

NORTH HERTFORDSHIRE DISTRICT COUNCIL



11 October 2019

Our Ref Licensing 21.10.19
Your Ref.
Contact. Committee Services
Direct Dial. (01462) 474655
Email. committee.services@north-
 herts.gov.uk

To: Members of the Committee: Councillors Lisa Nash (Chairman), Daniel Allen (Vice-Chairman), Ian Albert, David Barnard, Elizabeth Dennis-Harburg, Gary Grindal, Jim McNally, Gerald Morris, Sam North, Mike Rice, Adem Ruggiero-Cakir, Richard Thake, Tom Tyson and Michael Weeks

You are invited to attend a

MEETING OF THE LICENSING AND APPEALS COMMITTEE

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
GERNON ROAD, LETCHWORTH GARDEN CITY**

On

MONDAY, 21ST OCTOBER, 2019 AT 7.30 PM

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL
AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION
ON YOUR TABLET BEFORE ATTENDING THE MEETING****

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

Agenda **Part I**

Item	Page
1. APOLOGIES FOR ABSENCE	
2. MINUTES - 5 NOVEMBER 2018 To take as read and approve as a true record the minutes of the meeting of the Committee held on the 5 November 2018.	(Pages 5 - 8)
3. NOTIFICATION OF OTHER BUSINESS Members should notify the Chairman of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chairman will decide whether any item(s) raised will be considered.	
4. CHAIRMAN'S ANNOUNCEMENTS Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
5. PUBLIC PARTICIPATION To receive petitions, comments and questions from the public.	
6. LICENSING SERVICE ANNUAL REPORT REPORT OF THE LICENSING MANAGER To give the Licensing and Appeals Committee a summary of the work undertaken by the licensing service over the previous twelve months, an update on existing projects and an overview of future proposals.	(Pages 9 - 26)
7. INFORMATION NOTE - THE ROLE OF THE LICENSING AND APPEALS COMMITTEE INFORMATION NOTE OF THE LICENSING MANAGER To facilitate preliminary discussions about the role of the Licensing and Appeals Committee and seek the views of its Members.	(Pages 27 - 34)

NORTH HERTFORDSHIRE DISTRICT COUNCIL

LICENSING AND APPEALS COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
GERNON ROAD, LETCHWORTH GARDEN CITY
ON MONDAY, 5TH NOVEMBER, 2018 AT 6.30 PM

MINUTES

Present: Councillors Michael Muir (Chairman), Val Bryant, Jean Green,
Simon Harwood, Gerald Morris and Lisa Nash

In Attendance: Steve Cobb (Licensing Manager), James Ellis (Legal Advisor) and Hilary
Dineen (Acting Committee and Member Services Manager)

1 APOLOGIES FOR ABSENCE

Audio Recording – Start of Item – 26 seconds

Apologies for absence were received from Councillors Gary Grindal, Paul Marment, Mike Rice.

2 MINUTES - 12 MARCH 2018

Audio Recording – Start of Item – 38 seconds

The Licensing Manager updated the Committee on the action taken regarding a previous resolution of the Committee.

RESOLVED: That the Minutes of the Meeting of the Committee held on 12 March 2018 be approved as a true record of the proceedings and be signed by the Chairman.

3 NOTIFICATION OF OTHER BUSINESS

There was no other business notified.

4 CHAIRMAN'S ANNOUNCEMENTS

Audio Recording – Start of Item – 6 minutes 23 seconds

- (1) The Chairman announced that Members of the public and the press may use their devices to film/photograph, or do a sound recording of the meeting, but she asked them to not use flash and to disable any beeps or other sound notifications that emitted from their devices.
- (2) The Chairman announced that, in accordance with Council policy this meeting was being audio recorded;
- (3) The Chairman reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question. Members declaring a Declarable Interest wishing to exercise a "Councillor Speaking Right" must declare this at the same time as the Interest.

5 PUBLIC PARTICIPATION

Audio Recording – Start of Item – 7 minutes 31 seconds

There were no presentations by members of the public.

6 GAMBLING ACT 2005: STATEMENT OF LICENSING PRINCIPLES 2019-2022

Audio Recording – Start of Item – 7 minutes 37 seconds

The Licensing Manager presented the report entitled Gambling Act 2005: Statement of Licensing Principles 2019-2022. The following appendices were attached to the report:

Appendix A - Proposed Statement of Licensing Principles;
Appendix B - Summary of Responses to Statement of Licensing Principles;
Appendix C - Response to Consultation.

The Licensing Manager expressed concern at the number of Members present to consider this extremely important Policy.

The Chairman agreed to consider the request from Members all future meetings start at 7.30pm.

The following Members contributed to the debate (in order of initial contribution):

Councillor Simon Harwood;
Councillor Gerald Morris;
Councillor Val Bryant;
Councillor Jean Green
Councillor Lisa Nash

Section 4 of the report detailed that no alternative options were considered

The following amendments to the Policy were proposed:

- That clarification be added to Paragraph C3.1 of the Policy regarding Casinos;
- That Local ward councillors should be able sit on a sub-committee determining an application in their ward, or neighbouring ward, if they believe their local knowledge would be beneficial to the decision making process provided their participation is in accordance with the Member's Code of Conduct.

It was proposed, seconded and

RESOLVED:

- (1) That the Licensing Officer be requested to add some clarification to C3.1 of the Policy regarding Casinos;
- (2) That the Licensing Officer add a paragraph at Section E1 that Local ward councillors should be able sit on a sub-committee determining an application in their ward, or neighbouring ward, if they believe their local knowledge would be beneficial to the decision making process provided their participation is in accordance with the Member's Code of Conduct.

RECOMMENDED TO COUNCIL: That the Gambling Act 2005: Statement of Licensing Principles 2019-2022 (as amended by the Licensing and Appeals Committee) be adopted.

REASONS FOR DECISION:

- (1) Licensing authorities are required to publish a policy every three years by virtue of section 349 of the Gambling Act 2005 ("the Act");
- (2) A new policy must be published by 3 January 2019 to comply with this statutory requirement;
- (3) The Policy builds on the effectiveness of the existing policy with minor amendments to reflect changes in legislation, statutory guidance, consultation responses and further clarification on the requirement for local area risk assessments.

7 INFORMATION NOTE: LICENSING ANNUAL REPORT

Audio Recording – Start of Item – 36 minutes 40 seconds

The Licensing Manager presented the Information Note entitled Licensing Annual Report.

The following Members contributed to the debate (in order of initial contribution):

Councillor Gerald Morris;
Councillor Simon Harwood;
Councillor Michael Muir;
Councillor Val Bryant;
Councillor Lisa Nash

It was proposed that the Licensing Officer be requested to write, on behalf of the Committee to the relevant Central Government Department to express concern that the Licensing fees able to be charged do not cover the costs to the Council for administration.

RESOLVED:

- (1) That the Information Note entitled Licensing Annual Report be noted;
- (2) That the Licensing Officer be requested to write, on behalf of the Committee to the relevant Central Government Department to express concern that the Licensing fees able to be charged do not cover the costs to the Council for administration.

REASON FOR DECISIONS: To consider the Information Note entitled Licensing Annual Report.

The meeting closed at 7.27 pm

Chairman

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**LICENSING AND APPEALS COMMITTEE
21 OCTOBER 2019**

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: LICENSING SERVICE ANNUAL REPORT

REPORT OF: THE LICENSING MANAGER

EXECUTIVE MEMBER: CLLR GARY GRINDAL (EXECUTIVE MEMBER FOR HOUSING AND ENVIRONMENTAL HEALTH)

COUNCIL PRIORITY: PROSPER AND PROTECT

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to give the Licensing and Appeals Committee a summary of the work undertaken by the licensing service over the previous twelve months, an update on existing projects and an overview of future proposals.

2. RECOMMENDATIONS

- 2.1 That the Committee review the annual licensing report attached as Appendix A and comment on its content.
- 2.2 That the Committee note the annual licensing report.

3. REASONS FOR RECOMMENDATIONS

- 3.1. Section 8.2.3 of the [Council Constitution](#) requires the Full Committee to meet at least once per year and section 8.2.3 (d) requires the Committee '*to receive an annual report on licensing activities including performance information*'.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. No alternative options were considered as the annual report is required by the Constitution.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 No consultation was necessary as the Committee are not being asked to make a decision.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1. At the meeting of the Committee on Tuesday 28 November 2017, the licensing manager presented an oral update on various licensing matters.

- 7.2 Following discussion, Members indicated that they found the oral update beneficial and would like to receive further updates. The licensing manager suggested that a formal annual report could be introduced to support this request.

- 7.3 The Committee resolved:

‘That the concept of a Licensing Annual Report be supported’

which was subsequently added to the Council Constitution as part of a review presented to Full Council.

- 7.4 The first annual report was presented to the Committee at its meeting on Monday 5 November 2018 covering the preceding twelve months between 1 October and 30 September. The Committee resolved to note the report.

8. RELEVANT CONSIDERATIONS

- 8.1. The annual licensing report covers the same reporting period as the previous year, 1 October to 30 September, in order that a direct comparison with the previous year's statistics could be made.
- 8.2 The Committee are requested to discuss the content of the report and highlight any areas of concern that they wish the licensing team to address.

9. LEGAL IMPLICATIONS

- 9.1. As the Committee is not being asked to make a decision, there are no specific legal implications relating to this report other than the reference to the Council Constitution in paragraph 3.1 above.

10. FINANCIAL IMPLICATIONS

- 10.1 As the Committee is not being asked to make a decision, there are no financial implications arising from this report.

11. RISK IMPLICATIONS

- 11.1 As the Committee is not being asked to make a decision, there are no risk implications arising from this report.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. As the Committee is not being asked to make a decision, there are no equalities implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1. As the Committee is not being asked to make a decision, there are no human resource implications arising from this report.

15. APPENDICES

- 15.1. Appendix A - Annual Licensing Report

16. CONTACT OFFICERS

- 16.1. Steve Cobb, Licensing Manager
steven.cobb@north-herts.gov.uk; ext 4833

17. BACKGROUND PAPERS

- 17.1. [Annual Licensing Meeting 2018](#)

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Annual Licensing Report

1 October 2018 to 30 September 2019

1.	Executive summary	p1
2.	Overview of the service	p2 – p4
3.	Inspections	p4
4.	Applications	p5 – p6
5.	Licences	p7
6.	Miscellaneous service requests	p8
7.	Licensing hearings	p9
8.	Licensing fees	p9 – p10
9.	Policy work	p10 – p11
10.	Project updates	p11 – p13
11.	Future proposals	p14

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to give the Licensing and Appeals Committee:
- an overview of the work undertaken by the licensing service over the preceding twelve months
 - an update on existing projects and policies
 - an overview of future proposals
- 1.2 The period covered by the information note is 1 October 2018 to 30 September 2019.

2. OVERVIEW OF THE SERVICE

- 2.1 The service consists of a Licensing Manager, a Senior Licensing Officer and a Licensing Officer responsible for the administration and enforcement of licensing legislation.
- 2.2 The team is assisted by officers in the Management Support Unit (MSU) who undertake a range of administrative functions for the service ranging from basic enquiries to the processing of low risk applications.
- 2.2 A recruitment exercise is currently underway for an assistant licensing officer to join the team to enable the service to undertake additional activities, predominately more enforcement and income generation.
- 2.3 All activities undertaken by the licensing service are in fulfilment of statutory duties placed on the Council.
- 2.4 The licensing of houses of multiple occupancy (HMOs), caravan and camping sites, and skin piercers is undertaken by the Environmental Health Service.
- 2.5 The licensing service's main activities are the determination, issue and enforcement of licences/consents/permits relating to the following activities:

Alcohol, entertainment and late night refreshment

- 2.5.1 This includes:
- all sales of alcohol
 - performance of plays
 - exhibition of films
 - indoor sporting events
 - boxing and wrestling
 - performance of live music
 - playing of recorded music
 - performance of dance
 - sale of hot food/drink between the hours of 11pm and 5am)
- 2.5.2 Examples of premises that fall within this regime are pubs, members clubs, cinemas, community halls, late night takeaway shops, theatres, off licences, supermarkets, boxing/wrestling venues, music concerts and outdoor music festivals.

- 2.5.3 Temporary event notices (TENs) also fall within this regime; they are temporary permissions to carry out any combination of the above licensable activities. They are most frequently used by premises that do not have a permanent premises licence, for example a school fete or PTA fundraiser. Additionally, permanent premises licence holders use them for temporary extensions to existing licenced hours.
- 2.5.4 TENs are a 'light touch approach' to licensing and are less restrictive than a permanent premises licence as conditions cannot be attached. For that reason, prescribed limits apply to the number of TENs per person and per premises each year and the audience capacity is restricted to 499 persons at any one time.

Gambling

- 2.5.4 Examples of premises that fall within this regime are betting shops, bingo halls, casinos, racing track betting, amusement arcades and poker clubs.
- 2.5.5 It also includes small society lotteries, raffles and gaming machine permits.

Hackney carriages and private hire

- 2.5.6 This includes hackney carriage and private hire drivers, private hire operators, hackney carriages and private hire vehicles.

Street trading

- 2.5.7 This covers the sale of goods in the street and any land open to the public without payment within the four main towns and adjacent to the main arterial routes.
- 2.5.8 It includes mobile vendors (such as burger vans, sandwich trucks or ice cream vans), markets (other than Charter or licensed local authority markets), car boot sales and temporary stalls.

Charitable collections

- 2.5.9 This covers collections of money in the street, or the collection of money or goods by going house to house, in the four main towns.
- 2.5.10 Examples of collections covered by this regime include charity collections, sale of goods for charitable purposes, clothing collection bags or flower sellers going from pub to pub on Valentine's Day.

Animal establishments

- 2.5.11 This regime is targeted at ensuring the welfare of animals and covers premises such as kennels, catteries, home boarders, dog breeders, zoos, horse riding schools, pet shops, dangerous wild animals and dog day crèches.
- 2.5.12 Additionally, since September 2018, this now includes the licensing of persons that keep and/or train animals for the purposes of performances and/or exhibitions, for example petting zoos.

Sex establishments

2.5.13 This covers sex shops, sex cinemas or sexual entertainment venues (for example, lap dancing or pole dancing clubs).

Scrap metal dealers

2.5.14 This covers any site that:

- buys or sells scrap metal
- recovers salvageable parts from motor vehicles for re-use or sale
- buys written-off vehicles, repairs and resells them

2.5.15 It also includes mobile collectors that travel door-to-door collecting scrap metal.

Hypnotism

2.5.16 This includes all performances of hypnotism for the purpose of entertaining an audience.

3. INSPECTIONS

3.1 The licensing service undertakes a series of risk-based planned inspections which were previously reported by way of a local performance indicator (LPI). The number of programmed inspections undertaken within the reporting period was:

	2017/18	2018/19
Animal Inspection	21	39
Gambling Insp - Betting (other)	11	2
Licensed Premises (alcohol/entertainment/late night refreshment)	260	89
Private Hire Operator Insp	20	21
Scrap Metal Site	3	4
Sex Establishment	1	1
	316	156

3.2 Other ad hoc visits are undertaken as part of complaint investigations or courtesy visits but have historically not been recorded as they were excluded from the LPI.

3.3 Officer resourcing became an issue in the past year as the demands on the service increased, not least with the introduction of a new animal licensing regime with the final details not being released by DEFRA until the last minute. Additionally, significant officer time was allocated to developing and introducing a new safeguarding training requirement for all licensed hackney carriage and private hire drivers.

3.4 This led to a re-assessment of the existing inspection regime which placed unreasonable demands on limited officer time, often undertaking inspection visits to premises with little or no compliance issues. Additionally, many necessary visits that were undertaken as part of compliance work were not recorded.

3.5 The Licensing Manager decided to suspend the existing inspection regime with a view to implementing a more appropriate risk-based scheme that incorporated all site visits from January 2020.

4. APPLICATIONS

4.1 The number of applications processed during the reporting period was:

			2017/18		2018/19	
Hackney Carriage and Private Hire	Dual Driver	Change of name or address	6		5	
		Upgrade to dual	7		12	
		Replacement licence	1		1	
		Replacement badge	1		1	
		New	2		3	
		Renewal	17	34	45	67
	Hackney Carriage Driver	Change of name or address	6		4	
		Replacement licence	1		0	
		Replacement badge	1		0	
		Upgrade from PHD	0		3	
		Renewal	46		57	
		New	1	55	1	65
	Hackney Carriage Vehicle	Change of name or address	13		4	
		Transfer of ownership	11		9	
		New	36		35	
		Renewal	199		209	
		Replacement internal holder and plate	0		1	
		Replacement licence	12		2	
		Replacement plate	6		2	
		Temporary Vehicle Plate	15	292	9	271
	Private Hire Driver	Change of name or address	5		6	
		Replacement badge	1		0	
		Replacement licence	0		1	
		Renewal	20		26	
		New	39		22	
		Upgrade to HCD	2	67	1	56
	Private Hire Operator	Change of name or address	1		1	
		New	3		2	
		Renewal	6	10	2	5
	Private Hire Vehicle	Change of name or address	4		3	
		Transfer of ownership	1		2	
		New	29		29	
		Renewal	99		114	
		Replacement internal holder and plate	0		1	
		Replacement licence	6		1	
		Replacement plate	4		2	
		Temporary Vehicle Plate	2	145	1	153
				603		617

			2017/18			2018/19		
Animal Licensing	Animal Activity Licence	New	13			11		
		Amend a schedule of animals (No visit)	1			1		
		Renewal	28	42	42	28	40	40
Scrap Metal	Site Licence	New	1	1	1	0	0	0
Alcohol, Entertainment and Late Night Refreshment	Club Premises Certificate	Replacement Licence	2			2		
		Minor Variation	1	3		0	2	
	Film Classification	New	1	1		0	0	
	Temporary Event Notice	Late TEN	126			132		
		TEN	519	645		612	744	
	Personal Licence	New	74			102		
		Replacement licence	0			6		
		Change of name or address	29	103		23	131	
	Premises Licence	New	20			32		
		Change of name or address	8			8		
		Vary DPS	90			105		
		Transfer	32			28		
		Variation	11			9		
		Minor Variation	20			10		
		Review	0			2		
		Replacement Licence	5			10		
		Notification of Interest	2	188	940	0	204	1081
Gambling	Notification of 2 or less Gaming Machines	New	10	10		5	5	
		Variation	0			2		
	Licensed Premises Gaming Machine Permits	Replacement licence	0			1		
		Transfer	0	0		1	4	
	Betting Premises	Replacement licence	0			1		
		Transfer	0	0		1	2	
	Small Society Lottery	New	30			38		
Charitable Collections	House to House Collection	New	36			44		
	Street Collection	New	45	81	81	47	91	91
Sex	Sex Shop	Renewal	1	1	1	1	1	1
Street Trading	Street Trading (Fixed Pitch)	New	3			4		
		Renewal	5	8		3	7	
	Street Trading (Town Centre Consent)	New	2			1		
		Renewal	1	3		4	5	
	Street Trading (Transient Trader)	New	1	1	12	1	1	13
			TOTAL			1765	TOTAL	1937

5. CURRENT LICENCES

5.1 As at 20 September 2019, the number of current licences issued by the licensing service was:

		2017/18	2018/19
Adult Gaming Centre Premises Licence		1	1
* Animal Boarding Establishment	12		n/a
* Dangerous Wild Animals	1		n/a
* Dog Breeding Establishment	1		n/a
* Dog Day Creche	1		n/a
* Home Boarding	18		n/a
* Pet Shop	4		n/a
* Riding Establishment	2		n/a
* Animal Activity Licence	0	39	39
Betting (Other) Premises Licence		19	18
Club Gaming Machine Permit		2	2
Club Gaming Permit		1	1
Club Premises Certificate		35	35
Dual Driver		102	97
Fast Track Club Gaming Machine Permit		9	9
Fast Track Club Gaming Permit		2	2
Hackney Carriage Driver		138	124
Hackney Carriage Vehicle		169	181
House to House Collection		39	31
Licensed Premises Gaming Machine Permit		14	14
Notification of 2 or less Gaming Machines		77	74
Personal Licence		1521	1609
Premises Licence		495	511
Private Hire Driver		147	133
Private Hire Operator		40	34
Private Hire Vehicle		109	98
Scrap Metal Dealer Site		4	4
Sex Shop		1	1
Small Society Lotteries		140	77
Street Collection		55	46
Street Trading (Fixed Pitch)		2	6
Street Trading (Town Centre Consent)		4	5
Unlicensed FEC Gaming Permit		1	1
		3166	3153
* From September 2018, previous separate animal licensing legislation was repealed and replaced with a single licence under the Animal Welfare Act 2006			

5.2 In addition to these licences which, in most cases, are granted in perpetuity the licensing service also issued 628 temporary event notices which are specific to one-off small scale events during the period covered by this report.

6. MISCELLANEOUS SERVICE REQUESTS

- 6.1 The licensing service receives a high number of service requests in writing and by telephone, most notably requests for advice on the need for and the submission of an application. Due to increased educational work through social media, the public are becoming more aware of hackney carriage and private hire issues that can be reported leading to complaint investigations.
- 6.2 The high volume of telephone requests is not currently quantifiable as many are not recorded on the database if they can be resolved either at the time of the call or by a return telephone call or email. Those that require a more detailed response or an investigation are logged as service requests
- 6.3 In addition to service requests, the licensing service also undertakes a number of functions related to hackney carriage and private hire licensing that are an integral part of assessing drivers' ability to meet the 'fit and proper' person test and that vehicles are roadworthy and compliant with policy.
- 6.4 The number of recorded service requests and ancillary functions within the reporting period was:

	2017/18	2018/19
Service requests	205	273
Taxi complaints	40	56
Taxi compliance tests	363	377
Taxi Verbal knowledge tests	118	88
Taxi computerised topographical tests	40	52
Taxi DBS/Right to Work appointments	155	168
	921	1014

- 6.5 The past year saw a number of contentious applications that attracted public interest leading to a disproportionate amount of officer time and increased cost to the Council. Ordinarily, it is outdoor events in rural communities that attract the most public interest. As an example, one outdoor event application and a subsequent licence review took in excess of the equivalent of a full month of an officer's working time due to the unreasonable amount of communication from nearby residents; often persisting with the same or similarly worded questions in what appeared to be an attempt to try to achieve a different response. The cost to the Council cannot be accurately established however a cautious estimate of officer time and all associated costs suggests that the cost exceeded the licence fee by a substantial sum.
- 6.6 The licensing service receives a significant number of freedom of information (FOI) requests, mainly in relation to hackney carriage and private hire licensing or animals. The requests often involve considerable officer time searching the database and extracting the specific information requested. During the reporting period, seventeen (17) requests requiring a response were received.
- 6.7 Additionally, a refused FOI was appealed to the Information Commissioner's Office (ICO) by the requestor and the Council's decision was upheld. The requestor subsequently challenged the ICO decision to the First Tier Tribunal and the decision is awaited. Preparatory work for both appeals involved significant officer time.

7. LICENSING HEARINGS

- 7.1 Applications under the Licensing Act 2003 for new, varied or reviewed premises licences/club premises certificates that receive representations are determined by a licensing and appeals sub-committee.
- 7.2 The number of sub-committee hearings held within the reporting period was eight (8).
- 7.2 There is a right of appeal to the Magistrates Court against the decision of a licensing sub-committee however no decisions during the reporting period were subject to appeal.
- 7.3 A licensing and appeals sub-committee would also determine the following applications:
- Contested premises licence applications under the Gambling Act 2005
 - All applications for new sex establishments

No such applications were received during the reporting period.

- 7.4 All other licensing decisions are delegated to the Licensing Manager.

8. LICENSING FEES

- 8.1 Established licensing fee case law, supported by the recent *Hemming* judgement prevents local authorities from making a profit from licensing fees. The *Hemming* judgement indicated that fees can only cover the reasonable costs of administration and enforcement of the specific licensing regime and should be cost neutral over a period of three years.
- 8.2 A report was provided to the Licensing and Appeals Committee on 12 December 2013 summarising the legal position in regards to fees; the Committee passed the following resolution:

RESOLVED: *That, having considered the criteria suggested within the report, the following principles for the setting of future licensing fees and charges be supported:*

- (a) *licensing fees and charges should be set having regard to the need to promote local economic growth provided that they are consistent with the following objectives:*
- (i) *That the local Council Tax payers does not, unless provided for by law or decision of the Council, subsidise the operating costs associated with businesses or other trading entities (i.e. the Council seeks to fully recover the lawful costs licensing activity);*
 - (ii) *the Council may not fully recover its lawful costs associated with licensing activity if a) this would result in significant hardship to third parties, or b) the effect of fees or charges associated with licensing may encourage unlicensed activity and where formal enforcement is unlikely to be an effective control, or c) where the Council specifically wishes to encourage the growth a specific licensable activity;*
- (b) *an analysis of licensing costs, including detailed analysis of all recharges, should be undertaken every three years vis-à-vis licensing fees and charges;*
- (c) *in the years between cost reviews, fees and charges should ordinarily be subject to the Council's published inflationary increase;*

- (d) *any under/over recovery of full cost within existing licensing fees and charges should be rectified without undue delay, where legislation allows. However, where this may result in a significant increase in a licence fee/charge then consideration will be given to a phased introduction of the new levy;*
 - (e) *that enforcement activities in respect of unlicensed businesses/individuals should continue with the associated costs being financed from the General Fund; and*
 - (f) *that enforcement activities are periodically reviewed to ensure that they are delivered in the most cost effective manner including, where appropriate, the use of other internal departments or external statutory bodies.*
- 8.3 This resolution has been fully implemented and a full costing exercise was undertaken before setting this year's fees.
- 8.4 This resulted in a significant increase in animal licensing fees due to the added workload of the new animal licensing regime however increased channel shift enabled the Council to reduce its hackney carriage and private hire vehicle licences.
- 8.5 With the agreement of the Executive Member for Housing and Environmental Health, in accordance with (a) (ii) of the resolution, a subsidised licence fee was introduced this year for electric or hybrid licensed vehicles.

9. POLICY WORK

- 9.1 To ensure transparency for applicants, licence holders and the public, and to ensure consistent decision-making, each aspect of licensing has its own policy clearly stating the Council's requirements and local interpretation where legislation allows.
- 9.2 The Licensing and Appeals Committee is involved in the development and ongoing review of licensing policies as follows:
- (a) Statutory policies under the Licensing Act 2003 and Gambling Act 2005

These policies can only be adopted by Full Council however the Licensing and Appeals Committee are responsible for reviewing the results of the public consultations and recommending the policies to Full Council.
 - (b) Non- statutory policies
 - (i) Where policies are reserved for the Executive, Cabinet has the responsibility for the initial adoption of new policies
 - (ii) Where policies are not reserved for the Executive, initial adoption falls to the Licensing and Appeals Committee
 - (c) Review and amendment of existing policies
 - (i) Statutory policies are reserved for Full Council
 - (ii) Executive non-statutory policies can be amended by the Executive Member for Housing and Environmental Health

- (iii) Non-statutory policies not reserved for the Executive can be amended by the Licensing and Appeal Committee, the Executive Member for Environmental Health or the Licensing Manager depending on the extent of the amendments. Each policy details the responsibilities of each of the potential decision makers.

9.3 In the reporting year, the following policies were considered:

- (a) Gambling Act 2005

The Licensing and Appeals Committee considered the responses to the public consultation and recommended a policy to Full Council which was formally adopted.

- (b) Scrap Metal Dealers

Cabinet adopted a new policy in relation to the licensing of scrap metal dealers.

- (c) Hackney Carriages and Private Hire

The Executive Member for Housing and Environmental Health made some minor amendments which were not subject to public consultation as they were minor in nature.

9.4 The current Statement of Licensing Policy under the Licensing Act 2003 must be reviewed and a new policy adopted no later than January 2021. This will be subject to a public consultation and the Licensing and Appeals Committee will review those consultation responses and recommend a policy to Full Council next year.

9.5 A review of the Hackney Carriage and Private Hire Licensing Policy is currently being undertaken and many of the amendments will fall within the definition of minor that can be made by either the Licensing Manager or the Executive Member for Housing and Environmental Health. Some proposals will need to be subject to public consultation as they have the potential to impact financially on the trade, for example additional environmental considerations. Where a public consultation is undertaken, the review of the consultation responses and any policy amendments will be the responsibility of the Licensing and Appeals Committee.

9.6 Following the introduction of the new animal licensing regime, the Animal Licensing Policy will need amending to reflect the new legislation. The appropriate decision-maker will be determined once the re-drafting of the policy has been undertaken however it is likely to be an executive decision.

9.7 At the last review of the charitable collections policies, a new process was introduced that has resulted in a small number of administrative anomalies. The collections policies will be reviewed later this year however the necessary amendments are likely to be minor amendments that can be made by the Licensing Manager.

10 PROJECT UPDATES

10.1 The licensing service has a number of ongoing projects targeted at smarter ways of working, channel shift, public engagement and income generation.

Public licensing register

- 10.2 Following the successful transition to a new licensing database last year, a public register detailing applications and licences under the Licensing Act 2003 and Gambling Act 2005 is now live on the Council's website. In addition to accessing details of applications and licences, the public can now make representations directly through the register.
- 10.3 The final stages of the public register project are:
- electronic submission of applications
 - extending the register to other aspects of licensing
- 10.4 It is hoped to have the electronic submission of licences 'live' by the end of the current civic year; this is a key development as it is likely that the current online facility provided by Government will be decommissioned next year.

Customer self-service

- 10.5 To facilitate the introduction of a pre-application advice service and to improve our service provision to the public a review of the licensing pages on the Council's website has been undertaken.
- 10.6 The first stage was to introduce new pages relating to the new animal licensing legislation to assist applicants and existing licence holders with the transition to the new regime. This stage was completed and a successful transition was achieved. The pages are now being supplemented by an additional information page that allows the Council to publish important updates and minutes of the Animal Licensing Forum for public access.
- 10.7 The second and most substantial stage was a complete re-design of the website pages relating to the Licensing Act 2003. This work has now been completed and the new webpages will be 'live' by the end of October 2019. This will enable customers to obtain all the necessary information, including application forms and public notice templates, to submit applications.
- 10.8 In addition to being more customer-focussed, this will now allow the introduction of a chargeable pre-application advice service for customers that require additional assistance or advice with their applications. Currently applicants rely on advice from licensing consultants or solicitors which attracts a significant cost for information that the consultant/solicitor may have obtained from the Council anyway. The Council will be able to offer the public a more cost-effective service and alleviate some of the additional administration undertaken when applications are not submitted correctly.

Safeguarding for licensed drivers

- 10.9 At a previous meeting of the Licensing and Appeals Committee during a discussion on the Hackney Carriage and Private Hire Licensing Policy, Members requested that safeguarding was given a higher profile in the licensing process.
- 10.10 As an initial amendment, the verbal knowledge test that all prospective drivers must pass had a new safeguarding section included; it was a requirement that all safeguarding questions were correctly answered to achieve a pass.

- 10.11 The verbal knowledge test requirement remains however it has now been made a mandatory requirement from 1 August 2019 that all drivers, whether new or renewing, must attend a safeguarding awareness course as part of the application process. Any driver not attending a course will not be issued with a licence.
- 10.12 The safeguarding awareness course is being delivered in-house by licensing officers which allows it to be a 'live' course that can be continually amended to reflect relevant concerns and information. The cost of the course is not restricted by licensing fee case law as it is not part of the application fee however it has been kept at a reasonable level to ensure fairness to applicants. The course attendance fees are an additional income to the Council.

Licensing forums

- 10.13 The licensing service already facilitate two regular trade forums, one for the hackney carriage and private hire licence holders and one for animal licence holders. These are useful meetings to ensure consultation with the trade regarding proposed policy amendments, receive feedback on trade concerns and disseminate important information.
- 10.14 During the reporting period the licensing service have introduced a new responsible authority forum where licensing officers meet with officers from the police, the fire service, environmental health and planning. This ensures that each authority shares important intelligence and best practice, and benefits the trade as the respective authorities can work together to resolve issues utilising appropriate specialisms and powers.

Channel shift

- 10.15 The licensing service have continued with the move away from paper correspondence with licence holders, most notably renewal reminders and information updates. The improved webpages will now contain more information and each aspect of licensing will have a page where important updates are posted.
- 10.16 Historically, the hackney carriage and private hire licensed trade have been heavily reliant on paperwork reminder and appointment letters and being supplied with paper application forms. Application forms are no longer sent in hard copy format as they are available for download from the Council website. All reminder and appointment letters are now sent by email.
- 10.17 A significant proportion of officer time, particularly in relation to hackney carriage and private hire, has been spent on telephone calls dealing with matters that could have been resolved by self-service. The licensing service has now moved to a system whereby any caller to the Customer Service Centre (CSC) wishing to discuss licensing matters is either directed to the website or, where they have a more technical enquiry, they leave a brief explanation of their query for an officer to email a response. Obviously, where necessary, telephone advice can still be given however this is ordinarily restricted to matters that cannot be resolved through the website.
- 10.18 A further development that is currently being considered is the ability for hackney carriage and private hire applicants to access an online booking system for booking DBS, compliance test, safeguarding course and knowledge test appointments. Currently applicants have to pay online and an appointment is allocated and emailed to them by an officer.

11. FUTURE PROPOSALS

- 11.1 The licensing service has a number of future developments planned that are targeted at increased channel shift, customer focus and income generation. It is important to be aware that some of these ideas are still at the developmental stage and that implementation will be dependant on available resourcing and practicalities.

Hackney carriage and private hire environmental considerations

- 11.2 In order to support the Council's decision to declare a climate emergency, the introduction of subsidised vehicle licence fees for electric and hybrid vehicles is the first step in a number of proposals currently under consideration by the licensing service. Examples of ideas being considered are 'no idling ' rules for taxi ranks, 'no idling' rules for licensed vehicles when not carrying a passenger, sourcing access to Government funding for applicants to purchase low emission vehicles and/or home charging points.

Additional enforcement activity

- 11.3 Due to the increased number of complaints relating to hackney carriage and private hire licensing, additional out-of-hours enforcement activity is planned. This may be in conjunction with the police or utilising officers from neighbouring authorities. Targeted 'test purchasing' is planned using volunteers from Council staff who are not known to the licensed drivers. Any such activity would be intelligence led.

Income generation

- 11.4 Where permitted by licensing fee legislation and case law, the licensing service are considering introducing charging for some discretionary services much like the pre-application advice under the Licensing Act 2003. An example being considered is workshops for prospective hackney carriage and private hire drivers where they are given a full overview of the application process and provided with all relevant information.

Newsletters

- 11.5 To supplement the information page for licence holders on the hackney carriage and private hire web pages, all drivers have been asked to opt-in to a licensing newsletter service. Periodically, a newsletter will be sent to all licence holders advising of any important messages that the Council needs to deliver for example, forthcoming policy or legislative changes, driver safety information, consultations, enforcement updates etc.
- 11.6 If the hackney carriage and private hire newsletter service proves successful, consideration will be given to extending it to other aspects of licensing such a Licensing Act 2003 and animal licensing.

Public engagement

- 11.7 Historically, the public response to consultations relating to licensing policies or hackney carriage fares has been minimal. The licensing service is looking at ways in which greater public involvement in these consultations can be achieved.

LICENSING AND APPEALS COMMITTEE
21 OCTOBER 2019

PART 1 – PUBLIC DOCUMENT

TITLE OF INFORMATION NOTE: THE ROLE OF THE LICENSING AND APPEALS COMMITTEE

INFORMATION NOTE OF: THE LICENSING MANAGER

EXECUTIVE MEMBER: CLLR GARY GRINDAL (EXECUTIVE MEMBER FOR HOUSING AND ENVIRONMENTAL HEALTH)

PRIORITY: PROSPER AND PROTECT

1. SUMMARY

- 1.1 The purpose of this Information Note is to facilitate preliminary discussions about the role of the Licensing and Appeals Committee and seek the views of its Members.

2. STEPS TO DATE

- 2.1 A number of new Members have joined the Committee this year and during their licensing training a number of questions arose about the role of the Committee.
- 2.2 The Licensing Manager discussed this with the Chairman of the Licensing and Appeals Committee and it was agreed that the Annual Meeting would be the appropriate opportunity for Members to discuss this matter.

3. INFORMATION TO NOTE

- 3.1 Section 8.2.3 of the Council Constitution lists the responsibilities of the Committee as follows:

There shall be at least one (1) regular meeting of the Committee per year:-

- (a) to consider all Licensing matters with the exception of the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005 and those matters delegated to the Licensing Sub-Committee and the Service Director: Legal and Community.*
- (b) to make recommendations to Council on the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005.*
- (c) to consider and amend other non-executive Licensing Policies (minor amendments to be delegated to the Licensing Manager in consultation with the Chairman of Committee and the relevant Executive Member).*
- (d) to receive an annual report on Licensing activities including performance information.*

- 3.2 In addition, the Committee determine applications under the Local Government (Miscellaneous Provisions) Act 1982 for sex establishment licences (sex shops, sex cinemas or sexual entertainment venues) as follows:
- All applications for the grant of a new licence irrespective of whether representations have been received
 - Applications for the renewal, transfer or variation of an existing licence when representations have been received
 - Applications for the renewal, transfer or variation of an existing licence when representations have not been received but the Licensing Manager is not minded to grant the application under delegated powers
- 3.3 In addition, the Licensing Manager may choose to refer any delegated decision to the Licensing and Appeals Committee in instances where it is deemed appropriate, for example:
- Where it may be in the public interest
 - Where policy is not clear
 - Where the determination may result in the need for an amendment to policy
- 3.4 Licensing and Appeals Sub-Committees are required by legislation to determine a number of applications under the Licensing Act 2003 and the Gambling Act 2005. A list of these applications is attached as **Appendix A** (Licensing Act 2003) and **Appendix B** (Gambling Act 2005).
- 4. NEXT STEPS**
- 4.1 The Licensing Manager will assess the feasibility and practicality of the ideas suggested by the Committee, prior to discussing those findings with the Executive Member for Housing and Environmental Health and the Chairman of the Licensing and Appeals Committee.
- 4.2 If there are matters to be progressed formally, a report would be presented to a future meeting of the Committee in order that the Committee can consider appropriate resolutions.
- 4.3 Any matter that would require an amendment to the Council Constitution would need to be considered by the Monitoring Officer as part of the next review of the Constitution in preparation for a report to Full Council.
- 5. APPENDICES**
- 5.1 Appendix A Applications under the Licensing Act 2003 reserved for a Licensing and Appeals Sub-Committee
- 5.2 Appendix B Applications under the Gambling Act 2005 reserved for a Licensing and Appeals Sub-Committee

6. CONTACT OFFICERS

- 6.1 Steve Cobb, Licensing Manager
steven.cobb@north-herts.gov.uk; Ext 4833

7. BACKGROUND PAPERS

- 7.1 [Council Constitution](#)

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Applications under the Licensing Act 2003 to be determined by a Licensing and Appeals Sub-Committee

Matter to be dealt with	Licensing Sub-Committee (3 Councillors)
Application for personal licence	If a police objection made
Application for personal licence with unspent convictions	All cases
Application for premises licence/club premises certificate	If a relevant representation made
Application for provisional statement	If a relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made
Application to vary designated premises supervisor	If a police objection made
Application for transfer of premises licence	If a police objection made
Application for interim authority	If a police objection made
Application to review premises licence/club premises certificate	All cases
Determination of an objection to a temporary event notice	All cases
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection made

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Applications under the Gambling Act 2005 to be determined by a Licensing and Appeals Sub-Committee

Matter to be dealt with	Licensing Sub-Committee (3 Councillors)
Application for premises licences	Where representations have been received and not withdrawn
Application for a variation to a licence	Where representations have been received and not withdrawn
Application for a reinstatement of a premises licence	Where representations have been received and not withdrawn
Application for a transfer of a licence	Where representations have been received from the Commission or responsible authority
Application for a provisional statement	Where representations have been received and not withdrawn
Review of a premises licence	All cases
Application for club gaming/club machine permits	Where objections have been made and not withdrawn
Cancellation of club gaming/club machine permits	All cases
Decision to give a counter notice to a temporary use notice	All cases

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