safeguarding Children Service for this purpose.

4. Interested parties

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

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the applications is made, the person -

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

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

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities. It will also consider the Gambling Commission’s Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Persons who are democratically elected such as Councillors and MP’s may be Interested Parties. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application.

5. Exchange of Information

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

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

Should any protocols be established as regards information exchange with other bodies then they will be made available.

6. Enforcement

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

This licensing authority's principles are that It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- Proportionate: and only intervene when necessary: remedies will be appropriate to the risk posed and costs identified;
- Accountable: we will be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards will be joined up and implemented fairly;
- Transparent: we will be open, and keep regulations simple and user friendly;
- Targeted: we will be focused on the problem, and minimise side effects.

In accordance with the Gambling Commission's Guidance for local authorities, the Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission, in particular at Part 36;
- The principles set out in this statement of licensing policy.

The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the Operating and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Section, Civic Offices, High Street, Epping Essex CM16 4BZ and email:licensing@eppingforestdc.gov.uk .

7. Licensing Authority functions

The Licensing Authority is required under the Gambling Act 2005 to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;

- Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required;
- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued;
- Maintain registers of the permits and licences that are issued under these functions.

The Licensing Authority is not involved in licensing remote gambling at all. This is regulated by the Gambling Commission via Operating Licences.

PART B PREMISES LICENCES

1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

2. Decision-making

The Licensing Authority is required by the Act, in making decisions about premises licences, to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this licensing policy.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos) and also that unmet demand is not a criterion for a licensing authority.

3. Definition of Premises

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the Licensing Authority. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

This Licensing Authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The licensing objective that seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating;
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit;
- Customers should be able to participate in the activity named on the premises licence.

The Guidance also gives a list of factors which the Licensing Authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance);
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises

Betting Shops

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

No customer should be able to access the premises directly from a casino or an adult gaming centre.

Bingo Premises

No customer must be able to access the premise directly from a casino, an adult gaming centre or a betting premises, other than a track.

Family Entertainment Centre

No customer must be able to access the premise directly from a casino, an adult gaming centre or a betting premises, other than a track.

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

4. Premises "ready for gambling"

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the Licensing Authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:

- Firstly, whether the premises ought to be permitted to be used for gambling;
- Secondly, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

5. Location

This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. As required by the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. The applicant must show that they have taken into account such issues

as the proximity of schools, centres for vulnerable adults or residential areas with a high concentration of families with children. Should any other specific policy be decided upon as regards areas where gambling premises should not be located, this policy will be updated. It should be noted that this policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

Applications will not be granted in sensitive locations unless relevant criteria are met, the criteria includes proximity to nearby schools or other institutions where there is a potential for vulnerable people to be exposed to risks associated with gambling.

Applicants will be expected to provide with their applications:

- Details of how the premises will operate to restrict access from children and vulnerable people;
- Whether a proof of age scheme is being used;
- If an appropriate number of security staff are employed at appropriate times;
- What the opening times are in order that they do not coincide with schools start and finish times.

6. Planning

The Gambling Commission Guidance to Licensing Authorities states:

“In determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.”

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

“When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence.”

Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

7. Duplication with other Regulatory Regimes

Although the Licensing Authority seeks to avoid any duplication with other statutory/regulatory systems where possible, and will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it, it will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

8. Licensing Objectives

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime – This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

Protecting children and other vulnerable persons from being harmed or exploited by gambling - This Licensing Authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

The council acknowledges that Child Sexual Exploitation (CSE) does not just apply to children on licensed premises, particularly as children are not permitted access to most gambling premises, however applicants should be equally aware that children in the proximity of the premises that may be waiting for or seeking older persons. There should be:

- regular staff training and awareness raising programs;
- regular patrols of the premises including adjoining or outside areas to identify children outside a licensed premises or meeting adults leaving a licensed premises;
- raised awareness of children looking uncomfortable in the company of, or leaving a premises with, older people.

The council does not wish to create an impression that all contact between adults and children is inappropriate, however, it is strongly advised that operators are aware of the risks of CSE and should proactively minimise the risk.

This Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

Codes of practice are either:

- social responsibility code provisions - which must be adhered to by all licence holders;
- ordinary code provisions - these do not have the status of licence conditions but failure to take account of them can be used as evidence in criminal or civil proceedings.

New code provisions covering risk assessments and local authority area profiles are now in force. More detail can be found by going to the Gambling Commission website at www.gamblingcommission.gov.uk

The following are extracts relating to this aspect:

Operators will be required to prepare a risk assessment for their business which takes into account the nature and characteristics of the locality in which they are situated. For example the proximity of schools, churches, etc. and/or whether the business is located on a walking route for local schools.

Assessing local risk

Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.

Licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- when applying for a new premises licence.

Sharing local risk assessments

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences

Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

9. Local Area Profiles

Risk assessments can make reference to the council's Area profile which may be compiled with respect to reported gambling-related problems in an area. At the time of preparing this edition of the Statement of Licensing Policy there has been no evidence presented to Epping Forest DC to support the assertion that any part had or is experiencing problems from gambling activities. This position will be kept under review and, in the event that it changes, further research will be carried out to discover the extent of the problems and to prepare an Area Profile accordingly.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case by case basis.

10. Conditions

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

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission’s Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission’s Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the Licensing Authority cannot attach to premises licences, which are:

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

This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes;
- CCTV;
- Door supervisors;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- The location of gaming machines.

This list is not exhaustive.

Category C machines or above.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

Door Supervisors

The Gambling Commission advises in its Guidance to Licensing Authorities that if a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

Adult Gaming Centres and Licensed Family Entertainment Centres

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This Licensing Authority may consider measures to meet the licensing objectives such as:

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

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

Casinos

The Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such resolution will be made by Full Council.

Bingo premises

This Licensing Authority notes that the Gambling Commission's Guidance states:

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in

particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed to enter bingo premises; however they are not permitted to participate in bingo and if category B or C machines are available for use these must be separated from areas where children and young people are allowed.”

Betting Premises

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

In particular, applicants will be expected to show how they will prevent access to under 18's.

Tracks

This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Gambling Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

This Licensing Authority may consider measures to meet the licensing objectives such as those outlined above.

Gaming machines - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

Betting machines - This Licensing Authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

11. Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan.

Travelling Fairs

It will fall to the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

S204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or

- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage; or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

Where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change from the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision.

12. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities. It is for the Licensing Authority, however, to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, repetitious, or will certainly not cause this authority to wish to alter, revoke or suspend the licence.

Reviews will be carried out:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- if the request is reasonably consistent with the licensing objectives; and
- in accordance with this statement of licensing principles.

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

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If action is justified, the options open to the Licensing Authority are:

- add, remove or amend a licence condition imposed by the licensing authority;
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the premises licence for a period not exceeding three months;
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the Licensing Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- the licence holder;
- the applicant for review (if any);
- the Commission;
- any person who made representations;
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

PART C - PERMITS/TEMPORARY & OCCASIONAL USE NOTICE

1. Unlicensed Family Entertainment Centre gaming machine permits

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it must apply to the Licensing Authority for a permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

The Gambling Act 2005 states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising

their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues."

Guidance also states: "...An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

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

This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs, that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act) and that staff are trained to have a full understanding of the maximum stakes and prizes.

2. Alcohol Licensed premises gaming machine permits

Automatic Entitlement: 2 machines

Premises licensed to sell alcohol for consumption on the premises may automatically have two gaming machines, of categories C and/or D. The premises must notify the Licensing Authority of their intention to exercise this right, but they may remove this automatic authorisation in respect of any particular premises if:

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

Permit for three or more machines

If a premises wishes to have more than two machines, then it must apply for a permit. The Licensing Authority will consider the application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and such matters as it thinks relevant.

Each case will be considered on its merits, but, generally, it will consider the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy them that there will be sufficient measures to ensure that under 18 year olds do not have access to “adult only” gaming machines. Measures which will satisfy the authority that there will be no access may include:

- Supervision of machine areas;
- Physical separation of areas;
- Notices / signage;
- The location of gaming machines

This list is not exhaustive.

As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets/helpline numbers for organisations such as GamCare. It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine. Where an alcohol licensed premises applies for a premises licence for their non-alcohol licensed areas, any such application would need to be applied for, and will be dealt with, as an Adult Entertainment Centre premises licence.

3. Prize Gaming Permits

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

This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children from harm;
- training to cover how staff would deal with unsupervised and/or very young children on/around the premises and suspected truants.

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

Applicants for a permit must comply with the conditions laid down by the Gambling Act 2005.

The conditions in the Act are:

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

The Licensing Authority may not impose any further conditions.

4. Club Gaming and Club Machines Permits

Qualifying members clubs and Miners' welfare institutes (but not commercial clubs) may apply for a Club Gaming Permit, The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Gambling Commission Guidance states: "Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations." It is anticipated that this will cover bridge and whist clubs. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

The Licensing Authority is aware that it may only refuse an application on the grounds that:

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

Where a premises holds a Club Premises Certificate under the Licensing Act 2003 they may apply using the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds on which an application under the process may be refused are:

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

Objections will not be lodged by the Commission or the police, as these will have been dealt with under the Licensing Act application procedure.

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

5. Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for Temporary Use Notices, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices. The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Local Authorities.

6. Occasional Use Notices

The Licensing Authority has little discretion as regards these Notices, aside from ensuring that the statutory eight days in a calendar year is not exceeded and will grant such notices where statutory requirements are met.

7. Small Society Lotteries

Lottery licences will be issued in accordance with the Gambling Commission's Guidance to Local Authorities.

APPENDIX A

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			(to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

APPENDIX B**LIST OF CONSULTEES**

Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors Betting Offices British Transport Police Butler & Mitchells Brewers Roman Catholic Church Church of England Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Forest PCT Epping Magistrates Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire & Rescue Essex Police Service Essex Probation Service Essex Tourist Bodies Federation Synagogue Fosket Marr Gadsby & Head GamCare	Hammonds Solicitors Health and Safety Executive Essex HM Customs and Excise Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Limes Farm Synagogue Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Mcmullens Brewery Methodist Church Other Faith Groups Parish and Town Councils Police & Community Consultative Group Princess Alexandra NHS Trust Ridleys Brewery's Robert Halfon MP Rural Community Council of Essex Scottish & Newcastle Retail Spirit Group Brewery Transport and General Workers Union Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers Association Whiskers & Co Solicitors Disabled Coalition Group Child Protection Essex County Council Gambling Commission HM Revenue & Customs All current gambling premises within the district
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APPENDIX C RESPONSIBLE AUTHORITY'S FOR GAMBLING ACT 2005 APPLICATIONS

<p>Epping Forest District Council Civic Offices High Street Epping Essex CM16 4BZ Attn:.....; Licensing Unit Tel: 01992 564034 licensing@eppingforestdc.gov.uk</p>	<p>Head of Child Protection (Licensing Applications) Essex County Council PO Box 297 County Hall Chelmsford Essex CM1 1YS licensingapplications@essexcc.gov.uk</p>
<p>Essex Police Licensing Unit (alcohol) PO BOX 12306 Newland Street Witham Essex CM8 2AS Attn: Peter Jones Tel:01279 625405 licensing.applications@essex.pnn.police.uk</p>	<p>Gambling Commission Victoria House Victoria Square Birmingham B2 4BP info@gamblingcommision.gov.uk</p>
<p>Essex Fire & Rescue Service Harlow & Epping Community Command Harlow Service Delivery Point Fourth Avenue Harlow Essex CM20 1DU Attn: : Community Commander Tel : 01279 420841 Email: he.command@essex-fire.gov.uk</p>	<p>HM Revenue & Customs National Registration Unit Portcullis House Glasgow G2 4PZ nrubetting&gaming@hmrc.gsi.gov.uk</p>
<p>Director of Planning Civic Offices High street Epping Essex CM16 4BZ Tel: 01992 564514 Email: planning@eppingforestdc.gov.uk</p>	<p>Pollution & Public Health Unit Civic Offices High Street Epping Essex CM16 4BZ Steve Harcher Tel:01992 564058 Email: publichealth@eppingforestdc.gov.uk</p>

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Report to the Council

Date: 20 December 2016

Subject: Overview and Scrutiny Rule 53 (Call-In and Urgency)

1. TRANSFORMATION PROGRAMME – ACCOMMODATION REVIEW

Recommending:

To note that the Chairman of Council agreed that the following decision of the Leader (15 November 2016) be treated as a matter of urgency and not be subject to the call-in provisions of the Constitution, in accordance with Overview and Scrutiny Rule 53 (Call-In and Urgency):

(a) That the quotation of £18,500 received from PricewaterhouseCoopers (PwC) for the extension of the scope of the current accommodation review, be accepted.

- 1.1 In April 2016, the Cabinet agreed that a review be undertaken to examine possible efficiencies in the use of the Council's office space. An initial funding allocation of £50,000 was made for this work and PricewaterhouseCoopers (PwC) were appointed by the Cabinet in June 2016.
- 1.2 The preliminary findings of PwC were considered by the Cabinet in September 2016, when it was also agreed that the initial scope of the study should be extended. As a result, PwC were asked to provide a quote and timescale for such extension to the accommodation review. A quotation provided by PwC in this regard was considered by the Finance and Performance Management Cabinet Committee on 10 November 2016, who supported acceptance of the quotation and asked that the work be commissioned to start as soon as is possible. However, the Cabinet Committee only has the authority to make recommendations to Cabinet and a decision of the Leader of the Council (as the member of the Cabinet responsible for the Transformation Programme) was necessary to progress the completion of the review.
- 1.3 The Chairman of Council agreed to waive the call-in procedure set out in the Constitution, as any delay likely to be caused by the call-in process would seriously prejudice the Council's interests, as a result of the inability of PwC to undertake the additional element of the accommodation review until early in 2017.

2. DRAFT CHIGWELL NEIGHBOURHOOD PLAN - EPPING FOREST DISTRICT COUNCIL RESPONSE

Recommending:

To note that the Chairman of Council agreed that the following decision of the Planning Policy Portfolio Holder (24 November 2016) be treated as a matter of urgency and not be subject to the call-in provisions of the Constitution, in accordance with Overview and Scrutiny Rule 53 (Call-In and Urgency):

(a) That the Council's response to the Chigwell Neighbourhood 2015-2030 Pre-Submission Plan, be confirmed.

- 2.1 Chigwell Parish Council submitted an application for the designation of a neighbourhood area in November 2013. The Neighbourhood Plan Area Application was approved by the Cabinet meeting on 3 March 2014, following an eight week

consultation. The Parish Council subsequently published its Draft Neighbourhood Plan for a period of formal public consultation, which was due to close on 25 November 2016.

- 2.2 An officer review of the Draft Chigwell Neighbourhood Plan was considered and endorsed by the Neighbourhoods Select Committee on 15 November 2016. However, the terms of reference of the Select Committee do not provide for it to respond to such consultation approaches and the Council's proposed response to the Draft Neighbourhood Plan was therefore formally endorsed by the Planning Policy Portfolio Holder.
- 2.3 The Chairman of Council agreed to waive the call-in procedure set out in the Constitution, as any delay likely to be caused by the call-in process would seriously prejudice the Council's interests, as the deadline for response to the Draft Chigwell Neighbourhood Plan was 25 November 2016,

Notes from the RGM Operating Company Board Meeting

19th November 2016

My special thanks to Liz Went (LW) for helping me compose this report for taking minutes as I had to attend another event that day.

Report on the charity and site by the Chief Officer

Stella Morris (SM) (the current CEO) had warned the Board a while back that running the site for 2017 will bring challenges. New systems will be required, marketing and websites need to be developed and they need to organise new events.

Stakeholder consultation will still go ahead but SM has had to bring in external skills to help as her time is so short.

One of the most critical things is more volunteers, LW and SM are tied into running the site so another staff is required to free up current staff to go forwards.

Members of the Board commented that it is not understood or acknowledged that it is an incredibly complex site to run, leaving only pockets of time for other issues.

SM reported that Autumn visitor numbers had been good and Guy Fawkes weekend excellent. The Chairman said it was a good result and would like to congratulate the team of staff and volunteers. SM warned that state schools have dropped off from bookings for the education programme and she will be concentrating on marketing the programme.

SM had received advice from the National Portrait Gallery regarding setting up a retail offer.

They are under budget on PR and Marketing due to SM gaining pro bono assistance and negotiated advertising rates.

SM reported meetings with stakeholders including White Water Centre and Tourism Group etc.; as well as meetings informing volunteers the current situation. The chairman commented that he believes that the group meetings are a very good method of communication and it is bringing all together as a team.

SM advised that there have been break-ins recently and evidence of this seen around L149. She also confirmed that there are now measures in place for dealing with intruders such as reporting, repairing fences, anti-climb paint, cameras etc. and these have brought incidents down. There is also a consideration of getting additional two sensor lights.

A report commissioned from Atkins by the Environment Agency had included a map regarding asbestos and SM has been asking Atkins for copies ahead of the published report.

End of report- Cllr Helen Kane

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Report to the Council

Committee: Cabinet **Date:** 1 December 2016

Subject: Award of Contract for the Management of the Council's Leisure Facilities.

Portfolio Holder: Councillor H Kane (Leisure & Community Services)

Recommending:

(1) That, on the basis of the Final Evaluation of the Tender Submissions and Financial Implications for the Council, the award of the contract for the management of the Council's Leisure Facilities to Places for People Leisure Management Limited be approved as the preferred bidder, with SLM Everyone Active as reserve.

1. In December 2014 the Council adopted a new Leisure and Cultural Strategy, which identified future need and the role that the District Council should play in the provision of opportunities for people to lead healthier lives, contribute to community wellbeing and provide social cohesion.

2. The most significant direct investment in Leisure by the District Council, is the four Sports/Leisure Centres managed under contract on the Council's behalf, by Sports and Leisure Management Ltd (SLM). As the 10 year contract with SLM was due to expire in January 2016 (subsequently extended to 31 March 2017), the Council has been engaged in a competitive dialogue procurement exercise to appoint a new external management partner, in order to deliver the Council's Key Objectives, with respect to the management of its Leisure Facilities.

3. To start considering the future level of service it wished to provide and importantly, what Leisure Management procurement and contractual options the Council may wish to pursue, it was agreed to appoint a Portfolio Holder Advisory Group (PHAG). The role of the Advisory Group has been to offer advice and guidance to the Leisure and Community Services Portfolio Holder in determining, not only the best procurement and contractual options, but also the service specification and scope of any new facilities.

4. Due to the complexity of the proposed approach and the amount of resource required to undertake the procurement process in the required timescale, the Council also engaged the services of specialist consultants to assist, Robin Thompson of RTP Consultants.

5. Having identified that Competitive Dialogue was the preferred procurement solution, the PHAG adopted a Project Plan encompassing a Three Phase approach:

(a) Phase I focused on the development of a Business Case and Procurement Strategy;

- (b) Phase II, the Procurement Phase, consisted of three distinct stages:
 - (i) firstly a pre-qualification where a shortlist was drawn up to a maximum of five bidders and an OJEU (Official Journal of the European Union) notice issued;
 - (ii) the second stage, an Invitation to Submit Detailed Solutions (ISDS) which included the development of Key Method Statements from the bidders for the delivery of the service; and
 - (iii) finally, the third stage, the Final Tender, where bidders submitted their best and final offer, with the evaluation and selection of the preferred and reserve bidder.
- (c) Phase III is primarily about contract mobilisation and handover.

6. It was agreed by the Cabinet on 8 October 2015 that the Business Case and Procurement Strategy for the Council's new Leisure Management Contract would:

- (a) be through a Design, Build, Operate and Management contract for a period of 20 years and deliver a new build replacement for Waltham Abbey Swimming Pool;
- (b) be based on the affordability levels identified seeking to maximise return on investment;
- (c) consider a detailed variant Business Case to include operating costs for a potential new Leisure Centre development at North Weald, with the option to either replace or retain Ongar and Epping Sports Centres;
- (d) enable the market to present options which are commercially more favourable to the Council; and
- (e) utilise the evaluation criteria within the Procurement Strategy to select the best future management partner.

7. On 10 November, Robin Thompson of RTP presented the results of the final evaluation. All three bidders had submitted proposals for not only the new Waltham Abbey Leisure Centre, but also for a significant investment in enhanced Health and Fitness Facilities at Loughton Leisure Centre (all subject to detailed planning approval).

8. With respect to the variant bid proposals sought for a potential new Leisure Centre, to replace the ageing facilities in Epping and Ongar at North Weald the bids demonstrated that potential additional savings could be generated (not including capital costs) of between £0.9million to £1.5million. However, at this stage, no decision is being made about the future of Epping Sports Centre or Ongar Leisure Centre, the variant bid was simply sought to allow discussions with any appointed contractor to commence against this benchmark, without the need to run a further procurement exercise. A decision will need to be taken in the next 3-5 years when the Local Plan should be adopted and the distribution of future growth clearer.

9. All of the bids received were of a good quality and were submitted by organisations with a significant track record in the industry of both operating and

developing new Leisure facilities.

10. The bids present different solutions to a number of issues such as the design of the new build and investment in the current centres. These were evaluated to present final scores as follows

Level 1 Criteria	Maximum %	GLL	Places for People	SLM
Services	40%	29.7%	32.4%	28.5%
Technical	10%	7.2%	8.2%	7.2%
Commercial	50%	37.4%	40.8%	41.4%
Total	100%	74.3%	81.4%	77.1%
Ranking		3	1	2

11. As can be seen from the table Places for People scored 81.4% and is the top ranked bid with SLM scoring 77.1% coming second. GLL also scored well with 74.3% in third place.

12. On considering the results of the final evaluation, the Cabinet is recommending to the Council that Places for People Leisure Management Limited be awarded the Contract for the management of the Council's Leisure Facilities as the preferred bidder, with SLM Everyone Active as reserve bidder. The bid of Greenwich Leisure Ltd, whilst still acceptable, represented the lowest overall benefit.

13. If agreed, the new Leisure Management Contract:

- will deliver an average annual revenue saving to the Council of £1,024,000, over 4 x the level of savings anticipated in the Council's Medium Term Financial Forecast and in total some £20.48m over the 20 year life of the Contract;
- generate external investment of £13.5m in new and improved Leisure Facilities for our community to enjoy and increasing the value of the Council's Assets;
- generate employment, not only during the construction of the new facilities but also through their ongoing operation; and
- importantly, see an increase in participation of 55% in use of the Council's Leisure Facilities with all the resulting health and wellbeing benefits for our residents.

14. Full details of the procurement process can be found in the report to Cabinet considered on 1 December 2016 (report C-048-2016/17 refers).

15. We recommend as set out at the commencement of the report.

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