

MEETING OF HARLOW COUNCIL
7.30 pm on Thursday 28 January 2021
Zoom - Online

This meeting is a virtual meeting which is being hosted on Zoom. Councillors and registered public participants will be sent access details nearer the date of the meeting.

Members of the public who wish to watch the meeting can do so via a livestream which will appear on the Council's YouTube page
<https://www.youtube.com/user/HarlowCouncil>

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Councillors' declarations of interest (if any) in relation to any items on the agenda.

3. Minutes (Pages 5 - 21)

To agree the minutes of the meeting held on 10 December 2020.

4. Communications from the Chair

5. Petitions from the Public

6. Questions from the Public

7. Questions from Councillors

8. Motions from Councillors

a) Adoption of Misogyny as a Hate Crime

Proposed by Councillor Emma Toal (seconded by Councillor Chris Vince):

"This Council notes:

- i) That the Law Commission is currently reviewing all current hate crime legislation to consider whether any additional characteristics, including misogyny, should be granted legal protection, and is due to report back to Parliament in 2020. Misogyny is not currently recorded as a hate crime by the vast majority of police forces in

the UK, outside of a handful of trial areas.

- ii) That this review was thanks to the work of Stella Creasy and her campaign to have misogyny classified as a hate crime - which her amendment to the Voyeurism (Offences) (No.2) Bill, or Upskirting Bill would have secured – alongside groups such as Citizens UK, HOPE Not Hate, Southall Black Sisters, Tell MAMA UK, and the Fawcett Society.
- iii) That like women and girls across the country our residents suffer harassment and abuse every single day. A YouGov national survey in 2016 showed that 85% of women aged 18-24 were subjected to sexual harassment in public.
- iv) The adoption of misogyny as a hate crime was successfully implemented in Nottingham, where analysis showed an increase in reporting as well as an increase in the use of wider services. It also showed the vast majority of local people wanted the scheme to continue.
- v) Studies have shown that the intersectional nature of discrimination means that women with additional protected characteristics, such as those who are BAME, disabled or LGBT+, are even more likely to experience harassment, discrimination and abuse.

The Council resolves:

- i) To make a submission to the Law Commission's Consultation at the earliest opportunity in favour of strengthening hate crime legislation and making misogyny a hate crime.
- ii) To call on the Government to listen to the lived experience of women and girls across our country and to urgently act on any recommendations the commission makes to strengthen the law on hate crime, and to reform legislation around harassment to recognise as an offence a 'course of conduct' which targets women and girls in their community.
- iii) To call on the Government to provide the resource and funding for police forces across the UK to effectively tackle harassment, misogyny and domestic abuse.

To call on Essex Police to record harassment of women as a hate crime, following successful trials in Nottingham and elsewhere.”

9. References from Cabinet and Committees

- a) Referral from Cabinet - Corporate Plan (to follow)
- b) Referral from Cabinet - Medium Term Financial Strategy 2021/22 - 2023/24 (to follow)
- c) Referral from Cabinet - General Fund Budget 2021/22 (to follow)
- d) Referral from Cabinet - Housing Revenue Account Budget 2021/22 (to follow)
- e) Referral from Cabinet - Capital and Treasury Report 2021 (to follow)
- f) Referral from Cabinet - Capital Programmes 2020/21 - 2022/23 (to follow)
- g) Referral from Licensing Committee - New Department for Transport Statutory Vehicle and Private Hire Standards Action Plan (Pages 22 - 84)

The Licensing Committee recommend to Full Council the adoption of the policy changes set out at recommendation items 9-16 in the main agenda report under the heading in the report below; Group B – Policy Change Can be Recommended at This Time and recommendation items A and B for DFT standard 13 in the supplementary agenda report.

10. Reports from Officers

- a) Appointment to Committees, Sub Committees and Panels of the Council and their Chair and Vice Chair (Pages 85 - 86)
- b) Nominations for Appointment of Council Representatives on Outside Bodies (Pages 87 - 88)

11. Minutes of Cabinet and Committee Meetings

To note the following Cabinet and Committee minutes:

- a) Minutes of meeting Thursday, 3 December 2020 of Cabinet (Pages 89 - 97)
- b) Minutes of meeting Wednesday, 9 December 2020 of Development Management Committee (Pages 98 - 102)
- c) Minutes of meeting Wednesday, 16 December 2020 of Development Management Committee (Pages 103 - 106)

12. Matters of Urgent Business

Such other business which, in the opinion of the Chair, should be received as a matter of urgency by reason of special circumstances to be specified in the minutes.

**MINUTES OF THE COUNCIL
HELD ON**

10 December 2020

7.30 - 9.30 pm

PRESENT**COUNCILLORS**

Maggie Hulcoop (Chair)
Bob Davis (Vice-Chair)

David Carter	Eddie Johnson
Simon Carter	Shona Johnson
Joel Charles	Sue Livings
Nick Churchill	Stefan Mullard
Jean Clark	Russell Perrin
Mike Danvers	Danny Purton
Jodi Dunne	Lanie Shears
Tony Edwards	Clive Souter
Michael Garnett	John Strachan
Michael Hardware	Chris Vince
Eugenie Harvey	Phil Waite
Mark Ingall	Nancy Watson
Shannon Jezzard	Mark Wilkinson
Andrew Johnson	

OFFICERS

Brian Keane, Chief Executive
Andrew Bramidge, Head of
Environment and Planning
Simon Hill, Head of
Governance
Paul MacBride, Forward
Planning Manager
Adam Rees, Governance
Support Officer
Lisa Thornett, Corporate
Governance Support Officer

40. **MINUTES' SILENCE AND TRIBUTES TO COUNCILLOR FRANCES
MASON**

A minutes' silence was held following the passing of Councillor Frances Mason on 5 December 2020. The Chair of the Council, Leader of the Council, and Leader of the Opposition paid tribute to Councillor Mason for her work as a Councillor, as well as to her character as a friend.

41. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Tony Durcan and Emma Toal.

42. **DECLARATIONS OF INTEREST**

None.

43. **MINUTES**

RESOLVED that the minutes of the meeting held on 29 October 2020 are agreed as a correct record and signed by the Chair.

44. **COMMUNICATIONS FROM THE CHAIR**

The Chair said that since the last meeting of Full Council she had attended the staff long service awards via Zoom. She had also been filmed laying a wreath for the virtual Remembrance Day ceremony. Finally she had attended a virtual coffee morning with other Chairs.

45. **PETITIONS FROM THE PUBLIC**

None.

46. **QUESTIONS FROM THE PUBLIC**

The questions, together with the answers, are appended to the minutes.

47. **QUESTIONS FROM COUNCILLORS**

The questions, together with the answers, are appended to the minutes.

48. **MOTIONS FROM COUNCILLORS**

a) Adoption of Misogyny as a Hate Crime

In the absence of the proposer for the motion, and with the consent of Full Council, consideration of the motion was deferred until the next meeting.

RESOLVED that consideration of the motion be deferred until the next meeting of Full Council.

49. **REFERENCES FROM CABINET AND COMMITTEES**

a) Referral from Independent Remuneration Panel - Report of the Independent Remuneration Panel 2019/20

The Independent Remuneration Panel recommended to Full Council that the Basic Allowance and Special Responsibility Allowances for the 2021/22 financial year remain unchanged from 2020/21 (as set out in Appendix A to the report).

Proposed by Councillor Mark Ingall (seconded by Councillor Andrew Johnson) it was:

RESOLVED that Full Council endorsed the recommendation that no changes be made to the Basic Allowance or Special Responsibility Allowances for the 2021/22 financial year.

- b) Referral from Cabinet - Treasury Management Strategy Statement 2020/21: Mid-Year Review

Cabinet recommended to Full Council that the Mid-Year Review of the Treasury Management Strategy, attached as Appendix A to the report, be considered.

Proposed by Councillor Mike Danvers (seconded by Councillor Mark Wilkinson) it was:

RESOLVED that the above recommendation be approved.

- c) Referral from Cabinet - Local Council Tax Support Scheme Proposals

Cabinet recommended to Full Council that the Local Council Tax Support Scheme remains unchanged for 2021/22.

Proposed by Councillor Mike Danvers (seconded by Councillor Mark Wilkinson) it was:

RESOLVED that the above recommendation be approved.

50. **REPORTS FROM OFFICERS**

- a) Adoption of Harlow Local Development Plan

Full Council received a report which recommended adoption of the Harlow Local Development Plan, attached as Appendix 2 to the report. A presentation was given by Andrew Bramidge, Head of Environment and Planning, which provided an overview of the Plan.

Proposed by Councillor Danny Purton (seconded by Councillor Mark Ingall) it was:

A vote on the resolution was recorded. The details of the recorded vote are below.

RESOLVED that Full Council:

- A** Considered the content and the findings of the Inspector's Final Report into the Examination of the Harlow Local Development Plan (HLDP) as set out in Appendix 1 to the report.
- B** Adopted the Harlow Local Development Plan 2011-2033 as set out in Appendix 2 to the report, incorporating the Main Modifications that accompany the Inspector's Final Report as set out in Appendix 3 to the report and other

additional Minor Modifications, set out in Appendix 4 to the report.

- C** That in adopting the HLDP, subject to recommendation B, the Council adopted the Policies Map, set out in Appendix 5 to the report in accordance with changes set out in Appendices 3 and 4 to the report, that will provide the spatial expression of the policies and proposals set out in the Plan.
- D** Noted that on adoption of the HLDP 2011-2033 the following Development Plan Document is revoked and should not be used for decision making:
 - i) Saved policies of the Adopted Replacement Harlow Local Plan (July 2009)
- E** Noted the content of the Sustainability Appraisal (SA) Post Adoption Statement (PAS) and Habitats Regulations Assessment (HRA) Post Adoption Statement, presented in Appendices 6 and 7 to the report, and published these Statements alongside the adopted HLDP 2011-2033 in accordance with Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004.
- F** Delegated authority to the Head of Environment and Planning, in consultation with the Portfolio Holder for Environment and the Chair of the Local Development Plan Panel, to make any necessary, non-consequential and minor textual, presentational or layout amendments to the Harlow Local Development Plan 2011-2033 (Appendix 2 to the report) and Policies Map (Appendix 5 to the report).

Adoption of Harlow Local Development Plan (Resolution)	
Councillor Maggie Hulcoop	Abstain
Councillor Bob Davis	For
Councillor David Carter	Against
Councillor Simon Carter	Against
Councillor Joel Charles	Against
Councillor Nick Churchill	Against
Councillor Jean Clark	For
Councillor Mike Danvers	For
Councillor Jodi Dunne	For
Councillor Tony Edwards	For
Councillor Michael Garnett	Against
Councillor Michael Hardware	Against
Councillor Eugenie Harvey	For

Councillor Mark Ingall	For
Councillor Shannon Jezzard	For
Councillor Andrew Johnson	Against
Councillor Eddie Johnson	Against
Councillor Shona Johnson	Against
Councillor Sue Livings	Against
Councillor Stefan Mullard	For
Councillor Russell Perrin	Against
Councillor Danny Purton	For
Councillor Lanie Shears	For
Councillor Clive Souter	Against
Councillor John Strachan	For
Councillor Chris Vince	For
Councillor Phil Waite	For
Councillor Nancy Watson	For
Councillor Mark Wilkinson	For
Carried	

51. **MINUTES OF CABINET AND COMMITTEE MEETINGS**

RESOLVED that the minutes of the following meetings are noted.

- a) Minutes of meeting Wednesday, 11 November 2020 of Development Management Committee
- b) Minutes of meeting Tuesday, 17 November 2020 of Licensing Committee
- c) Minutes of meeting Wednesday, 25 November 2020 of Audit and Standards Committee

52. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COUNCIL

Full Council – 10 December 2020

Questions from the Public

1 **Mick Patrick to Councillor Danny Purton (Portfolio Holder for Environment):**

I have read and replied to the Government white paper on new proposed planning legislation.

The paper totally removes the 1947 Planning Act, deregulating the rights of councils and communities. They want to move consultation on line 'rather than putting notices on lampposts', meaning they don't want local people to know about specific proposals. This will affect the essential democratic right of communities to comment on and object to the specific proposals which remake our home neighbourhoods, creating poorly planned developments.

Does this mean developers will be able to in fill Harlow's green spaces and sites like our showground, that was fought for, will be built on within 18 months of putting planning processes in place, with no accountability?

Reply from Councillor Danny Purton (Portfolio Holder for Environment):

In Harlow Council's response to the Planning White Paper consultation, we also expressed our concerns at the democratic deficit that would arise from these proposals. The switch in emphasis in focussing consultation on the Local Plan stage rather than at the planning application stage will mean that many people are not able to comment on and influence development that is to take place around them.

However, I can provide an assurance that Harlow's green wedges and other green spaces, such as the showground in the Town Park, are safe from development. At this meeting tonight there is a motion to adopt Harlow's Local Plan for the period up to 2033. This provides strengthened policies to protect our green spaces from development. I would draw people's attention to policies WE1 and WE2 in this new Local Plan. The independent inspector appointed to assess this Local Plan made it very clear that these spaces are to be protected from development as an intrinsic design feature of the town.

Even if the Government's proposals as set out in the White Paper become law, our Green Spaces will still be protected. The proposals would see all land being zoned as either Growth areas, Renewal areas or areas for

Protection. Harlow's green spaces would be classified as 'Protected' areas, meaning that they will be governed by the local policies that we have in place through our Local Plan.

Supplementary Question from Mick Patrick:

What plans are there for Ocasio House?

Supplementary Reply from Councillor Danny Purton (Portfolio Holder for Environment):

I will arrange for the relevant Portfolio Holder to write to you setting out the Council's involvement with Ocasio House and what plans exist for the site.

2 Mick Patrick to Councillor Danny Purton (Portfolio Holder for Environment):

With reference to the Government white paper, with the removal of Section 106 that has been deregulated over several years, does this mean we will see very little, or none, of the much needed social housing or council building in the future?

Reply from Councillor Danny Purton (Portfolio Holder for Environment):

Again, in Harlow Council's response to the White Paper consultation we expressed our concerns about these proposals as they could have a significant negative impact upon the ability to deliver social housing. The creation of a national infrastructure fund could, in theory, result in more money being made available from development since the creation of certainty at the start of a development process reduces risk for a developer. However, it is also clear that the Government's proposals for the delivery of affordable housing through developer contributions is intended to be targeted at the delivery of First Homes. This will see the focus on developers providing subsidised homes for purchase, rather than for affordable or social rent.

Harlow Council has submitted an objection to this proposal and many other local authorities have raised concerns about the White Paper proposals. It is by no means certain that they will all come into practice.

However, even if they do, Harlow Council remains committed to the delivery of council housing. We will still build new Council homes utilising other funding mechanisms and the delivery of new Council homes at Bushey Croft and the former Lister House site will commence in 2021. This follows the completion of the Prentice Place development this year, all of which is Council housing.

3 Denis Bubutanu to Councillor Chris Vince (Portfolio Holder for Community and Wellbeing):

Youth Council is aware that Harlow Council has donated money from the cancelled fireworks display to Harlow Foodbank that will help give food parcels to vulnerable families. Are there any plans to continue to support young people and their families through the Christmas period and throughout the pandemic?

Reply from Councillor Chris Vince (Portfolio Holder for Community and Wellbeing):

Throughout the pandemic Harlow Council has been working with Rainbow Services and other organisations in the voluntary sector to offer support to vulnerable families and other residents that have been affected by Covid-19. The Harlow Community Hub provides advice to residents regarding access to food and prescriptions along with referrals to Harlow Food Bank and Community Embrace as well as signposting to a range of other support services. Harlow Council aims to ensure that no-one in Harlow goes hungry during these difficult times and will continue to work with the Essex Lifestyle Service and partner organisations to ensure that residents receive the support that they need.

There is potential for the remaining funding which was given to the foodbank for over half term to be used again, either during Christmas or next year, in case the money given by central government is not sufficient to feed all those in need across Harlow.

The Harlow Health and Wellbeing Board has utilised Public Health grant funding to assist the delivery of a range of initiatives to support vulnerable children and families during the pandemic - including the Harlow Grows Project, Boxes of Hope and Harlow Holiday Lunch Clubs.

The Government recently announced a £400m Winter Grant scheme to support vulnerable families and local agencies are now working together to ensure Harlow's share of this money reaches those most in need in our communities. Some of this funding will be accessible to residents through the Essential Living Fund and Active Essex will lead on the provision of free Holiday Hunger activity clubs across Essex (including in Harlow) from 20 December. These clubs will provide physical activity opportunities and a nutritious meal as well as food hampers to take home for the family.

4 Bethany Tasker to Councillor Chris Vince (Portfolio Holder for Community and Wellbeing):

As young people can be spreaders of the Covid-19 virus Youth Councillors are concerned about the lack of social distancing in school and when school

finishes for the day and young people travel home. Are there any plans for the Council to use its social media platforms to engage better with younger people to get the message across about the importance of everyone following the rules?

Reply from Councillor Chris Vince (Portfolio Holder for Community and Wellbeing):

Harlow council recognises that during the pandemic communication with residents of all ages is key. We recognise that for young people this is a very scary and difficult time and that it is difficult to do what is best when balancing the need to keep safe with the desire to be successful at school and socialise with friends. Harlow council will continue to provide hopefully useful information on social media advising all residents of our town, about the importance of following the government guidelines and what everyone can do to reduce the spread of this virus.

However, in response to your specific point our comms team are working with the youth and citizenship team to look at how we can best communicate the importance of young people social distancing, of wearing face masks and to continue to ensure that we sanitise both ourselves and our work spaces, until we have seen an end to this terrible pandemic. As part of Essex County Council's let's stop the spread campaign the council is also working with the County Council to identify key influencers and personalities who can help engage with and communicate messages to families and young people through different social media channels.

5 Nicholas Taylor to Councillor Mike Danvers (Portfolio Holder for Resources):

I understand that the policy and procedures used in respect of the sale of council owned land dating back to 1996 are to be reviewed and revised in 2021. Current procedures do not require officers to consult with residents living nearby before a decision is made to sell land and such a decision is left up to officer discretion, subject to a number of criteria.

It is clear that a land sale can have a detrimental effect on neighbouring properties and their occupants and a decision to sell without neighbouring residents and member involvement lacks any kind of transparency.

Will you give an undertaking that the review in the spring of 2021 will include the need for written consultation to take place with neighbours living in the vicinity of all proposed land sales and that councillors are involved when the council make a final decision on whether to proceed with a sale?

Reply from Councillor Mike Danvers (Portfolio Holder for Resources):

The Council's existing policy makes provision for Officers to decide whether public consultation in an area is appropriate. Historically, where such consultation has been deemed necessary, Officers have carried out neighbour consultation and considered any representations as part of its decision making process.

The criteria to facilitate a land sale is comprehensive, with much of specifically designed to provide a level of protection against disruption to the amenity of surrounding residents. Additionally, where planning consent for a change of use of land is required (which is applicable in the vast majority of cases), consultation will happen as a matter of course under the planning process.

Whether the emerging land sale policy will provide for mandatory written public consultation in all instances will need to be assessed having regard to the overall terms of revised policy. If the emerging land sale criteria are considered to afford sufficient protection to neighbouring properties, it may not be an appropriate to consult in every case, particularly where public consultation is already required under the planning process.

Therefore, I cannot at this stage provide a firm undertaking that the emerging policy will provide for consultation or that Councillors will be involved in the final decision in all cases. However, I will advise Officers who are leading on the preparation of the new policy to consider the position on these points carefully and to provide clear recommendations to Members on the most appropriate approach.

6 Nicholas Taylor to Councillor Mike Danvers (Portfolio Holder for Resources):

In some cases residents seeking to build a new home in their garden will need to purchase land owned by the council in order to give access to the garden. In legal circles such land is known as a "ransom strip".

In order to be transparent and upfront, a neighbouring authority explains at the outset that it uses a sum which involves the following, the sale value of the new home to be built, for example £400,000, then taking off the build cost and associated fees, say £150,000, leaving a profit of £250,000 for the applicant. The council will expect to receive one third of this profit, £83,333 to be paid by the applicant on the sale of the new home.

Can you tell me how Harlow Council or it's agent determines the value of a "ransom strip"?

Reply from Councillor Mike Danvers (Portfolio Holder for Resources):

To ensure compliance with the Council's fiduciary duty, the Council procures land valuations from appropriately qualified valuation consultants in accordance with the Royal Institute of Chartered Surveyors (RICS) 'Red Book'.

Whilst there is no particular framework or guidance from the RICS or other regulatory bodies on how to value ransom strips, the starting point for landowners, developers and valuers is generally the case law of *Stokes v Cambridge Corporation* [1961].

The principle set out in this case indicates that the owner of a ransom strip should be entitled to one-third of the increase in the value of the adjacent land, simply for providing access to the development which is broadly in accordance with the residual land valuation approach described by Mr Taylor in his question.

It should however be noted that other legal case such as *Ozanne and ors v Hertfordshire County Council* [1989] provides for a greater proportion of the increase in land value to be paid to the ransom strip owner. It is also imperative that each valuation is assessed on its merits and on the basis of the specific circumstances of that case. Such circumstances to include, whether alternative access routes may exist; whether the applicants land is capable of development for alternative uses, or a smaller scale development without the need to acquire the Council's land; and whether in addition to providing access, the Council's land forms an meaningful proportion of the future developable land area.

For these reasons it is not considered appropriate to adopt a 'one size fits all' valuation approach and for a prescribed valuation methodology or formula to be included within the Council's land sale policy or guidance notes. Such an approach would have the potential to lead to unfair valuation outcomes and a breach of the Council's fiduciary duty.

7 Alan Leverett to Councillor Tony Durcan (Portfolio Holder for Growth and Prosperity):

Could you please inform me how much it has cost the council to refurbish the flats at Prentice Place excluding the costs associated with the remodelling of the external areas?

Reply from Councillor Mark Ingall (Leader of the Council):

The cost of refurbishing the flats at Prentice Place, excluding the remodelling of the external areas is circa £2,845,780. This work includes new kitchens and bathrooms, new double glazing, new gas boilers, new front doors, new pitched roof on all three blocks and guttering, new communal lighting, communal security doors with intercom system, new bin stores and cycle storage, the removal of asbestos and a security camera system.

8 Alan Leverett to Councillor Mark Wilkinson (Portfolio Holder for Housing):

Bearing in mind the ever increasing demand for housing can you explain why it has taken so long for the flats at Prentice Place to be occupied by tenants?

Reply from Councillor Mark Wilkinson (Portfolio Holder for Housing):

Prentice Place scheme provides for badly needed new Council homes that will be allocated to applicants on the Council's Housing Needs Register.

Additional works were required for fire stopping and building control priorities, aligning to new government guidance, for new build properties. The ongoing pandemic has also delayed works during the lockdowns, however, it is anticipated these properties will be advertised to residents in December 2020.

9 James Humphreys to Councillor Mark Ingall (Leader of the Council):

Harlow Council's statement about its Town Fund Bid, published on 4 November, refers to The Harlow Growth Board which is "a partnership of local public, private and voluntary organisations". Having checked the list of these organisations and individuals it appears that no Conservative Councillor is involved, there is little if any representation on behalf of residents and many participants may not live in Harlow.

On reflection do you think that residents of Harlow could and should be better represented on the board, who after all will be making very important decisions about the future of Harlow in the coming months.

Reply from Councillor Mark Ingall (Leader of the Council):

Harlow Growth Board's remit is to drive the sustainable economic regeneration of the town to deliver long term economic and productivity growth. The Board has been established following the government guidance

on running a Town Board which includes advice about which organisations the membership should represent. Harlow Growth Board includes representatives from key organisations and businesses which are based within Harlow along with representation from Rainbow Services, the umbrella organisation for community and voluntary organisations based in Harlow. Along with key local Councillors, the local Member of Parliament for Harlow is represented. Harlow Growth Board can if it feels it is appropriate review its membership in the future.

10 James Humphreys to Councillor Mark Ingall (Leader of the Council):

The statement goes on to thank those who participated in the consultation exercise leading to this bid. On checking the government website of mytownHarlow, one of the vehicles used to consult with residents, I note that just 130 people responded.

Can you tell me what other steps were taken by Harlow Council to consult with residents before its bid was made and how many responses were received from individuals and organisations?

Reply from Councillor Mark Ingall (Leader of the Council):

The Towns Fund bid had to meet the strict criteria set out by the government. A long list of potential projects that fitted within the funding guidelines was developed after reviewing the Council's existing pipeline of projects, the responses from previous consultations and public engagement that have been undertaken over recent years, such as through our social media channels, the consultation we ran for the Future High Street Fund bid, Harlow and Gilston Garden Town led consultations, as well as feedback and engagement we have received through our partner forums and networks. The longlist of projects were presented to the Growth Board and they had the chance to add any additional schemes that they felt were missing. We then undertook a robust process of shortlisting and prioritising the projects which included asking the Growth Board members to indicate their top 3 projects and a final review process that ensured that the final selection of projects delivered the level of impact that the Growth Board wished to be delivered through this funding opportunity.

The projects that were selected for the Towns Fund bid were then consulted on via social media and our website. The social media campaign reached 10,998 people; engaged with 3,854 people and received 85 comments within 5 days on being launched.

We are currently waiting for confirmation from the government that we can proceed with our bid. Once we get the go ahead we move to developing the

Full Business Cases for the projects included in the bid and this process will involve more extensive community consultation on the details of these projects.

Full Council – 10 December 2020

Questions from Councillors

1 Councillor Michael Hardware to Councillor Tony Durcan (Portfolio Holder for Growth and Prosperity):

Regarding the Perry Road project what is the timescale, what procurement route is being pursued, what type of construction contract will be used and whether it is one or two stage tender?

Reply from Councillor Mark Ingall (Leader of the Council):

It is expected that the start on site at Perry Road will be July 2021 with a two to two and a half year build programme. The Council's internal procurement service is being used and the most effective route is currently being reviewed. It is anticipated that it will be a one stage tender.

Supplementary Question from Councillor Michael Hardware:

With the provisions of the Public Services and Social Value Act 2012 and the Cabinet procurement notice issued this year, can the Portfolio Holder confirm what provision the Council is specifying in the tender to maximise sustainability of the building and the construction process, what requirements are there for the supply chain and what skills and local training there are in the tender process.

Supplementary Reply from Councillor Mark Ingall (Leader of the Council):

I will ask Councillor Tony Durcan to write to you with a response.

2 Councillor Michael Hardware to Councillor Mark Ingall (Leader of the Council):

Is Harlow Council going to invest in the Harlow Investment Fund? As he will be aware, Essex County Council approved a £5million investment at cabinet earlier this month and full council earlier this week. The final fund will be up to £50million which will facilitate the wider regeneration of the town centre, allowing the projects to be properly joined up instead of the current fragmented approach and so is very important for the town.

Reply from Councillor Mark Ingall (Leader of the Council):

A report regarding the Harlow Investment Fund will be taken to Cabinet in early 2021 seeking approval of a £5million investment in the fund by Harlow Council. This date is in line with the majority of other potential investors to the fund. If all parties agree to investing, the fund will provide a major financial contribution to enable the regeneration of Harlow Town Centre.

Supplementary Question from Councillor Michael Hardware:

Will this be added to the Forward Plan?

Supplementary Reply from Councillor Mark Ingall (Leader of the Council):

Yes.

3 Councillor Simon Carter to Councillor Mark Wilkinson (Portfolio Holder for Housing):

Last week at Cabinet you said that in response to your plans to acquire 45 three-bed houses so far the council had completed the purchase of only one house. You went on to say that you were extending your search to include two bed houses and flats, suggesting you are struggling to find enough properties.

What are the penalties if you fail to acquire sufficient properties by 31 December this year and 31 March 2021?

Reply from Councillor Mark Wilkinson (Portfolio Holder for Housing):

The penalty for not acquiring properties on or before 31 December is that that this Conservative led Government will insist on taking pooled receipts totalling up to £2.232m and would take £291,000 in interest payments in addition too. To date five purchases are progressing to completion and a further 24 offers have been accepted and are progressing through the purchasing process with completions expected prior to Christmas. If all were to be completed then no funds would be returned.

If the required properties are not purchased in the first quarter of 2021 then up to a further £1.554 million would be returned with interest penalties of £202,000. Offers have already been made on 19 properties and it is currently expected that no funding will be returned nor penalties incurred in relation to these pooled receipts.

The Council made representations to the Government to extend the 31 December deadline in light of the Covid crisis but this request was not agreed by MHCLG.

Supplementary Question from Councillor Simon Carter:

Having lost £3.5 million will the Portfolio Holder acknowledge that the Administration has learnt nothing about investing money.

Supplementary Reply from Councillor Mark Wilkinson (Portfolio Holder for Housing):

Councillor Carter is fully aware of the reasons it wasn't possible to invest money previously. Under the previous Conservative Administration the Council delivered zero new council homes. The Council is now delivering council homes and has set up HTS (Housing and Regeneration) Ltd to deliver new council homes.

REPORT TO: LICENSING COMMITTEE

DATE: 19 JANUARY 2021

TITLE: DEPARTMENT OF TRANSPORT STATUTORY
VEHICLE AND PRIVATE HIRE STANDARDS

LEAD OFFICER: MICHAEL PITT, ENVIRONMENT AND
LICENSING MANAGER
(env.health@harlow.gov.uk)

CONTRIBUTING OFFICERS: CHRIS BENNETT, PRINCIPAL
ENVIRONMENTAL HEALTH OFFICER
(licensing@harlow.gov.uk)

ADAM SHERWOOD, SENIOR LICENSING
OFFICER
(licensing@harlow.gov.uk)

RECOMMENDED that:

- A** The Committee determine that each of the Department for Transport (DfT) standards set out in the report below is appropriately allocated to the groups A-C in the report below, and note these matters set out under the heading Group A – No Policy Change Required.
- B** Subject to A, the Committee recommend to Full Council the adoption of the policy changes set out at recommendation items 9-16 under the heading in the report below; Group B – Policy Change Can be Recommended at This Time.
- C** Subject to A, the Committee receive reports at future meetings in relation to the DfT standards set out under the heading Group C - Report to be Brought to a Future Meeting.

BACKGROUND

1. The Council is responsible for licensing Hackney Carriage and Private Hire drivers, vehicles and Private Hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.
2. On 21 July 2020 the Department for Transport (DfT) published “Statutory Taxi and Private Hire Vehicle Standards.” The publication of these standards has been awaited for some time and follows an extensive period of consultation by the Department for Transport following a number of high-profile incidents and issues highlighting the risk to members of the public and to drivers. The standards reflect the significant changes within the industry in recent years, and lessons learned in

respect of safeguarding children and vulnerable adults, and cases of child sexual abuse and exploitation (CSAE). The Policing and Crime Act 2017 made provisions for the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions, to protect children and vulnerable individuals who are over 18 from harm when using these services. Although the focus of the standards produced, is on protecting children and vulnerable adults, it is expected that any passengers of these licensed vehicles will benefit from the recommendations, which aim to better regulate the taxi and private hire vehicle sector as a whole. It is felt that these issues are, in part, a result of the significant differences in standards applied to the licensing of drivers and vehicles across the country.

3. A copy of the new DfT standards is attached at Appendix A to the report.
4. At the Licensing Committee meeting on 17 November 2020 the Committee agreed:
 - i) That the Statutory Taxi and Private Hire Vehicle Standards (2020) issued by the Department for Transport (DfT), are noted;
 - ii) That the committee approve a full review of current policy and procedure to determine the necessary amendments required by the new standards;
 - iii) That the required changes identified by Officers as a result of the review are brought before the committee on 19 January 2021.
5. This report specifically deals with item iii) above.

REQUIRED CHANGES

6. For the purposes of this report the Standards have been allocated into the following Groups:

GROUP A - NO POLICY CHANGE REQUIRED; Standards with which the Council already complies, or for which only minor procedural changes that do not require changes in policy are required;

GROUP B - POLICY CHANGE CAN BE RECOMMENDED AT THIS TIME; Standards that require policy changes which are relatively straightforward and for which recommendations can be made at this stage;

GROUP C - REPORT TO BE BROUGHT TO A FUTURE MEETING; Standards that require policy changes which will take some time to develop, and thus will require further reports to be brought to future meetings of the Committee.

7. The intention in grouping the DfT standards in this way is to provide clarity and direction in setting out an action plan. Subject to the Committee's approval, DfT standards may be moved from one group to another as appropriate.
8. Specific Member recommendations are provided for each Standard.

GROUP A – NO POLICY CHANGE REQUIRED

DFT STANDARD 1 – WHISTLEBLOWING

(para 3.8) - Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. Licensing authorities should have effective internal procedures in place for staff to raise concerns and for them to be dealt with openly and fairly.

CURRENT POSITION

This Authority has an up to date policy in place for staff for Whistleblowing. It was last implemented in June 2019 and will be renewed in June 2022.

<https://www.harlow.gov.uk/sites/default/files/documents/Whistleblowing%20policy%20and%20procedure.pdf>

ACTION REQUIRED

The Council is already compliant with this Standard. Reference to the whistleblowing policy and procedure will be included in the new cohesive policy.

MEMBER RECOMMENDATION

Recommended that:

1. No specific recommendation, however, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 2 - COMMON LAW POLICE DISCLOSURES

(para 4.11) - Licensing Authorities should maintain close links with the Police to ensure effective and efficient information-sharing procedures and protocols are in place and are being used. (previously the Notifiable Occupation Scheme).

CURRENT POSITION

The Licensing Team has a working relationship and clear communication channels with the Police. We have recent examples of effective information sharing.

There is a signed protocol that already exists between Harlow Council and Essex Police under the Safer Harlow Partnership. This protocol is subject to annual review.

ACTION REQUIRED

The Authority is largely compliant with this DfT standard. The Licensing Team have been in recent contact (December 2020) with Essex Police and Harlow Council Legal Services to ensure that at the next protocol annual review full consideration is given to the DfT standards with particular reference to the requirements of 'Common Law Police Disclosure'.

MEMBER RECOMMENDATION

Recommended that:

2. No specific recommendation. However, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 3 - REFERALLS TO THE DBS

(para 4.14)- A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.

CURRENT POSITION

Enforcement action would be taken against any driver that poses an evidential risk to a child or vulnerable adult. If a decision to refuse or revoke is taken in relation to a risk of harm to a child or vulnerable adult, this would be discussed firstly with Harlow Council's Safeguarding Officer before making a DBS referral.

The Council is already compliant in respect of this Standard.

ACTION REQUIRED

The new cohesive policy will need to make reference to this procedure.

MEMBER RECOMMENDATION

Recommended that:

3. No specific recommendation. However, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 4 - WORKING WITH THE POLICE

(para 4.17) - action taken by the Licensing Authority as a result of information received from the Police should be fed-back to the Police.

CURRENT POSITION

Two-way communication channels already exist with the Police via phone and email. The Licensing team also attend the multi-agency priority subgroup titled Safer Harlow Partnership ASB and Crime Meeting and, from January 2021, the Licensing Team will be attending the Missing and Child Exploitation (MACE) 2 multi agency meetings.

The information sharing protocol that exists between the Police and Harlow Council makes explicit reference to the need for information sharing. There is a clear duty on the Council to share relevant information. The protocol is explicit about the information that can be shared.

ACTION REQUIRED

No further action required other than to ensure that the new cohesive policy makes reference to Police communication channels.

MEMBER RECOMMENDATION

Recommended that:

4. No specific recommendation. However, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 5 - MULTI-AGENCY SAFEGUARDING HUB (MASH)

(para 4.28) - All licensing Authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). Obstacles in sharing information can be a barrier to effective safeguarding.

CURRENT POSITION

The Licensing Team attends the multi-agency priority subgroup titled Safer Harlow Partnership ASB and Crime Meeting that is chaired by Essex Police. It is a quarterly meeting that allows for information sharing amongst stakeholders. The next meeting is scheduled for 14 January 2021 (remotely)

In addition to this Harlow Council sits on the Missing and Child Exploitation (MACE) 2

multi agency meetings. This is a bi-monthly multi-agency meeting that looks at child exploitation data, hotspots; trends; interventions and disruption activity. Historically, this meeting has been attended by the Councils designated safeguarding officer and any information relevant to the Licensing Team could be confidentially disseminated. Following consideration of the new DfT Standards a Licensing Team Officer will also attend the MACE 2 meeting (in addition to the Councils safeguarding Officer). The next meeting is scheduled for 21 January 2021 (remotely).

ACTION REQUIRED

The Council is now compliant with this Standard. No further action required.

MEMBER RECOMMENDATION

Recommended that:

5. No specific recommendation. However, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 6 - CRIMINAL CONVICTIONS AND REHABILITATION

(para 5.16)- Annexed to the statutory guidance document is the Department's recommendations on the assessment of previous convictions.

CURRENT POSITION

The Institute of Licensing Guidelines adopted by the Council in October 2019 clearly forms the basis of the DfT Standards in relation to the 'Assessment of Previous Convictions' Annex. In relation to 'Crimes resulting in death', 'Exploitation', 'Offences involving violence against the person', 'Possession of a Weapon', 'Dishonesty', 'Drugs', 'Discrimination', 'Motoring convictions', 'Drink driving/driving under the influence of drugs', 'Using a hand-held device whilst driving' the timescales are identical and wording identical or at most very minor differences that do not make a material change. Within the new DfT standards there is no reference to 'Other motoring offences', 'Hackney carriage and private hire offences' and 'Vehicle use offences'. (these are considered in our current adopted Institute of Licensing guidelines.)

ACTION REQUIRED

The Council is compliant with this standard. The Institute of Licensing / DfT standards in relation to convictions need to be taken over to the new cohesive Policy document. Consideration will need to be given to the existing Institute of Licensing guidelines, when drafting the new Policy, to 'Other motoring offences', 'Hackney Carriage and Private Hire offences' and 'Vehicle use offences' as the DfT Standards do not specifically cover these offences.

MEMBER RECOMMENDATION

Recommended that:

6. No specific recommendation at this stage. However, Members to note current position in respect of this Standard. Existing adopted Institute of Licensing guidance in relation to convictions to stay in place pending introduction of any subsequently agreed cohesive Policy.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 7 - SAFEGUARDING AWARENESS TRAINING

(para 6.6)- All licensing authorities should require taxi and private hire vehicle drivers to undertake safeguarding training.

CURRENT POSITION

Safeguarding training has been mandatory in Harlow since 2016.

All drivers attend a two hour session at the Civic Centre; identification is verified upon attendance, with Provider being reimbursed by Licensing and driver certificate upon completion. The last training session was held in January 2020 at the Civic Centre.

New driver applicant information sheet requests drivers' attendance on this course by end/expiry of their first driver licence or prior to issue of first licence. Driver licence application form requires signed driver agreement to attend refresher training once every three years.

The Licensing Team need to review provisions of refresher training and how we deliver with COVID-19 restrictions in place.

ACTION REQUIRED

Current provider has been approached to offer ongoing and refresher training sessions, to commence in January 2021, using an online platform. This would provide a COVID-19 secure training environment. First virtual training session for new applicants is booked for approx. 12 drivers with a schedule to be put in place for future refresher training. Costs borne by Licensing, course content, length of session & certification all remain unchanged. Identification prior to participation via right to work documentation and attendance monitored by licensing officer.

MEMBER RECOMMENDATION

Recommended that:

7. No specific recommendation. However, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 8 - JOINT AUTHORISATION OF ENFORCEMENT OFFICERS

(para 9.2)- Licensing Authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area.

CURRENT POSITION

Currently there are no Joint Authority agreements in place locally. Harlow Council's Licensing Team routinely attends the Essex Joint Licensing Forum Group meetings (Group attended by Essex Local Authorities and Essex Police). This meeting allows for the sharing of best practice and provides a mechanism for ensuring consistency in approach.

ACTION REQUIRED

Consideration needs to be given to an agreement between licensing authorities to jointly authorise officers to enable the use of enforcement powers regardless of which authority the officer is employed by and which issued the licence.

Joint Authority Agreements will need to be placed on the work plan for the Essex Joint Licensing forum group and discussed at the next meeting (date TBC).

Officer authorisation is via the Councils delegated authority as set out in the constitution.

MEMBER RECOMMENDATION

Recommended that:

8. No specific recommendation at this time. However, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

GROUP B: POLICY CHANGE CAN BE RECOMMENDED AT THIS TIME

DFT STANDARD 9 - CRIMINAL RECORD CHECKS

(para 4.5) - Licensing Authorities should insist on licensed drivers signing up to the Disclosure and Barring Service's (DBS) On-Line Update Service. This allows the Licensing Authority to make checks at any time and at least every six months.

CURRENT POSITION

Currently licensed drivers have the choice to join the DBS Update Service every time they apply for a new DBS certificate and are encouraged to do this by the Licensing Team. Currently, 55 per cent of all licensed drivers are already on the DBS update service.

The cost of an application for an enhanced DBS with Barring List checks through Harlow Council is £64. A DBS certificate check currently lasts for three years.

To join the DBS Update Service currently costs drivers an additional £13 a year subscription fee (payable to the DBS Service). If a driver joins the update service and maintains the annual subscription fee then they would not be required to apply for a new certificate.

If the DBS Update Service was not mandatory, a new DBS application every six months would cost a driver £128 a year rather than the £13 subscription fee.

ACTION REQUIRED

To comply with the DfT Standards the Council will need to make joining the DBS Update Service mandatory.

This will allow drivers to provide authorisation for the Licensing Team to remotely check their DBS status on a six monthly basis.

The DBS Update Service will cost drivers £13 a year subscription fee to the DBS. For logistical reasons it is proposed that the six monthly DBS checks will be undertaken in one batch at the same time each year. For example April and October each year. Drivers licence conditions and associated handbooks and web information will require updating to reflect these changes.

The new requirement will need to be communicated to the licensed trade.

An implementation date will need to be agreed for new and renewal applications.

It should be noted that it is not possible to change the terms of current licences already issued. For example if a licensed driver had their licence renewed in October 2020 for a three year period then this new requirement would not come into effect until their licence is subsequently renewed in October 2023.

There are enforcement considerations when a driver's subscription to the DBS Update

Service fails (due to non-payment of the fee). This will be incorporated into the new cohesive policy.

MEMBER RECOMMENDATION

Recommended that:

9. The Licensing Committee recommend to Full Council that a new mandate is introduced to require all drivers (new applicants and existing drivers) to join the update service;
10. Subject to 9, the timescale for the implementation of the mandate be delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 10 - LICENSEE SELF-REPORTING

(para 4.12) - Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review of their licence.

CURRENT POSITION

Licence holders are currently required to notify the Council in writing, within 72 hours of:

- a) Any conviction (motoring or criminal);
- b) Any caution, warning or reprimand (issued by the Police or any other agency);
- c) Their arrest for any offence (whether or not charged);
- d) Issue of any magistrates court summons against them;
- e) Any fixed penalty notice for any matter.

An understanding of the requirement for self-reporting is included as part of the existing knowledge test for new applicants. The current application form for driver licences also specifies details of this condition.

Failure to notify the Council of any relevant information may result in enforcement action being taken against the licensed driver. This enforcement action could include review of their licence by way of attendance at a Licensing subcommittee hearing.

ACTION REQUIRED

To comply with the DfT Standards the Council needs to reduce the self-reporting notification period from 72 hours to 48 hours. The Council is currently requiring a higher standard of reporting matters than that proposed by the DfT, for example the Council

requires the reporting of any conviction and not just the offences listed by the DfT. It is proposed that the current list of what needs to be notified remains the same and we are simply seeking to reduce the notification timescale.

The six monthly DBS checks referred to in these Standards will help identify any drivers who have failed to report convictions.

Drivers licence conditions and associated handbooks and web information will require updating to reflect these changes.

The new requirement will need to be communicated to the licensed trade.

An implementation date will need to be agreed for new and renewal applications.

It should be noted that it is not possible to change the terms of current licences already issued. For example if a licensed driver had their licence renewed in October 2020 for a 3 year period then this new requirement would not come into effect until their licence is subsequently renewed in October 2023.

MEMBER RECOMMENDATION

Recommended that:

11. The Licensing Committee recommend to Full Council that the change in timescale from 72 hours to 48 hours is approved;
12. Subject to 11, the timescale for the implementation of the change to be delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 11 - SHARING LICENSING INFORMATION WITH OTHER LICENSING AUTHORITIES

(para 4.20 & 4.21) - An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. The National Anti-Fraud Network has developed a national register of taxi and private hire vehicle driver licence refusals and revocations (known as NR 3). Tools such as NR 3 should be used by Licensing Authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.

CURRENT POSITION

An applicant is required to disclose on the application form if they have had an application for a licence refused, or a licence revoked or suspended by any other

licensing authority.

The Council registered with the National Anti-Fraud Network in March 2020 with a view to participating in the national register of taxi and private hire driver licence refusals and revocations. More information about the register can be found at:

<https://www.local.gov.uk/topics/licences-regulations-and-trading-standards/national-register-taxi-and-private-hire-licence>

The Licensing team have nearly completed the process of going through our sub committee report history of applicants refused a licence or drivers that have had a licence revoked. All records held from the last 25 years require consideration. A total of 58 individuals have been identified as possibly needing inclusion on the register. Once this information has been fully considered a letter is required to be sent out to the respective individuals advising them we will be posting their details onto the NR3 register. They have 28 days in which to appeal this decision. After this date has passed the individuals who have not appealed will be added to the register.

Once all individuals have been added to the register then the Licensing Team will check the register on all new and renewal applications. Any applicant that is found to be on the register will have their application considered in accordance with our Enforcement Policy.

ACTION REQUIRED

Licensing team to continue with the process. This was delayed due to resources being diverted as a result of COVID-19. The Licensing Team are aiming to send out letters to affected individuals before the end of March 2021.

MEMBER RECOMMENDATION

Recommended that:

13. The Licensing Committee recommend to Full Council that the checking of the NR3 register as part of the standard new applicant and renewal process for all private hire and hackney carriage drivers is approved;
14. Subject to 13, the timescale for the implementation of the additional check to be delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 12 - OVERSEAS CONVICTIONS

(para 4.34 and 4.35) – The DBS cannot access criminal records held overseas. Licensing authorities should seek or require applicants to provide where possible criminal records information or a ‘Certificate of Good Character’ (CGC) from an appropriate authority overseas in this circumstance to properly assess risk and support the decision-making process. In addition, where an applicant has spent an extended period (three or more continuous months) outside the UK then a CGC is required.

CURRENT POSITION

Currently applicants/drivers are required to provide a certificate of good character if they have lived anywhere other than the UK for six or more consecutive months in the last five years.

ACTION REQUIRED

To consider an amendment whereby an applicant has spent three or more continuous months outside the UK to provide a CGC rather than six or more continuous months.

Drivers’ licence conditions and associated handbooks and web information will require updating to reflect these changes.

Drivers will be notified in writing of the changes.

The new Policy will reflect that information from a CGC that provides detail of overseas convictions will support the safe and suitable decision-making process.

A new declaration inserted into the driver application form to state if an applicant has been outside the UK for three or more continuous months.

MEMBER RECOMMENDATION

Recommended that:

15. The Licensing Committee recommend to Full Council that if an applicant has spent three or more continuous months outside the UK then a ‘Certificate of Good Character’ is required;
16. Subject to 15, the timescale for the implementation of the change to be delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

GROUP C: REPORT TO BE BROUGHT TO A FUTURE MEETING

DFT STANDARD 14 - LICENSING POLICIES

(paras 3.1 & 3.5)- Authorities should produce a 'cohesive policy document' that brings all policy and procedures together. When formulating policies, the overriding objective must be to protect the public. Policies should be reviewed every five years but should also consider interim reviews should there be significant issues arising in their area.

CURRENT POSITION

We currently have a comprehensive range of separate policies and procedures. These include private hire vehicle licence conditions, hackney carriage vehicle licence conditions, private hire driver conditions, private hire operator conditions, convictions guidelines, a hackney carriage handbook, hackney carriage byelaws, a private hire handbook and an enforcement policy.

ACTION REQUIRED

A full review of policies and procedures to incorporate all existing policies and changes required as a result of these new standards into one cohesive policy document.

The timescale for the introduction of the new policy will be dependent on compliance with the other required standards as the new policy will need to reflect the changes needed.

MEMBER RECOMMENDATION

Recommended that:

17. The Licensing Committee recommend a full review of existing policies into one new cohesive policy document;
18. Subject to 17, a draft of the new Policy will be brought back to Licensing Committee for discussion and approval prior to full sign off of a new policy. Timescale to be agreed at 9 March 2021 Committee when the dates for 21/22 are available

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

DFT STANDARD 15 - DURATION OF LICENCES

(para 3.6 & 3.7)- Issuing driver licences for more than a year. Risk can be mitigated for drivers by authorities undertaking regular interim checks (e.g. regular Disclosure and Barring Service checks). The Local Government (Miscellaneous Provisions) Act 1976 (as amended by the Deregulation Act 2015) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire operators.

CURRENT POSITION

Currently new and renewal driver applications are given a one or three year licence option.

The DBS and Medical checks must cover the entire licence duration. Currently 30 per cent of licensed drivers are on a three year licence duration.

Some drivers are on a restricted six monthly licence or less depending on how much time remains on their right to work document or the Home Office check carried out by the Licensing Team.

Private hire operator licence applications are given the option of one or five year licences.

Currently a DBS check is carried out every three years. Therefore, a new DBS check is required for a three-year licence.

Group 2 medicals recognised nationally as a five year check for HGV, lorry and bus drivers for their first licence, and then at their 45th, 50th, 55th, 60th, 65th birthdays, and then annually after that.

Taxi and private hire licensing at Harlow also require five year medicals but based on when an applicant receives their first licence and five year intervals after that until they pass their 64th birthday, at which time they then have annual medicals.

In Harlow, licensed drivers under 60 years of age receive a five year medical. Therefore, drivers are currently restricted to a single three-year licence in a five year period.

After an applicant's 62nd birthday only one year licences are available because of the need for a Group 2 medical examination annually after the age of 64. Currently 18 per cent of Harlow's licensed trade are age 62 or over.

Driving licences are checked online using DVLA share code at every licence renewal whether a one or three year licence is granted.

ACTION REQUIRED

To consider the current procedure whereby DBS and Medicals cover the licence

duration continues to be the best option.

Six monthly checks will no longer cover to end of the licence period if six monthly DBS checks are introduced.

MEMBER RECOMMENDATION

Recommended that:

19. Members note the contents of this standard and feedback initial comments at this committee for officers to consider as part of the further report;

20. A further report is brought before the Licensing Committee specific to this matter. Timescale to be agreed at 9 March 2021 Committee when the dates for 21/22 are available.

DEPARTURE FROM THE DFT STANDARD PROPOSED

Dependant on outcome of full report

DFT STANDARD - 16 PRIVATE HIRE VEHICLE OPERATORS AND STAFF

(para 8.2 & 8.8) – All operators should be subject to an annual basic DBS check. Ancillary staff that have access to booking records should also be DBS checked.

CURRENT POSITION

Licensed drivers who hold an operator licence do not require a Basic DBS check as they are subject to enhanced DBS checks.

Operator applicants without a Driver Licence are already required to submit a Basic DBS with every application. Therefore, these are supplied on a one year or five year basis due to the two licence period options.

Operator ancillary staff are not currently requested to have Basic DBS checks by the Council.

ACTION REQUIRED

Operators who do not hold a Driver Licence will be required to provide a Basic DBS certificate to the Licensing Team on an annual basis regardless of licence duration.

The Council, as a condition of granting an operator licence, will need to require a register of all staff that will take bookings or dispatch vehicles. This register will be made available for inspection by the Licensing Team or the Police upon request.

Operator ancillary staff on this register are required to have a Basic DBS check.

MEMBER RECOMMENDATION

Recommended that:

21. Members note the contents of this standard and feedback initial comments at this committee for officers to consider as part of the further report;
22. A further report is brought before the Licensing Committee specific to this matter. Timescale to be agreed at 9 March 2021 Committee when the dates for 21/22 are available.

DEPARTURE FROM THE STANDARD PROPOSED

Dependant on outcome of full report

DFT STANDARD 17 - LANGUAGE PROFICIENCY

(para 6.14 & 6.15)- All licence holders to demonstrate proficiency in English language. All drivers should be able to converse with passengers to understand destination, estimates of time along with other common passenger requests. A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation.

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

CURRENT POSITION

All new drivers have to pass a knowledge test as part of the licensing process. A basic grasp of the English language is needed in order to complete the knowledge test. For example drivers need to understand and respond to the oral question put to them in order to pass the test.

There is currently no reading or written assessment.

The current position does not fully satisfy the DfT requirements.

Preliminary research by the Licensing Team has identified that some local authorities have required applicants to undertake an English test to a B1 level (Intermediate on the Common European Framework). This is a universally recognised qualification. The charge for this is expected to be circa £60.

Transport for London (TFL) require this B1 Level or give the option for the applicant to demonstrate competence in an alternative way, for example: if the applicant holds a UK GCSE / A Level / or degree level qualification then this would be sufficient and they would not be required to undertake the B1 test.

There is also a possibility that an in-house test could be devised as a bolt on to the knowledge test and that the additional work of undertaking this test is met by an increase

in licence fees. (for new applicants)

Consideration will also need to be given as to whether any additional test or proof of proficiency is required for all existing drivers or just for new applicants.

ACTION REQUIRED

The Licensing Team undertake further research and report back to Members in a further committee report with options to consider.

MEMBER RECOMMENDATION

Recommended that:

23. Members note the contents of this standard and feedback initial comments at this committee for officers to consider as part of the further report;

24. A further report is brought before the Licensing Committee specific to this matter. Timescale to be agreed at 9 March 2021 Committee when the dates for 21/22 are available.

DEPARTURE FROM THE DFT STANDARD PROPOSED

Dependant on outcome of full report

DFT STANDARD 18 - IN-VEHICLE VISUAL AND AUDIO RECORDING (CCTV)

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

CURRENT POSITION

Detailed committee report on CCTV was submitted to Members in January 2020; prior to these new DfT standards. Review at that time did not identify local circumstances that justified a CCTV mandate. The Council has been awaiting clearer national guidance on CCTV. This Standard does not make installation of audio and CCTV mandatory. Currently only 4 per cent of UK authorities require CCTV. Costs are met by the vehicle owner and costs are high at a minimum of £500 per CCTV unit. Mandatory requirement places the data responsibilities on the Council. This requires further review with the licence holders and Essex Police.

ACTION REQUIRED

Licensing Team to raise at Essex Liaison working groups and with the Police. Need to review with the Police how crimes are categorised to see if more information can be obtained regarding crimes connected with licensed vehicles in Harlow.

MEMBER RECOMMENDATION

Recommended that:

25. No specific recommendation at this time. However, Members to note current position in respect of this Standard.

DEPARTURE FROM THE DFT STANDARD PROPOSED

N/A at this stage

DFT STANDARD 19 - STRETCHED LIMOUSINES

(para 7.14)- Consideration should be given to their licensing.

CURRENT POSITION

There are currently no known limousines licensed to operate by Harlow Council. An enquiry was received in 2019 and the applicant started the licence process for two vehicles but subsequently sold the vehicles and withdrew their application. The Council would require stretched Limousines to be licensed as a private hire vehicle. Requirements for private hire vehicles, including emission standards, must be met. The maximum passenger capacity that can be licensed by any Council is eight. A public service vehicle (PSV) operator's licence is required to operate a vehicle for hire or reward (payment or payment in kind) that can carry 9 or more passengers. This is issued by the Driver and Vehicle Standards Agency (DVSA).

Imported vehicle specifications must meet British or European Standards. Drivers of limousines and executive vehicles must complete the licensing application process, as must any other private hire driver.

ACTION REQUIRED

The Council has no blanket policies in place to exclude limousines from the licensing process.

A policy is required for all executive, chauffeur and limousine applications which will include application criteria and external vehicle signage exemption.

All licensed vehicles must be tested/inspected at the Councils approved testing station. However, the current provider does not have a suitable ramp to carry out inspections of limousine type vehicles. Market to be sourced regarding MOT & Compliance provision for these specialist vehicle types.

Driver must confirm in writing that passenger numbers will be restricted to no more than eight passengers.

MEMBER RECOMMENDATION

Recommended that:

26. Members note the current position with regard to this Standard;

27. A further report is brought before the Licensing Committee specific to this matter. Timescale to be agreed at 9 March 2021 Committee when the dates for 21/22 are available.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

IMPLEMENTATION

9. It is important to note that it remains the decision of the Council as to whether or not the entirety of these standards should be implemented. A full review of the current policies as recommended will allow members to make an informed decision on which parts should be adopted. Section 2 of the standards gives some detail of the legal framework under which the Standards are published and the effect this has in terms of the Council's decision. Members' attention is drawn particularly to sections 2.5 to 2.9 and the definitions covering the term 'must have regard'.

10. Members should note that in Section 2.8 of the Standards it is stated:

Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these. The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

11. At Section 1.3 the Standards say: (Sections highlighted in bold type are highlighted in the Standards, not by the author of this report).

*Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.***

12. It is clear there is an expectation that these new standards are implemented. Setting the standards does, however, remain the decision of the Council and where good reason can be found to depart from the new Statutory standards it is possible to do so providing there is clear justification for the decision.
13. In its letter to local authorities introducing the Standards, the DfT made it clear that local authorities are expected to act upon the standards without delay. However, since the publication of the standards on 21 July 2020 there has been an upturn in cases of coronavirus both at a local and national level. In July it was hoped that the economy was on the cusp of commencing recovery and the aspiration was that businesses may be returning to some form of normality. However, more recently it has become clear that this is not the case and more restrictions have been placed on businesses and individuals. Councils have a key role to play both in terms of enforcing the COVID-19 restrictions imposed and supporting local communities. Resources to develop and implement new taxi policies may be restricted, as may be communities' abilities to respond to consultations on any draft proposals.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

As set out within the report.

Author: Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT, and Property and Facilities)

None specific at this stage.

Author: Simon Freeman, Head of Finance and Deputy to the Chief Executive

Housing

As outlined in the report.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

As contained within the report.

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

The Council has a statutory obligation to protect the public and safeguard vulnerable adults and children when travelling in taxis and private hire vehicles, by ensuring that they are properly licensed by the Council.

Whilst the standards are guidance only, it is clear that the DfT intends it to carry significant weight, as paragraph 1.3 on page 4 states: "The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to."

Policy is only effective if it is administered properly. Therefore the Council should review its Taxi and Private Hire Policy as recommended and make an informed decision on which standards should be adopted. Where there is good reason to depart from the recommended standards, clear justification for the decision must be given. There may be potential for decisions made in determining licensing applications that become the

subject of judicial review or appeal. If the Licensing Policy is not credible it may be subject to a successful legal challenge.

Author: Dimple Roopchand, Principal Solicitor on behalf of Simon Hill, Head of Governance

Appendices

Appendix A - Statutory Taxi and Private Hire Vehicle Standards

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

Background Papers

Working together to safeguard children 2018 (Department for Education)

<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Glossary of terms/abbreviations used

CSAE – Child Sexual Abuse and Exploitation
CGC - Certificate of Good Character
DBS – Disclosure and Barring Service
DVSA – Driver and Vehicle Standards Agency
DFT - Department for Transport
MACE – Missing and Child Exploitation
MASH – Multi-Agency Safeguarding Hub
TFL – Transport for London



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

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

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

Terminology

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

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

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

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

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

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

3. Administering the Licensing Regime

Licensing policies

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

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

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

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

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

Duration of licences

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

Whistleblowing

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

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

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

Consultation at the local level

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

Changing licensing policy and requirements

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

4. Gathering and Sharing Information

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

The Disclosure and Barring Service

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

The Disclosure and Barring Service Update Service

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

Common Law Police Disclosure

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

Licensee self-reporting

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

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

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

Referrals to the Disclosure and Barring Service and the Police

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

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

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

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

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

Working with the Police

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

Sharing licensing information with other licensing authorities

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

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

Multi-agency Safeguarding Hub (MASH)

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

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

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

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

5. Decision Making

Administration of the licensing framework

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

Training decision makers

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

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

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

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

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

Fit and proper test

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

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

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

Criminal convictions and rehabilitation

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

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

6. Driver Licensing

Criminality checks for drivers

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

Safeguarding awareness

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

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

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

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

‘County lines’ exploitation

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

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

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

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

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

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

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

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

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

Language proficiency

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

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

7. Vehicle Licensing

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

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

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

In-vehicle visual and audio recording – CCTV

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

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

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

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

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

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

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

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

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

Stretched Limousines

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

8. Private Hire Vehicle Operator Licensing

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

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

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

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

Booking and dispatch staff

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

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

Record keeping

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

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

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

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

Use of passenger carrying vehicles (PCV) licensed drivers

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

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

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

9. Enforcing the Licensing Regime

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

Joint authorisation of enforcement officers

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

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

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

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

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

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

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

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

Crimes resulting in death

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

Exploitation

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

Offences involving violence against the person

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

Possession of a weapon

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

Sexual offences

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

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

Dishonesty

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

Drugs

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

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

Discrimination

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

Motoring convictions

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

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

Drink driving/driving under the influence of drugs

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

Using a hand-held device whilst driving

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

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

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

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

Annex – CCTV Guidance

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

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

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

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

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

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

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

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

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

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

Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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

DFT STANDARD 13 - VEHICLE PROPRIETORS

(para 7.2) - Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.

CURRENT POSITION

No DBS certificate is currently asked of vehicle proprietors. The vast majority of our vehicle proprietors are also licensed drivers so they are already subject to the higher enhanced DBS check.

There are less than five applicants / vehicle proprietors who licence vehicles in Harlow for licensed drivers to use that are not licensed drivers themselves. The DBS Update Service is not available for Basic DBS certificates.

ACTION REQUIRED

In order to comply with this standard any vehicle proprietor who does not hold a (hackney carriage or private hire) driver licence must provide an annual Basic DBS certificate to the Licensing Team.

Where the applicant is a company or partnership, a Basic DBS will be required for all directors or partners. Consideration needs to be given to whether vehicle proprietors licenced temporarily as a replacement vehicle following an accident to a current licensed vehicle requires an annual DBS. There are in excess of 10 national / regional companies on record who provide replacement vehicles after a driver sustains damage to his own licensed vehicle. The vehicle application is made in the company name. Details of the company are checked including registration on Companies House. The approach to replacement vehicles is a procedural matter that will be reviewed and considered in conjunction with the Essex Licensing Forum. The agreed approach will be specified in the new cohesive policy. The vehicle application form requires amendment to provide details of directors, or partners responsible for the management of the business.

New condition on vehicle licence to provide details of any change in directors or partners responsible for the management of the business where the licence holder is a company or partnership.

MEMBER RECOMMENDATION

Recommended that:

- A** The Licensing Committee recommend to Full Council that any vehicle proprietor who does not hold a (hackney carriage or private hire) driver licence must provide an annual Basic DBS certificate to the Licensing Team;
- B** Subject to A, the timescale for the implementation of the new requirement to be delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.

DEPARTURE FROM THE DFT STANDARD PROPOSED

No

Changes highlighted in bold

Nominations for Appointment to Committees, Sub Committees, Panels and Substitutes 2020/21

Audit & Standards Committee (10)	Hearing Sub Committee (6)
Stefan Mullard (c)	Stefan Mullard (c)
Shannon Jezzard (vc)	Eddie Johnson (vc)
Simon Carter	Simon Carter
Jean Clark	Jodi Dunne
Jodi Dunne	Shannon Jezzard
Michael Hardware	Russell Perrin
Maggie Hulcoop	Joel Charles (sub)
Eddie Johnson	Tony Edwards (sub)
Chris Vince	Andrew Johnson (sub)
Russell Perrin	
Joel Charles (sub)	
Nick Churchill (sub)	
Tony Edwards (sub)	
Tony Hall (sub)	
Andrew Johnson (sub)	
Chris Vince (sub)	
Scrutiny Committee (10)	Call In Sub Committee (7)
Tony Edwards (c)	David Carter (c)
David Carter (vc)	Emma Toal (vc)
Simon Carter	Simon Carter
Joel Charles	Joel Charles
Bob Davis	Bob Davis
Maggie Hulcoop	Maggie Hulcoop
Shannon Jezzard	Nancy Watson Stefan Mullard
Shona Johnson	Nick Churchill (sub)
Emma Toal	Andrew Johnson (sub)
Nancy Watson Stefan Mullard	Eddie Johnson (sub)
Nick Churchill (sub)	Shona Johnson (sub)
Michael Hardware (sub)	
Andrew Johnson (sub)	
Stefan Mullard (sub)	
Russell Perrin (sub)	
Phil Waite (sub)	
Licensing Committee (10)	Licensing Sub Committee & Regulatory Sub Committee
Shannon Jezzard (c)	Licensing Committee & Regulatory Sub Committee members form a pool from which individual Licensing Sub Committees & Regulatory Sub Committees of 3
John Strachan (vc)	
Nick Churchill	
Tony Edwards	

Mike Garnett	members are drawn
<i>Vacant (Con)</i>	
Maggie Hulcoop	
Andrew Johnson	
Lanie Shears	
Nancy Watson (vc)	
Development Management Committee (10)	
Phil Waite (c)	
Bob Davis (vc)	
Jean Clark	
Mike Danvers	
Nancy Watson (vc)	
Mike Garnett	
Michael Hardware	
Maggie Hulcoop	
Sue Livings	
Clive Souter	
Simon Carter (sub)	
Jodi Dunne (sub)	
Tony Hall (sub)	
Andrew Johnson (sub)	
Shona Johnson (sub)	
Stefan Mullard (sub)	
Appointments Panel (3)	Civic Awards Panel (4)
Mark Ingall (c)	Maggie Hulcoop (c)
Eugenie Harvey (vc)	Bob Davis (vc)
Eddie Johnson	Shona Johnson
Andrew Johnson (sub)	Chris Vince
Chief Executive's Appraisal Panel (3)	Harlow Fairness and Diversity Partnership (4)
Mark Ingall (c)	Mark Ingall
Eugenie Harvey (vc)	Shona Johnson
Andrew Johnson	Sue Livings
Joel Charles (sub)	Eugenie Harvey
	Eugenie Harvey (sub)
	Nick Churchill (sub)

Changes highlighted in bold

Council Representatives on Outside Bodies 2020/21

Outside Body	Appointments
Active Harlow Partnership	Eugenie Harvey
Age Concern	Bob Davis
Citizens Advice Bureau	John Strachan
District Councils' Network	Mark Ingall
East of England Local Government Association	Mark Ingall Eugenie Harvey (substitute)
Epping Forest Community Transport	Danny Purton
Essex County Council's Essex Health Overview and Scrutiny Committee	Tony Edwards
Essex Police and Crime Panel	Chris Vince Mike Danvers (substitute)
Fawbert & Barnard Educational Foundation	Sue Livings (12/11/20) Eugenie Harvey (25/5/20) Joel Charles (25/5/20) Tom Newens (29/5/21) <i>(Three year terms of office)</i>
Great Parndon Community Association Board	Danny Purton
Harlow Art Trust	Tony Edwards
Harlow Arts Council	Jean Clark
Harlow Homelessness Prevention Partnership	Maggie Hulcoop
Harlow Occupational Health Service	Tony Edwards
Harlow Recreation Trust Fund – Advisory Panel	<i>The Trust to advise when vacancies arise</i>
Harlow-Stansted Gateway Transportation Board	Danny Purton
Local Government Association General Assembly	Mark Ingall Mike Danvers (substitute)

Changes highlighted in bold

Local Government Association District Council's Network Assembly	Mark Ingall Eugenie Harvey (substitute)
PATROL Adjudication Joint Committee	Mike Danvers
Playhouse Trust	Stefan Mullard
Safer Harlow Partnership	Lanie Shears John Strachan
Shopmobility Management Committee	Maggie Hulcoop
St Johns Arts & Recreation Association	Sue Livings
Stansted Airport Community Trust Fund	Eugenie Harvey
Stansted Airport Consultative Committee	Danny Purton Tony Durcan (substitute)
Town Centre Partnership	Tony Durcan Tony Edwards (substitute)
Veolia Partnership Board	Danny Purton Mike Danvers (substitute)
Waste Member Partnership Board and IAA Member Working Group	Danny Purton Mark Ingall
Welfare Panel	David Carter Simon Carter Nick Churchill Nancy Watson Bob Davis Tony Edwards Mark Ingall Sue Livings Phil Waite Lanie Shears
Young Concern Trust	Mark Ingall

**MINUTES OF THE CABINET
HELD ON**

3 December 2020

7.30 - 9.45 pm

PRESENT

Committee Members

Councillor Mark Ingall, Leader of the Council

Councillor Eugenie Harvey, Deputy Leader and Portfolio Holder for Resilience and Recovery

Councillor Mike Danvers, Portfolio Holder for Resources

Councillor Tony Durcan, Portfolio Holder for Growth and Prosperity

Councillor Danny Purton, Portfolio Holder for Environment

Councillor Chris Vince, Portfolio Holder for Community and Wellbeing

Councillor Mark Wilkinson, Portfolio Holder for Housing

Other Councillors

Councillor David Carter

Councillor Simon Carter

Councillor Joel Charles

Councillor Tony Edwards

Councillor Andrew Johnson

Officers

Brian Keane, Chief Executive

Andrew Bramidge, Head of Environment and Planning

Simon Freeman, Head of Finance and Property and Deputy to the Chief Executive

Jane Greer, Head of Community Wellbeing

Simon Hill, Head of Governance

Andrew Murray, Head of Housing

Adam Rees, Governance Support Officer

53. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Frances Mason.

54. **DECLARATIONS OF INTEREST**

Councillor Simon Carter declared a pecuniary interest in Item 14 as a remunerated Council appointed Director of HTS (Property and Environment) Ltd. He would leave the meeting whilst the item was considered.

Councillor Eugenie Harvey declared a pecuniary in item 9a as her husband was the Chair of the Michael Roberts Charitable Trust. Having taken advice from the Monitoring Officer she would remain in the meeting whilst the item was considered.

Councillor Joel Charles declared a pecuniary interest in Item 14 as a remunerated Council appointed Director of HTS Group Ltd and HTS (Housing and Regeneration) Ltd. He would leave the meeting whilst the item was considered.

55. **MINUTES**

RESOLVED that the minutes of the meeting held on 15 October 2020 are agreed as a correct record and signed by the Leader.

56. **MATTERS ARISING**

a) **Minute 46 - Recent Relevant Decisions Taken by The Leader, Deputy or Portfolio Holder(s)**

Councillor Mark Ingall said that following the request that Essex be moved into the High Covid-19 tier, there had been further changes with a move into a national lockdown and a return to the tiered system on 2 December. The infection rate in Harlow was very high at over 200 cases per 100,000 and was rising. He said it was important that people continued to follow the Government's Hands, Face, Space advice, even with the good news surrounding Covid-19 vaccines.

57. **WRITTEN QUESTIONS FROM THE PUBLIC**

None.

58. **WRITTEN QUESTIONS FROM COUNCILLORS**

None.

59. **PETITIONS**

None.

60. **FORWARD PLAN**

RESOLVED that the Forward Plan is noted.

61. **RECENT RELEVANT DECISIONS TAKEN BY THE LEADER, DEPUTY OR PORTFOLIO HOLDER(S)**

RESOLVED that the following decision is noted.

a) **Portfolio Holder for Community and Wellbeing - 26 October 2020**

62. **TREASURY MANAGEMENT STRATEGY STATEMENT 2020/21: MID-YEAR REVIEW**

Cabinet considered a report on the mid-year review of the Treasury Management Strategy Statement 2020/21.

Proposed by Councillor Mike Danvers (seconded by Councillor Mark Ingall) it was:

RESOLVED that:

- A The Mid-Year Review of the Treasury Management Strategy, attached as Appendix A to the report, be noted and referred to Council for consideration.

63. **JOINT FINANCE AND PERFORMANCE REPORT, QUARTER 2 2020/21**

Cabinet received the quarter two joint finance and performance report for 2020/21, which set out the Council's financial and operational performance between July and September 2020.

Proposed by Councillor Mark Ingall (seconded by Councillor Mike Danvers) it was:

RESOLVED that Cabinet:

- A Noted the projected outturn position set out in sections three and four of Appendix A to the report for the second quarter (July – Sept) of 2020/21 as follow:
 - i) An adverse variation on controllable budgets of £1,455,000 representing 2.5 per cent of the gross General Fund Budget.
 - ii) A total projected overspend of £345,000 representing -0.6 per cent of the gross General Fund Budget.
 - iii) The Council performed on or above target for 41 out of 49 (84 per cent) of its monthly and quarterly performance indicators.
 - iv) The Council also successfully completed 19 (11 per cent) of its revised service milestones.

64. **HOUSING REVENUE ACCOUNT, QUARTER 2 FINANCE REPORT 2020/21**

Cabinet received a report which provided an update on the Housing Revenue Account (HRA) for the second quarter of 2020/21 and asked that

Cabinet noted variances in the HRA budget, as well as the forecast budget of the HRA and the Major Repairs Reserve.

Proposed by Councillor Mike Danvers (seconded by Councillor Mark Wilkinson) it was:

RESOLVED that Cabinet noted:

- A** The contents of the report and appendices A and B.
- B** That the forecast HRA general working balance as at 31 March 2021 will be £13.308 million and the balance on the Major Repairs Reserve will be fully utilised to finance the 2020/21 capital programme.
- C** The balance of £9.8 million of retained Right to Buy (RTB) receipts held as at 30 September 2020 in order to finance the new build capital programme and house purchase scheme.

65. **CAPITAL PROGRAMMES, QUARTER 2 FINANCE REPORT 2020/21**

Cabinet received a report which provided an update on the Council's Housing and Non Housing Capital Programmes.

Proposed by Councillor Mike Danvers (seconded by Councillor Mark Wilkinson) it was:

RESOLVED that Cabinet:

- A** Noted the progress in the delivery of the Council's Housing and Non Housing Capital Programmes as at Quarter 2 as follows:
 - i) The Housing Capital Programme (HCP) current budget is £48.642 million following the amendments approved by Cabinet in September 2020. The projected outturn is currently £31.968 million.
 - ii) The Non-Housing Capital Programme (NHCP) current budget is £15.175 million following the amendments approved by Cabinet in September 2020. The projected outturn is currently £15,124 million.
- B** Approved the inclusion in the 2020/21 HCP an additional £1.8 million to finance newly required cladding at Joyners Field Towers (61-88) and (95-122) to meet updated fire safety advice and obtain the latest fire safety certificates. This capital expenditure is to be financed from HRA making a direct revenue contribution.

- C** Approved the removal from the HCP the £1.305 million Readings new build project because it is no longer affordable and reallocate the resources to other new build projects which are being developed and submitted for approval in the future.
- D** Approved the inclusion in the 2020/21 NHCP an additional provision of £1.5 million to finance the equity shareholding and loan to HTS Ltd previously approved under delegated authority by the Chief Executive on the 24 April 2020 and reported to Cabinet on the 10 September 2020. The purpose of this expenditure being for HTS Ltd to purchase five properties for which the Council has nomination rights.
- E** Approved the inclusion in the 2020/21 NHCP an additional provision of £1 million to finance the East Gate project. This project is funded by the Ministry for Housing, Communities and Local Government Towns Fund accelerated Funding grant.
- F** Approved the inclusion in the 2020/21 NHCP an additional provision of £122,000 to finance the upgrading of the existing IT equipment which is essential to cope with the Covid-19 pandemic.
- G** Approved the inclusion in the 2020/21 NHCP an additional provision of £1.25 million to support the Future High Streets Fund bid as set out in the report.
- H** Approved the proposed re-profiling of capital budgets as set out in the report.

66. **PADDLING POOL HEALTH AND SAFETY WORKS BUSINESS CASE AWARD**

Councillors Simon Carter and Joel Charles left the meeting for the consideration of this item.

Cabinet considered a report to award a business case to HTS (Property and Environment) Ltd to carry out health and safety works on paddling pools in Harlow.

Proposed by Councillor Eugenie Harvey (seconded by Councillor Chris Vince) it was:

RESOLVED that Cabinet:

- A** Awarded the following Business Case to HTS (Property and Environment) Ltd subject to clarification and agreement on the terms and conditions, and a contract are entered into not exceeding the values set out below:

- i) Bush Fair
Sumners
Norman Booth
Town Park

Total: £333,053.26

- B** Noted that works at Staple Tye will be addressed through separate contract connected to agreed installation of a new Splash Park.

67. **SELECTION OF A CONTRACTOR FOR BUILDING NEW COUNCIL HOMES AT BUSHEY CROFT**

Cabinet received a report to appoint a contractor (subject to formal contract) to develop new Council homes at Bushey Croft.

Proposed by Councillor Tony Durcan (seconded by Councillor Mark Wilkinson) it was:

RESOLVED that:

- A** Cabinet approved (subject to formal contract) the appointment of Contractor A for Council new build works at Bushey Croft for the sum of £2,601,141 plus provision for contingency sums as contained in this report.

68. **DEVELOPMENT OF OPTIONS FOR A HARLOW METRO SYSTEM**

Cabinet received a report which sought the endorsement of the principle of establishing a sustainable transport system and to commission a first stage feasibility study.

Proposed by Councillor Danny Purton (seconded by Councillor Mark Ingall) it was:

RESOLVED that Cabinet:

- A** Endorsed the principle of establishing a sustainable transport system to meet the modal shift and climate change aspirations to support the future growth of the town.
- B** Approved, subject to C below, the commissioning of a first stage feasibility study to explore different innovative transport technologies that a 'Harlow Metro' might bring and to advise the Council on operational and business models.
- C** Delegated authority to the Chief Executive, in consultation with Leader of the Council, and Portfolio Holder for the Environment to identify a budget and scope for the first stage feasibility study

to be commissioned in conjunction with the Council's external partners.

69. **1-15 ALTHAM GROVE - EXTERNAL REFURBISHMENT OF FLAT**

Cabinet received a report to award a contract to carry out external refurbishment works at 1-15 Altham Grove:

Proposed by Councillor Mark Wilkinson (seconded by Councillor Danny Purton) it was:

RESOLVED that:

- A** The most advantageous tender in consideration of price and quality combined as submitted by Contractor A be accepted in the sum of £269,996.47 for the delivery of this external refurbishment works programme subject to contract and Leaseholder consultation.

70. **CORNER BLOCKS FULLERS MEAD ESTATE - EXTERNAL REFURBISHMENT OF THE CORNER FLAT BLOCKS**

Cabinet received a report to award a contract to carry out external refurbishment of the corner blocks at Fullers Mead Estate.

Proposed by Councillor Mark Wilkinson (seconded by Councillor Mike Danvers) it was:

RESOLVED that:

- A** The most advantageous tender in consideration of price and quality combined as submitted by Contractor C be accepted in the sum of £379,000.00 for the delivery of this external refurbishment works programme subject to contract and Leaseholder consultation.

71. **FIRE SAFETY WORKS - WILLOWFIELD TOWER, NICHOLLS TOWER AND MOOR TOWER**

Cabinet received a report which recommended the award of a contract to carry out fire safety works at Willowfield Tower, Nicholls Tower and Moor Tower.

Proposed by Councillor Mark Wilkinson (seconded by Councillor Mike Danvers) it was:

RESOLVED that:

- A** The most advantageous tender in consideration of price and quality combined as submitted by Contractor D be accepted in

the sum of £1,468,271.00 for the delivery of updated Fire Compartmentation between floors, in service duct and ventilation system, internal and front entrance fire doors programme, subject to contract and Leaseholder consultation.

72. **COMMUNICATIONS FROM COMMITTEES/WORKING GROUPS/PARTIES AND PANELS**

a) **Referral from Covid-19 Recovery Working Group - Funding Allocations: Recovery Budget**

Cabinet received a referral from the Covid-19 Recovery Working Group to approve a process for allocated funding for recovery measures.

Proposed by Councillor Eugenie Harvey (seconded by Councillor Mike Danvers) it was:

RESOLVED that:

- A** The process for the approval of the allocated funding for Recovery measures be approved as set out in Appendix A to the report.
- B** That the proposed allocation criteria, set out in Appendix B to the report, be approved.
- C** Final allocation of the recovery budget is delegated to Work Stream lead officers in consultation with Workstream appointed Councillors and the relevant Portfolio Holder.

b) **Referral from Cabinet Policy Development Working Group - Local Council Tax Support Scheme Proposals**

Cabinet received a referral from the Cabinet Policy Development Working Group. This sought a recommendation to Full Council that the Local Council Tax Support Scheme remained unchanged for 2021/22.

Proposed by Councillor Eugenie Harvey (seconded by Councillor Mike Danvers) it was:

RESOLVED that:

- A** Cabinet recommended to Full Council that the Local Council Tax Support Scheme remains unchanged for 2021/22.

- c) Referral from Cabinet Policy Development Working Group - Treasury Management Review

Cabinet received a referral from the Cabinet Policy Development Working Group which recommended that the impact of Covid-19, and changes in interest rates were considered in the development of the Treasury Management Strategy.

Proposed by Councillor Eugenie Harvey (seconded by Councillor Mike Danvers) it was:

RESOLVED that:

- A** The impact of the Covid-19 virus, and changes to interest rates be considered in the development of the Treasury Management Strategy.

73. **MINUTES OF PANELS/WORKING GROUPS**

RESOLVED that the minutes of the following meetings are noted.

- a) Minutes of meeting Tuesday, 8 September 2020 of Harlow Local Highways Panel
- b) Minutes of meeting Tuesday, 29 September 2020 of Shareholder Sub Committee
- c) Minutes of meeting Wednesday, 14 October 2020 of Safety Committee

74. **MATTERS OF URGENT BUSINESS**

None.

LEADER OF THE COUNCIL

**MINUTES OF THE DEVELOPMENT MANAGEMENT COMMITTEE
HELD ON**

9 December 2020

7.30 - 9.22 pm

PRESENT

Committee Members

Councillor Phil Waite (Chair)
Councillor Nancy Watson (Vice-Chair)
Councillor Jean Clark
Councillor Mike Danvers
Councillor Bob Davis
Councillor Michael Garnett
Councillor Michael Hardware
Councillor Maggie Hulcoop
Councillor Sue Livings
Councillor Clive Souter

Officers

Patricia Coyle, Principal Planning Officer
Sangeeta Ratna, Senior Planning Officer
Julie Galvin, Legal Services Manager
Alex Chrusciak, Interim Planning and Building Control Manager
Jade Clifton-Brown, Principal Planning Officer
Hannah Criddle, Governance Support Officer
Andrew Bramidge, Head of Environment and Planning
Emma Crouch, Corporate Support Officer

Other Councillors

Councillor Simon Carter
Councillor Tony Edwards

97. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

None.

98. **DECLARATIONS OF INTEREST**

Councillor Jean Clark declared a non-pecuniary interest in agenda items 8 (HW/REM/20/00415 – PHE) and 9 (HW/FUL/20/00373 – Greenway House) as a Little Parndon and Hare Street Ward Councillor.

Councillor Mike Garnett declared a non-pecuniary interest in agenda item 10 (HW/FUL/20/00450 – 61 to 63 Churchgate Street) as an Old Harlow Ward Councillor and Essex County Councillor for Harlow North.

Councillor Maggie Hulcoop declared a non-pecuniary interest in agenda item 10 (HW/FUL/20/00450 – 61 to 63 Churchgate Street) due to a

personal connection to the applicant and confirmed she would withdraw from the debate.

Councillor Sue Livings declared a non-pecuniary interest in agenda item 10 (HW/FUL/20/00450 – 61 to 63 Churchgate Street) as an Old Harlow Ward Councillor.

Councillor Clive Souter declared a non-pecuniary interest in agenda items 4 (HW/FUL/19/00290 – Part of Terminus Street Car Park and Land South of the Car Park), 8 (HW/REM/20/415 – PHE) and 9 (HW/FUL/20/373 – Greenway House).

Councillor Phil Waite declared a non-pecuniary interest in agenda item 10 (HW/FUL/20/00450 – 61 to 63 Churchgate Street) due to a personal connection to the applicant and confirmed he would withdraw from the debate.

99. **MINUTES**

RESOLVED that the minutes of the meeting held on 11 November 2020 are agreed as a correct record and signed by the Chair.

100. **MATTERS ARISING**

None.

101. **WRITTEN QUESTIONS**

None.

102. **PROCEDURE FOR CONSIDERATION OF PLANNING APPLICATIONS**

RESOLVED that the procedure for the conduct of the meeting is noted.

103. **HW/FUL/19/00290 - PART OF TERMINUS STREET CAR PARK AND LAND SOUTH OF THE CAR PARK, VELIZY AVENUE**

The Committee received a report and application (HW/FUL/19/00290) on the partial demolition of the existing car park and redevelopment of the site for a mixed-use development comprising a part 9, part 10 and part 11 storey building, providing 150 residential dwellings, 1,808.7 sqm of commercial floorspace in flexible A1/A3/A4/B1/D1 use, a gym, a re-configured car parking layout, cycle parking and storage and refuse stores. Plus public realm improvements and the creation of a new landscaped pedestrian and cyclist entrance to the Town Centre.

The Committee also received a supplementary report containing information which had been received after the publication of the agenda. This included further correspondence received from the applicant.

Presentations were heard from one objector and the applicant's agent.

RESOLVED that planning permission is **GRANTED** subject to the applicant entering into an appropriately worded Section 106 Legal Agreement based on the requirements identified within the report, the additional proposed conditions and amended recommendations as per the Supplementary Agenda, and the following amendments agreed by the Committee:

- i. The claw back provision/review mechanism to be included in the S106 shall require the Planning and Building Control Manager consult with the Chairman of the Development Management Committee and the Leader of the Council as to allocation and prioritisation of any monies recovered against the submitted list of planning contributions sought.
- ii. The allocation of the £150,000 contribution shall be delegated to the Planning and Building Control Manager in consultation with the Chairman of the Development Management Committee and the Leader of the Council.
- iii. The claw back provision/review mechanism within the S106 shall require details of sales values but also construction and other costs.
- iv. Amendment to condition 14 as set out below:
Prior to first occupation of the development hereby approved, the developer shall submit details of the proposed location of the 11 affordable housing units within the development and secure approval for the details from the Local Planning Authority. These submitted details shall demonstrate how the location of the affordable housing units has been "pepper potted" and dispersed through the development as a whole. The location of the affordable housing units shall be implemented in accordance with the approved location details.
Reason: To ensure the location of the affordable housing units is acceptable.

104. **HW/REM/20/00415 - PHE, COLDHARBOUR ROAD**

The Committee received a report and application (HW/REM/20/00415) on the reserved matters approval (access, appearance, landscaping, layout and scale) for the development of 22,625sqm gross internal area of new floorspace for research and development uses (Use Class B1) and the refurbishment of existing buildings for research and development uses and ancillary uses following outline planning permission HW/OUTAM/17/00372.

The Committee also received a supplementary report containing information which had been received after the publication of the agenda. This included further correspondence received from the applicant.

RESOLVED that planning permission is **GRANTED** subject to the conditions in the main published agenda and supplementary agenda.

105. **HW/FUL/20/00373 - GREENWAY HOUSE, PARKWAY**

The Committee received a report and application (HW/FUL/20/00373) on planning permission for the erection of four storey building comprising office space and 32 flats, together with parking, refuse area and rooftop amenity space.

The Committee also received a supplementary report containing information which had been received after the publication of the agenda. This included an update to the recommendation in the main published agenda.

A representation was heard from the applicant's agent.

RESOLVED that planning permission is **REFUSED** for the following reasons:

- a) The proposed residential use fails to accord with the site allocation within the Adopted Replacement Harlow Local Plan 2006 and the Harlow Local Development Plan Pre-Submission Publication 2018 which allocates the site for employment use within the Pinnacles Employment Area. The proposed residential use within the Employment Area would not therefore accord with the aspiration of the Development Plans, and the proposal fails to have sufficient regard to the proximity of the incompatible adjacent employment uses on the health, safety, amenity and wellbeing of future residents, contrary to policies ER5, ER6, SD3 and SD5 of the Adopted Replacement Harlow Local Plan 2006 and policies PL1, PL2 and PR1 of the Harlow Local Development Plan Pre-Submission Publication 2018.
- b) The proposed development by reason of its location, access to and distance from local services and facilities with poor public transport links and choices would create a functionally isolated development whereby future occupants would be reliant on private car journeys to access sufficient facilities and services for everyday life which would represent unsustainable development that would result in additional vehicles within the Employment Area to the detriment of pedestrian and highway safety. The development is therefore found to be contrary to the provisions of policies SD3 and

SD5 of the Adopted Replacement Harlow Local Plan 2006 and policies PL1 and IN2 of the Harlow Local Development Plan Pre-Submission Publication 2018.

- c) The proposed development would not provide an acceptable level of private amenity space for occupants. The mitigation offered by the applicant in terms of a proposed open space contribution would not provide for suitable amenity space locally, contrary to policy PL2 of the Harlow Local Development Plan Pre-Submission Publication 2018.

106. **HW/FUL/20/00450 - 61-63 CHURCHGATE STREET**

Councillors Mike Danvers and Maggie Hulcoop left the meeting at this point and did not return. Councillor Phil Waite withdrew from the debate for this item. Councillor Nancy Watson acted as Chair for the consideration of this item.

The Committee received a report and application (HW/FUL/20/00450) on planning permission for the conversion of existing dwelling back into 2 dwellings alongside the extension of the front single storey bay and the creation of a new courtyard garden at no.61.

RESOLVED that planning permission is **REFUSED** for the reason as set out in the published Agenda report.

107. **REFERENCES FROM OTHER COMMITTEES**

Councillor Waite returned to the meeting and resumed as Chair for the remainder of the meeting.

None.

108. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE

**MINUTES OF THE DEVELOPMENT MANAGEMENT COMMITTEE
HELD ON**

16 December 2020

7.30 - 8.23 pm

PRESENT

Committee Members

Councillor Phil Waite (Chair)
Councillor Nancy Watson (Vice-Chair)
Councillor Jean Clark
Councillor Mike Danvers
Councillor Jodi Dunne (substitute for Councillor Bob Davis)
Councillor Michael Garnett
Councillor Michael Hardware
Councillor Maggie Hulcoop
Councillor Clive Souter

Officers

Andrew Bramidge, Head of Environment and Planning
Alex Chrusciak, Interim Planning and Building Control Manager
Hannah Criddle, Governance Support Officer
Julie Galvin, Legal Services Manager
Adam Halford, Garden Town Lead Officer for Harlow Council
John Hoad, Garden Town Consultant for Harlow Council
Adam Rees, Governance Support Officer

Other Councillors

Councillor Tony Edwards

109. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillors Bob Davis and Sue Livings. Councillor Jodi Dunne was in attendance as a substitute for Councillor Bob Davis.

110. **DECLARATIONS OF INTEREST**

None.

111. **PROCEDURE FOR CONSIDERATION OF PLANNING APPLICATIONS**

RESOLVED that the procedure for the meeting is noted.

112. **3/19/1045/OUT - LAND NORTH OF THE STORT VALLEY AND THE A414 GILSTON HERTFORDSHIRE - HARLOW COUNCIL CONSULTEE RESPONSE**

The Committee received an update report on the Gilston Area development.

RESOLVED that the Committee noted the update report.

The Committee also received a report which recommended a Harlow District Council consultee response to the East Hertfordshire District Council Application (3/19/1045/OUT).

A representation was made by the Applicant.

RESOLVED that the Committee **APPROVED** the following consultation response:

- A** The Council is supportive of development of the Gilston Area as it contributes greatly to achieving important growth aims for Harlow and Gilston Garden Town (HGGT).
- B** However, the Council's support for any particular application is dependent on confidence that a planning permission will achieve development that accords with both the Development Plan as a whole, (in this case, particularly the East Herts District Plan Policy GA1) and the HGGT Vision.
- C** The Council supports the application amendments on design of the site accesses and the commitments to internal circulation principles. The changes should provide essential dedicated space and prioritisation for public and active transport to help achieve the mode share targets, together with traffic signal controls that can manage traffic flows from the development onto the road network. This provides the opportunity for the village development itself to accord very well with the HGGT vision for transport. The Council will continue to work with EHDC and the applicant on appropriate conditions and obligations to secure these aspects of the scheme.
- D** Generally, the Council considers that agreement of appropriate planning obligations for the development is fundamental to securing development quality and mitigating its impacts in a manner compliant with policies and guidance and with due regard to other material considerations.

- E** The Council cannot support the application on the basis of the planning obligations presently set out, or suggested in general terms by the applicant as adequate. The Council considers the obligations proposed would fall considerably short of the commitments required to address Development Plan policies and supporting HGGT guidance and evidence.
- F** In particular the Council identifies the following concerns:
- i) There are still many uncertainties on how far the applicant is prepared to commit to HGGT principles
 - ii) On essential sustainable transport matters commitments to adequate funding for, and timely delivery of, the Stort Valley Crossings and proportional contributions to the funding of the Sustainable Transport Corridor network are still not confirmed
 - iii) Due to the lack of clarity on planning obligations it is unclear how the application will support effective use of the Housing Investment Grant (HIG) funding which the Councils have been awarded to help 'unlock' the delivery of the Gilston Area development. This is particularly the case in respect of the lack of commitment to the provision of adequate repayment of 'grant' into the Rolling Infrastructure Fund (RIF) that will support the provision of the wider Sustainable Transport Corridor (STC) infrastructure that is essential to support sustainable growth
 - iv) Other important HGGT matters are unresolved; the details of affordable housing for Harlow residents to support social mobility; provision of adequate employment land and premises to support balanced economic growth of the Garden Town; energy strategy measures; and future community facility stewardship arrangements
 - v) The promised formal Memorandum of Understanding (MoU) between the applicant and the V7 landowner / applicant on comprehensive development and shared and consistent commitments in planning obligations has still not been provided. The result is that, in effect, the V1-6 application and future V7 application are put forward for decision in isolation. This position could, if permissions are granted in the wrong form, result in significant planning harm. In particular, failure to establish an

effective mechanism for the phasing of development and coordination of its infrastructure, including transport planning and funding, the overall provision of employment land and social and community facilities and the stewardship approach are all seriously affected and subject to much greater uncertainty and risk

- G** The Council’s position of general support for the application is dependent upon these matters being satisfactorily addressed in advance of the LPA determining the application. The Council wishes to contribute to that endeavour through a continuation of engagement with partners and the applicant on planning conditions and planning obligations.
- H** The Council provides notice that, to reflect the conditional nature of its support, it may seek to comment further at the point that greater clarity on planning conditions and obligations is provided, for example upon production of draft recommended conditions and applicant agreed Heads of Terms that support an officer report to the LPA.
- I** EHDC and the applicants are asked to take note of more detailed points explaining these concerns - set out in the Table ‘Analysis of Application – Key Issues for Harlow’ (Report Appendix 2). The Council therefore requests that EHDC should only contemplate a grant of planning permission after these points have been fully considered; to the extent that they can be either resolved, or weighed in the decision balance.
- J** To delete the first bullet in Appendix 2 ‘Commitments’ and ‘Strategies’ secured C Employment; Points of Concern and replace with:

“The amended application appears to indicate that provision will now be made for the minimum amount of employment land and floor-space required by the Development Plan. However, this depends largely on an enlargement of the Village 6 developable area. The feasibility of the resultant land use and highway access changes is unclear.”

113. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE