

MEETING OF HARLOW COUNCIL

7.30 pm on Thursday 16 September 2021

In the Council Chamber, Civic Centre

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 - 20)

To agree the minutes of the meeting held on 15 July 2021.

4. Communications from the Chair

5. Petitions from the Public

6. Questions from the Public

7. Questions from Councillors

8. Motions from Councillors

a) Proposed Developments Around Harlow

Proposed by Councillor Russell Perrin (seconded by Councillor Michael Hardware):

“This Council recognises the huge concerns many residents have about the proposed developments around Harlow, including Summers West, Katherines West, Latton Priory and to the east of Harlow. There are worries that these developments will overwhelm the existing town transport infrastructure, services and amenities.

In particular, these concerns surround transport links in west and south Harlow, the lack of capacity on Southern Way, Water Lane, Broadley Road and the B181 Epping Road, and the potential impact on local medical and education services.

The proposed strategic housing site to the east of Harlow, and those developments already taking place on Gilden Way and the new M11 junction, will add additional impact upon the residents of Old Harlow who understandably continue to raise objections about

the proposals for further new housing.

In support of the above, this Council resolves that it:

- i) Remains against growth to the southern and western boundaries of the town, preferring any growth to be to the north (Gilston Villages) and east of Harlow.
- ii) Will make any representations necessary to communicate that it does not support any development of Sumners West or any other developments to the south or west of Harlow.
- iii) Will not sell or lease any land or rights of way which it possesses that may assist in the development of Sumners West or any other developments to the south or west of Harlow.
- iv) Puts in place a plan to do everything possible to mitigate the impacts of the strategic housing site to the east of Harlow. To better recognise the potential impact on existing residents, particularly in Churchgate Street and the neighbouring parts of Old Harlow that will also be affected, by:
 - Conducting an additional strategic assessment of the proposed housing site to gain further clarity about its feasibility and publish a specific mitigation action plan to limit the severity of the impact of such potential housing growth;
 - Developing a separate agreement between this Council and Old Harlow residents to safeguard the community from future over-development, recognising the importance of preserving the Conservation Area; and
 - Committing to additional consultation in line with the new community engagement strategy that will be developed by this Council, so that Old Harlow residents' concerns can be used to inform future plans to mitigate the prospect of an east strategic housing site.
- v) The Chief Executive in consultation with the Portfolio Holder for Strategic Growth submits a formal objection to Epping Forest District Council Local Development Plan to the extent that it impacts upon points i – iv and sub clauses raised in this motion.”

9. References from Cabinet and Committees

- a) DfT Standards - New Requirements for Private Hire Vehicle Proprietors / Operators and Staff (Pages 21 - 67)

Licensing Committee recommended to Full Council that:

- i) A new mandate is introduced to require all vehicle proprietors to provide a basic disclosure certificate from the DBS (Disclosure and Barring Service) and that a new check is undertaken annually.
- ii) A new mandate is introduced to require all Private Hire Vehicle Operator licence holders, to hold a basic disclosure certificate from the DBS and that a new check is undertaken annually.
- iii) A new mandate is introduced to require operator staff who take bookings, dispatch vehicles or any other staff who have access to booking information or have contact with members of the public to hold a Basic disclosure certificate from the DBS and that a new check is undertaken annually.
- iv) Subject to i, ii and iii, the requirements be introduced as set out in the Proposals section of this report.

10. Reports from Officers

- a) Independent Member of the Audit and Standards Committee Appointment (Pages 68 - 70)

11. Minutes of Cabinet and Committee Meetings

To note the following Cabinet and Committee minutes:

- a) Minutes of meeting Tuesday, 6 July 2021 of Licensing Committee (Pages 71 - 73)
- b) Minutes of meeting Wednesday, 7 July 2021 of Development Management Committee (Pages 74 - 76)
- c) Minutes of meeting Monday, 12 July 2021 of Cabinet (Pages 77 - 85)
- d) Minutes of meeting Tuesday, 13 July 2021 of Scrutiny Committee (Pages 86 - 88)

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**

15 July 2021

7.30 - 9.50 pm

PRESENT**COUNCILLORS**

Clive Souter (Chair)
Maggie Hulcoop (Vice-Chair)

David Carter	Shona Johnson
Simon Carter	James Leppard
Joel Charles	Ash Malik
Nick Churchill	Colleen Morrison
Jean Clark	Russell Perrin
Mike Danvers	Nicky Purse
Bob Davis	Matthew Saggars
Jodi Dunne	John Steer
Tony Durcan	Dan Swords
Tony Edwards	Chris Vince
Michael Garnett	Nancy Watson
Alastair Gunn	Mark Wilkinson
Michael Hardware	Gareth Williams
Andrew Johnson	

OFFICERS

Brian Keane, Chief Executive
Hannah Criddle, Governance
Support Officer
Adam Rees, Senior
Governance Support Officer
Simon Hill, Head of
Governance

16. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Eugenie Harvey, Eddie Johnson, Sue Livings and John Strachan.

17. **DECLARATIONS OF INTEREST**

None.

18. **MINUTES**

RESOLVED that the minutes of the meeting held on 20 May 2021 are agreed as a correct record and signed by the Chairman.

19. **COMMUNICATIONS FROM THE CHAIR**

The Chair advised that he had attended a number of events including visiting Raised Roof with Councillor Maggie Hulcoop, meeting with the Mayor of Chelmsford and attending the Rugby Club.

20. **PETITIONS FROM THE PUBLIC**

None.

21. **QUESTIONS FROM THE PUBLIC**

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

22. **QUESTIONS FROM COUNCILLORS**

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

23. **MOTIONS FROM COUNCILLORS**

a) Protection of Green Spaces

Proposed by Councillor Chris Vince (seconded by Councillor Mike Danvers):

This Council notes:

- i) Harlow's green spaces are incredibly important to people in our town and in particular Harlow's playing fields owned by Harlow Council are utilised by families of all ages.
- ii) During the pandemic the importance of Harlow's playing fields has increased with families who do not have their own gardens finding them the only source of entertainment for their children.
- iii) The previous Labour administration worked hard to ensure that Harlow's playing fields were protected and ensured that they were not earmarked for development on the local plan.
- iv) The decision taken at the development management committee on the 8th of June to allow building on the Purford green site sets a dangerous precedent for future development.
- v) Furthermore it was decided that compensation for this development would not be spent in the local vicinity but on the other side of Harlow.

This Council resolves that:

- i) It implements as strong a protection as possible for Harlow playing fields within the emerging Open Space Strategy.
- ii) Compensation for developments will be spent locally for the benefit of Harlow residents.

- iii) The Local Plan should be respected by all councillors and officers.

Councillor Michael Hardware (seconded by Councillor David Carter) proposed that the motion was amended as follows:

The council notes that:

- i) There is cross-party agreement that Harlow's green spaces, including playing fields, are incredibly important to people in our town and are utilised by families of all ages.
- ii) During the pandemic the importance of Harlow's green spaces and playing fields has increased with families who do not have their own gardens finding them the only source of entertainment for their children.
- iii) Current and previous local plans ensure that Harlow's green spaces and playing fields were protected and not earmarked for development.
- iv) The Development Management Committee consent on 8th June included compensation for the loss of the playing field going to Church Langley.

This Council resolves that:

- i) It implements protection for Harlow's open spaces and playing fields within the emerging Open Space Strategy, Town Plan and Local Plan review when it happens.
- ii) Where possible, that compensation for developments will be spent as locally as possible for the benefit of Harlow residents most affected by that development.
- iii) The Local Plan should be respected by all councillors and officers.

The amended motion was agreed by the consent of the meeting and became the substantive motion.

RESOLVED that the substantive motion was carried.

24. **MAIN DEBATE**

It was agreed to suspend Council Procedure Rule 17.2 f) to allow one hour for the Main Debate.

In accordance with Council Procedure Rule 17.3, the Chair called on the Leader of the Council to introduce the debate on the work undertaken by the

Council in 2020/21 municipal year together with any highlights, pressures and potential issues for the coming year. The Leader of the Opposition was given the opportunity to respond to the debate. The Leader of the Council outlined the Council's continued approach in response to the Covid-19 Pandemic and the Council's plans for meeting with challenges so as to provide services to the Town for the benefit of its residents.

25. **REFERENCES FROM CABINET AND COMMITTEES**

- a) Referral from Audit and Standards Committee - Audit and Standards Committee Annual Report 2020/21

Full Council considered a referral from the Audit and Standards Committee to note its annual report.

RESOLVED that the Audit and Standards Committee's annual report for 2020/21 be noted.

- b) Referral from Scrutiny Committee - Annual Report of the Scrutiny Committee 2020/21

Full Council considered a referral from the Scrutiny Committee to note its annual report.

RESOLVED that the Scrutiny Committee's annual report for 2020/21 be noted.

- c) Referral from Scrutiny Committee - Call In Sub Committee Procedures

Full Council considered a referral from the Scrutiny Committee on the Call In Sub Committee Procedures.

RESOLVED that the procedure for modifying or withdrawing a call in (attached as Appendix A to the report) be adopted and included in the Constitution

26. **REPORTS FROM OFFICERS**

None.

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

RESOLVED that the minutes of the following meetings are noted.

- a) Minutes of meeting Thursday, 25 March 2021 of Cabinet
b) Minutes of meeting Wednesday, 14 April 2021 of Development Management Committee

- c) Minutes of meeting Tuesday, 8 June 2021 of Development Management Committee
- d) Minutes of meeting Wednesday, 16 June 2021 of Audit & Standards Committee
- e) Minutes of meeting Thursday, 17 June 2021 of Cabinet

28. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COUNCIL

Full Council – 15 July 2021

Questions from the Public

1 Nicholas Taylor to Councillor Simon Carter (Portfolio Holder for Housing):

Members may recall that two questions about the external repair and painting of Council owned houses were asked of Councillors in 2020. This was as a result of my seeking a Freedom of Information request to the Council which revealed that the Council have not kept any record of work done prior to 2016 and very few houses have been done since. I am aware of a council house that has only been repaired and painted externally once in the last 25 years.

In response to the first question Councillor Wilkinson said on 27 February 2020 that a programme of cyclical maintenance would be prepared and appear on the Council's website in May 2020. It did not, hence my question on 10 September to which Councillor Ingall responded by saying that following a review of the implications of Covid-19, it is expected that a revised Housing Investment programme will be published later in the year. To date, nothing on this subject has appeared on the Council's website.

When does the Council intend to carry out such work and when will the website be updated with such information?

Reply from Councillor Simon Carter (Portfolio Holder for Housing):

In 2020 the Council's Housing Investment Programme (HIP) was largely suspended due to the restrictions placed by Covid 19. However, as part of the Government's published Road Map - "Emerging from Lockdown", these programmes of work are re-commencing including the external redecoration of Council owned houses and bungalows within the resources available.

Programmes are currently being revised in order to both complete last year's (HIP) as well as the work planned on the estates for 2021/22. It is expected that the Council will publish its revised and reprioritised HIP programmes for the next five year cycle of investment from 2021/22 later this year.

2 Nicholas Taylor to Councillor Alastair Gunn (Portfolio Holder for Environment):

In September 2020 Cllr Ingall was asked about the maintenance of trees. In response he said that working with HTS a pro-active planned maintenance regime would be put in place from April 2021. I note that at the Cabinet meeting on 26 March it was reported that there had been a shortfall in performance in the 3rd quarter of 2020/2021 which was likely to be maintained through to the end of the year, the recruitment of a specialist consultancy had in fact identified a larger number of works to be completed and the situation would not be recovered fully until 2021/2022.

Can you advise me if a pro-active planned maintenance regime has been put in place, has the list of works been prioritised, what targets have been set for work to be completed and when will this information be placed on the Council's website?

Reply from Councillor Alastair Gunn (Portfolio Holder for Environment):

A proactive management regime for tree maintenance is to be implemented in this financial year. HTS have now produced a costed proposal for this and Council officers are now in discussions with HTS about its implementation and the setting of targets. This will be in a phased approach since a planned maintenance regime requires a survey to first map and then inspect every substantial tree in the town which will clearly take some time to undertake. It is estimated that in reality this will take 2 – 3 years to complete across the whole town but it will deliver a planned maintenance programme that will commence this year.

In the meantime, HTS continue to deliver works to trees and residents can report dead or dangerous trees by phone or via the Council's website. I am pleased to be able to report that performance on tree works has recovered and in the second quarter of this year HTS expect to be delivering in full against their performance indicators.

3 Alan Leverett to Councillor Simon Carter (Portfolio Holder for Housing):

It is pleasing to see at long last the occupation of the flats at Prentice Place.

With a new administration is the public going to be informed of the true reason for a delay of over a year from what appeared completion of the project to actual occupation? It was also evident that 24 hour security of the flats was provided to protect them from any unwanted occupation or damage. Can the council please inform me of the cost of this service what budget it was taken from?

Reply from Councillor Simon Carter (Portfolio Holder for Housing):

Thank you for your question Mr Leverett.

It is pleasing to see that after years of delay under Labour we have been able to allocate these properties to ten homeless families. The scheme began in 2008/9 under a Conservative administration so you could say it has come full circle.

The delays to the completion to Prentice Place occurred because:

- a) The fire stopping between the retail and residential units did not meet current fire safety regulations and therefore needed to be upgraded.
- b) Issues with electrical distribution.
- c) The doors specified in the original drawings complied with building regulations at that time. However, at the time of completion, building regulations had been changed and updated, requiring alternative fire doors to be installed.

Although the fitting of the alternative doors could not be legally enforced, as the structure of the building had not been altered, as a local authority, the decision was taken that we should be fully compliant with the current fire safety and building regulations, to enable the properties to be offered to people from the housing register.

As you will see, some of the delays were caused by the extreme delay between drawing up the specifications for the scheme and actually implementing them.

The overall expenditure, for security services at Prentice Place is £209,900.06 over a three year period. The overall percentage split is per below:

- a) Regeneration – 25 percent
- b) Property and Facilities – 50 percent
- c) Housing – 25 percent

4 Alan Leverett to Councillors Dan Swords (Portfolio Holder for Regeneration):

We were informed previously that the Osler House Part of Prentice Place was to be refurbished as a Community Hub. Can the council inform me of what progress has been made and as to when it's likely to be available for use?

Reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

I want to begin by paying tribute to Cllr Hulcoop who I know has worked extremely hard to ensure the Osler House site is used for the benefit of the community. To that end, I share Mr Leverett's disappointment that the previous administration did not complete the full plans for the redevelopment of the Prentice Place site and it is particularly upsetting that the promised work has not been carried out on the Osler House site to date - given that the last administration spent 10 painful years attempting to deliver the redevelopment.

However, our new Council is committed to delivering the scheme at the Osler House site which will be of huge benefit to the local community. The Council is in active negotiation at present and thus, I will update Mr Leverett and, of course, the public on that progress very soon.

Supplementary Question from Alan Leverett:

Have all financial partners been informed?

Supplementary Reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

I will ensure that Officers make contact with the relevant bodies.

Full Council – 15 July 2021

Questions from Councillors

1 Councillor Mike Danvers to Councillor Alastair Gunn (Portfolio Holder for Environment):

Could you briefly outline the new administration's new green policies for Harlow Council to face up to the declared climate emergency?

Reply from Councillor Alastair Gunn (Portfolio Holder for Environment):

I would like to start by paying tribute to the late Councillor Danny Purton who led this work on behalf of the Council in recent years following Harlow Council's declaration of a climate emergency. I know he is dearly missed by many in this Chamber and recognise that in several regards I am continuing works begun under his tenure.

Addressing the challenges posed by climate change is a global concern, on which there is fundamental cross-party agreement. We should be united in working towards a zero carbon future for this town, our country and across the world. I am determined that Harlow Council more than plays our part in this.

The Council has already made great strides towards reducing its carbon footprint since Harlow's first Carbon Management Plan in 2011, launched by the last Conservative administration. This work has been accelerated since the 2019 Climate Emergency was unanimously agreed, through introducing significant energy saving measures in our buildings, and I commend the previous administration on this.

This Administration will continue and extend the Council's carbon reduction programme and set out ambitions for a wider climate change strategy and action plan for Harlow. This will be with a view to setting a target date for when Harlow Council will achieve Net Zero, following the leadership set by the Conservative Government nationally, when it set the UK's 2050 Net Zero target in law. I will be bringing a report to the September Cabinet to set out these plans.

We will take a rigorous approach to protecting and enhancing the town's environmental assets, particularly Sir Frederick Gibberd's legacy of green wedges and wider green infrastructure across the town. We will be continuing the tree planting programme begun under the previous administration, but also wish to take a more systematic approach to the maintenance of the town's trees. We are commissioning a tree survey to map every significant

tree in Harlow which will then result in a proactive approach to tree maintenance. This will help us to protect existing trees whilst also planting and protecting new ones.

Further and in conjunction with this work, we will be developing a biodiversity strategy for the Council, to ensure that we meet our responsibility on addressing biodiversity loss. I intend to bring a report to the additional November Cabinet setting out these plans.

Alongside supporting sustainable and active transport, this Administration is committed to delivering a significant expansion of the town's electric vehicle charging infrastructure. With the sale of new petrol and diesel cars to end by 2030, we have an obligation to Harlow's residents to ensure their town is ready for the transition to electric, which is already underway. I will be bringing a report to Cabinet in September to provide more detail on this.

2 Councillor Mike Danvers to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Could you briefly outline the non-statutory services that are now at risk of cuts to their budgets and the ones that are threatened with closure?

Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Our administration wishes to explore opportunities to invest in the council's much-loved non-statutory services. As part of an ongoing review of council budgets, launched by the Portfolio Holder for Finance and Governance, it is not anticipated that there will be any changes to the council's community services budgets that will negatively impact frontline delivery. Our administration plans to set out more detail about the council's future spending priorities as part of the annual work to update the medium-term financial strategy in the autumn of this year and development of a budget, announcements will be made in the usual way early next year.

Supplementary Question from Councillor Mike Danvers:

Will you pledge that no services will be privatised?

Supplementary Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

We will be investing in our non-statutory services.

3 Councillor Chris Vince to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Does the portfolio holder share the previous administrations view that Sam's Place is a vital resource for parents of those children who use it, that it should be provided free of charge and will you challenge Essex County Council should they return to their proposals to charge for this service?

Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Sam's Place provides disabled children and young people a range of structured opportunities to gain new life skills – it is a highly regarded service in the local community. Our administration believes that families accessing Sam's Place should continue to be able to enjoy the existing range of services unchanged.

The current contract is in place until autumn 2022, and we are assured there will be continuity in the current provision.

At the present time, the council has not been made aware of what the terms of any new contract might be. Our administration is already planning to make provision as part of the annual work to update the medium-term financial strategy in the autumn of this year and in next year's budget, 2022 to 2023, for a continuity fund to ensure that families are not burdened with fees in the future should the current contracting arrangements at Sam's Place change and the council be successful in tendering for the new service.

4 Councillor Jodi Dunne to Councillor Dan Swords (Portfolio Holder for Regeneration):

We saw many promises made by the Harlow Conservatives over the local election campaign, and the ones that stick in my mind are to do with the arts in our town. I know in Harlow's vibrant musical community they are very excited about the prospect of a new music venue in the town, as prominently promised on those glossy videos and discussed by our local media. When will this happen, where will this happen and how? I fear that they have over promised and will under deliver by resorting to Tory type of knowing the price of everything but the value of nothing.

Reply from Councillor Dan Swords (Portfolio Holder for Regeneration):

I am pleased that Cllr Dunne enjoyed our campaign video as much as the other 41,823 other residents who saw it and duly elected Conservative

Councillors in seats across the town that had never voted Conservative before.

The video summarised the failings of the previous Labour administration and offered a vision of hope for the future with our plan to make Harlow the best town in Britain to raise your family and to send your kids to school; the best place to start a business; the best place to live and to be.

It was a great shame that the previous Labour administration did not save the last live music venue our town had, nor did they open a new one, nor in fact did they do anything to increase the cultural and leisure offerings of our town.

We are ending their decade of decline and kick starting a decade of renewal with the biggest programme of regeneration since the new town was built.

As part of our once-in-a-generation programme we will deliver a new live music venue.

However, that will be just one small part of our programme. We will make Harlow one of the best towns for entertainment, culture and leisure and that will include a whole host of new venues, bars, restaurants and much more besides.

Plans will come forward in due course setting out the exact details of such offerings and the full and complete regeneration works.

On Cllr Dunne's final point, he defers to Oscar Wilde's Picture of Dorian Gray to express his thoughts, perhaps a more pertinent quotation would have been, 'A man who does not think for himself does not think at all.'

However, he talks of cost and value which quite well summed up the previous Labour Council: they cost you more and brought you less.

5 Councillor Jodi Dunne to Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

Can the Cabinet Portfolio Holder for Strategic Growth guarantee that the programme at the Playhouse will not be affected by the budget this year and in coming years as the Labour group carried out our own analysis of the proposals for an alternative budget last year which showed a hole in the finances after three years, and will we therefore all be able to enjoy our wonderful theatre at its very best or will he be, to paraphrase the words of David Bowie who played at the venue, the man who sold the world?

Reply from Councillor Joel Charles (Deputy Leader and Portfolio Holder for Community Resilience):

The Playhouse, alongside the theatre community nationally, has been impacted by the restrictions that have been put in place to keep people safe during the pandemic. The lockdowns have restricted the ability of the venue to deliver a full programme of events during the last 15 months. Although we are heading cautiously towards the ending of pandemic specific legal measures under stage four of the Government's roadmap, it cannot be ruled out at this time that further restrictions may again impact on the Playhouse artistic programme as they have across all theatres and other venues for the performing arts since March 2020.

In a previous reply this evening to a question from Councillor Danvers, I made it clear that our administration takes its responsibility for ensuring sound financial management seriously – a detailed budget review process is already being undertaken. My reply also made it clear that there are no non-statutory services at risk as a result of this review work, this commitment includes the Playhouse.

6 Councillor Tony Edwards to Councillor Andrew Johnson (Leader of the Council):

Given the reported level of public concern regarding the planned second Stort river crossing and the potential detrimental effect to the environment and amenity, can all members please be given a further detailed officer briefing prior to the matter being formally considered by the East Hertfordshire or Harlow Development Management Committees?

Reply from Councillor Andrew Johnson (Leader of the Council):

As a regular substitute of the Development Management Committee I appreciate how important it is for all members to be aware of and have the opportunity to ask questions on large planning applications. Cllr Hardware as the portfolio holder for strategic growth has already taken steps to ensure that members are better briefed on all applications that come to this council.

I have asked for and can confirm that there will be an all-Member briefing on the Stort River Crossing proposals before the applications are presented to the Development Management Committees of both Harlow Council and East Hertfordshire District Council. I have asked officers to ensure that the briefing is in good time before the Committee meetings take place, once all planning issues have been addressed, so that members are as informed as possible.

I would also like to take this opportunity to remind all members of and substitutes to the Development Management Committee the importance of the avoidance of, or the appearance of, predetermination of planning applications.

Supplementary Question from Councillor Tony Edwards:

Will the presentation included the alternative schemes which have been considered?

Supplementary Reply from Councillor Andrew Johnson (Leader of the Council):

The presentation will be comprehensive and I want Councillors to be fully informed before any decision is made.

7 Councillor Nancy Watson to Councillor Simon Carter (Portfolio Holder for Housing):

In a recent article in your Harlow, you said you had a plan to work with HTS to bring more new houses to Harlow. Can you confirm when this plan is set to be announced and clarify the numbers of housing planned and what percentage of these homes will be built for social housing?

Reply from Councillor Simon Carter (Portfolio Holder for Housing):

The pipe line is undergoing a thorough review in terms of suitability, viability and value for money. The aim of the pipeline is that all properties will be social housing owned by the council. Of the six schemes listed in the 2020/21 Q4 Capital Programme reported to Cabinet earlier this week.

- Bushey Croft is well under way;
- Work has just started on The Hill;
- Lister House and The Yorkes are under active review;
- Stackfield has been removed as unsuitable and consultation is underway with local residents to turn into a knee high garden for people with disabilities;
- Brenthall Towers is also removed for consideration as additional parking particularly for Carters Mead.

Two other sites have just emerged as suitable for development. The pipeline contains a long list of potential sites which will be reviewed on an ongoing basis to provide groups of sites suitable for development by HTS (Housing and Regeneration) Ltd. Details of sites going forward for development will be reported in the usual way through the quarterly Capital Programme reports.

REPORT TO: LICENSING COMMITTEE

DATE: 7 SEPTEMBER 2021

TITLE: BASIC DBS FOR VEHICLE PROPRIETORS, PRIVATE HIRE VEHICLE OPERATORS AND OPERATOR STAFF

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

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

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

RECOMMENDED that:

- A** The Licensing Committee recommend to Full Council that a new mandate is introduced to require all vehicle proprietors to provide a basic disclosure certificate from the DBS (Disclosure and Barring Service) and that a new check is undertaken annually;
- B** The Licensing Committee recommend to Full Council that a new mandate is introduced to require all Private Hire Vehicle Operator licence holders, to hold a basic disclosure certificate from the DBS and that a new check is undertaken annually;
- C** The Licensing Committee recommend to Full Council that a new mandate is introduced to require operator staff who take bookings, dispatch vehicles or any other staff who have access to booking information or have contact with members of the public to hold a Basic disclosure certificate from the DBS and that a new check is undertaken annually;
- D** Subject to A, B and C the requirements be introduced as set out in the Proposals section of this report.

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 had been awaited for some time and followed 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 taxi and private hire vehicle licensing, 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 DfT intend to support better regulation of the taxi and private hire vehicle sector as a whole, and to address significant differences in standards applied to the licensing of drivers and vehicles across the country.
3. As statutory guidance under section of the Policing and Crime Act 2017 the new DfT standards are guidance to which the Council formally must have regard. A copy of the standards is attached at Appendix A to the report.
4. Licensing Committee at its meeting of 19 January 2021 approved an action plan in relation to the implementation of the DfT standards. For the purposes of the action plan the DfT standards were grouped into the following categories;
 - a) **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;
 - b) **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;
 - c) **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.
5. This report is the first to deal with such “Group C” DfT standards, and considers the introduction of Basic DBS checks annually for the proprietors of licensed vehicles and for private hire Operators and their staff. Licensed drivers are already subject to enhanced DBS checks.
6. A Basic DBS can be used for any position or purpose, costs £23 and will usually be processed within 14 days. A basic check will contain details of convictions and conditional cautions considered to be ‘unspent’ under the terms of the Rehabilitation of Offenders Act 1974. Under the Act, eligible convictions or cautions become ‘spent’ after a specified period of time known as the ‘rehabilitation period’, the length of which varies depending on how the individual was dealt with.

7. People requiring Basic DBS checks are unable to sign up to the DBS Update Service, so new certificates are required for each new check.

ISSUES/PROPOSALS

DBS Checks for Vehicle Proprietors

8. The DfT Standards state that 'licensing authorities should require a basic disclosure from the DBS for all vehicle proprietors' and 'that a check is undertaken annually.'
9. Section 48(3) of the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA76) states that the 'name and address of every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle' shall be provided as part of an application for a vehicle licence.
10. Applications for a hackney carriage or private hire vehicle licence submitted to the Licensing Team will include details of any person(s) applying for the licence.
11. Currently, there is no disclosure requirement from the DBS for the application of a vehicle licence.
12. The majority of vehicle proprietors are licensed drivers and are already subject to an enhanced DBS disclosure (with Barring List checks) and will not require a Basic DBS check.
13. Currently, any person named on a vehicle licence application who is not a licensed driver is asked what their interest is in the vehicle in relation to the LGMPA76. Where that person is a Registered/Limited Company, a check of Companies House records is made.
14. Some vehicle proprietors that licence vehicles in Harlow provide their vehicles to licensed drivers, often offering vehicle maintenance as part of any agreement between the two parties.
15. It is understood that DfT standards require DBS checks on proprietors, because proprietors may be in a position of considerable influence over the drivers who use their vehicles. However on occasion, when a licensed vehicle sustains accident damage, the insurance company will provide a replacement vehicle service while the damaged vehicle is repaired to prevent loss of earnings to their client. These vehicles will be licensed under a temporary arrangement, usually for one or two weeks, and when the vehicle is no longer needed the temporary licence is surrendered. These vehicle replacement companies (often regional/national in scale) that provide vehicles for the clients of insurance companies are not considered to require Basic DBS checks. The vehicle hire companies do not provide a vehicle rental service or have local knowledge; they do not know the licensed driver, bar taking copies of his ID. It does not appear to have been the intention of the DfT Standards to incorporate these companies in the basic DBS checking regime. Further information on replacement vehicles for accidents will be included in the new overarching taxi policy proposed later in the current Licensing Committee work plan.

DBS Checks for Private Hire Vehicle Operators and their Staff

16. The DFT Standards state that 'licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.' Furthermore, 'licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles.'
17. At present applications for an operator licence submitted to the Licensing Team will include details of the business premises to be used and details of the person(s) applying for the licence.
18. Currently, a Basic DBS check is required for any person(s) named on the application for an operator licence. DBS certificates are submitted with the application, whether for a one or five year licence and periodic DBS checks are not made during the period of the licence.
19. A few operator licence holders are also licensed drivers and so already subject to an enhanced DBS disclosure (with Barring List checks) and will not require a Basic DBS check.
20. Any person named on an operator licence application provides their personal details, including position in the business (e.g. Director, Partner). Where a person is a Registered/Limited Company, a check on Companies House is made.
21. There are currently no Basic DBS checks required on operator staff by condition of the operator licence.

Implementing Basic DBS Disclosure for Vehicle Proprietors:

22. It is proposed that a Basic DBS disclosure be required on first licensing and thereafter by condition annually for all vehicle proprietors who are not also licensed drivers. Where the proprietor is a company, every director or partner will be required to provide a Basic DBS disclosure.
23. It is proposed that the following new conditions be added to all vehicle licences from 1 December 2021:
 - a) All vehicle proprietors who do not hold a driver licence shall provide a Basic DBS disclosure to the Licensing Team on an annual basis.
 - b) The vehicle proprietor must provide details of any change to directors or partners responsible for the management of the business where the licence holder is a company or partnership, a new Basic DBS disclosure will be provided for all new persons becoming a director or partner.
 - c) An applicant's suitability to be a vehicle proprietor for vehicle licensing purposes will be judged in the context of the Council's enforcement policy and the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the Hackney and private hire trades.'

Implementing Basic DBS disclosure for Private Hire Operators:

24. It is proposed that a Basic DBS disclosure be required on first licensing and thereafter by condition annually for all persons named on an operator licence application. Where the applicant is a company or partnership, every director or partner shall provide a Basic DBS disclosure.
25. It is proposed the following new conditions will be added to all operator licences from 1 December 2021:
- a) All applicants named on the operator licence who do not hold a driver licence will be required to provide a Basic DBS disclosure to the Licensing Team on an annual basis regardless of licence duration.
 - b) The operator must provide details of any change to directors or partners responsible for the management of the business where the licence holder is a company or partnership, a new Basic DBS disclosure will be provided for all new persons becoming a director or partner.
 - d) An applicant's suitability to hold an operator licence will be judged in the context of the Council's enforcement policy and the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the Hackney and private hire trades.'

Implementing Basic DBS disclosure for Booking and Dispatch staff:

26. It is proposed that the Council require that a Basic DBS disclosure check be carried out annually by the operator licence holder(s) for all operator staff who take bookings, dispatch vehicles or have access to booking information or contact with members of the public. Details of DBS checks will be maintained in a staff register.
27. It is proposed the following new conditions will be added to all operator licences from the 1 December 2021:
- a) The Operator will keep a register of all staff that take bookings, dispatch vehicles or have access to booking information or contact with members of the public. The register may be kept either electronically or in hardcopy.
 - b) The Operator shall ensure that Basic DBS checks are carried out on recruitment and thereafter annually on every person included in the staff register.
 - c) Basic DBS checks will be carried out by the holder of an operator licence. The certificate's date of issue, its reference/certificate number and the time and date that the certificate was first viewed must be recorded in the staff register and signed.
 - d) Where offences or conditional cautions are present on a DBS certificate, the suitability of the staff member to carry out their role shall be reviewed: the date and time of such reviews and the decision made with regard to a member of staff's suitability shall be recorded in the staff register.

- e) In the absence of an operator having their own stricter policy in relation to employing ex-offenders, the operator will use the Council's standards applied to private hire operators (as detailed in the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades').
- f) Where bookings and vehicle dispatch is outsourced, operators are required to evidence to the Council that the outsourced staff have been vetted to at least the same level as if they worked directly for the operator.
- g) The staff register and shall be produced on demand to a police officer or authorised officers of the Council's Licensing team, and copies shall be furnished as required.

Conclusion

28. The introduction of Basic DBS disclosures for vehicle proprietors, operator licence holders and their staff on an annual basis will assist in the overall regulation of the taxi and private hire sector. These changes are expected to provide added protection to children and vulnerable adults, while benefitting all passengers that use these services.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

The proposed policy changes will enhance standards in taxi and private hire vehicle licensing albeit at a modest cost in additional staff time.

Author: Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT, and Property and Facilities)

None specific

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

Housing

None specific

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

Measures to reduce the risk of criminality on licensed trades may be expected to increase confidence in taxi and private hire services on which vulnerable people may rely and to benefit the wider travelling community.

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

As DfT's published licensing standards form statutory guidance to which the Council must have regard, it is appropriate to implement the recommendations unless there are exceptional local circumstances that indicate an alternative approach

Author: Simon Hill, Head of Governance

Appendices

Appendix A - Statutory Taxi and Private Hire Vehicle Standards, DfT

Glossary of terms/abbreviations used

DBS - Disclosure and Barring Service

DfT - Department for Transport

CSAE - Child Sexual Abuse and Exploitation

LGMPA76 - Local Government (Miscellaneous Provisions) Act 1976



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

Contents

	Page
1. Introduction.....	4
2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards.....	6
3. Administering the Licensing Regime.....	8
Licensing polices	8
Duration of licences	9
Whistleblowing.....	9
Consultation at the local level	10
Changing licensing policy and requirements	10
4. Gathering and Sharing Information.....	12
The Disclosure and Barring Service	12
The Disclosure and Barring Service Update Service	13
Common Law Police Disclosure	13
Licensee self-reporting	13
Referrals to the Disclosure and Barring Service and the Police	14
Working with the Police	15
Sharing licensing information with other licensing authorities.....	15
Multi-agency Safeguarding Hub (MASH).....	16
Complaints against licensees	17
Overseas convictions	17
5. Decision Making	19
Administration of the licensing framework	19
Training decision makers.....	19
The regulatory structure	20
Fit and proper test	21
Criminal convictions and rehabilitation	21
6. Driver Licensing.....	23
Criminality checks for drivers.....	23
Safeguarding awareness.....	23
‘County lines’ exploitation	24
Language proficiency	25

7. Vehicle Licensing.....	26
Criminality checks for vehicle proprietors	26
In-vehicle visual and audio recording – CCTV.....	27
Stretched Limousines	28
8. Private Hire Vehicle Operator Licensing	29
Criminality checks for private hire vehicle operators.....	29
Booking and dispatch staff.....	30
Record keeping	31
Use of passenger carrying vehicles (PCV) licensed drivers	31
9. Enforcing the Licensing Regime	33
Joint authorisation of enforcement officers	33
Setting expectations and monitoring.....	33
Suspension and revocation of driver licences.....	33
Annex – Assessment of Previous Convictions	35
Annex – Disclosure and Barring Service information	37
Annex – CCTV Guidance	38
Annex - Staying Safe: Guidance for Passengers	40

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.

REPORT TO: FULL COUNCIL

DATE: 16 SEPTEMBER 2021

TITLE: INDEPENDENT MEMBER OF THE AUDIT AND STANDARDS COMMITTEE APPOINTMENT

LEAD OFFICER(S): SIMON FREEMAN, HEAD OF FINANCE AND PROPERTY AND DEPUTY TO THE CHIEF EXECUTIVE (01279) 446228

CONTRIBUTING OFFICER: SARAH MARSH, INTERNAL AUDIT MANAGER (01279) 446884

RECOMMENDED that:

- A** Laura Kirman is appointed as the independent member of the Audit and Standards Committee

BACKGROUND

1. At its 11 September 2019 meeting the Audit and Standards Committee agreed to appoint an independent person to the Committee as recommended by the Chartered Institute of Public Finance and Accountancy (CIPFA) in their guidance, 'Audit Committee: Practical Guidance for Local Authorities and Police', published in 2018. This asks local councils to consider the inclusion of at least one independent member.
2. Following a recruitment campaign, interviews for the position of independent person took place in January 2020, however, none of the candidates were successful.
3. The recruitment campaign was relaunched and three candidates were interviewed on 23 August 2021. The interview panel consisted of three members of the Audit and Standards Committee (Councillors Eddie Johnson, Jean Clark and Simon Carter), supported by the Section 151 Officer and the Internal Audit Manager.
4. The interview panel were unanimous in their decision to appoint Laura Kirman to the position, subject to Full Council approval.
5. Laura Kirman brings many years' experience of working in local government and lives locally.

ISSUES/PROPOSALS

6. The Term of Office for an independent member of the Audit and Standards Committee is three years. After their first term has expired, they can be appointed again if they wished for a second term unopposed; however, if they wished to serve further terms after this then their further appointment has to be subject to a competitive selection process.
7. The allowance to be awarded to the successful applicant is based on benchmarking data and is equivalent to the Special Responsibility Allowance for the Vice Chair of the Council, being £510 per year. This is, however, dependent on Full Council approval and their annual review thereafter.
8. In addition, reasonable expenses can be claimed in line with Member's subsistence, travelling and carer's allowances as per part 6 (Councillor's allowance scheme) of the Council's constitution.
9. The independent member of the Audit and Standards Committee will have to publicly declare and register any interest they have on the same basis as members of Harlow Council and observe the requirements of the Council's Constitution in performance of their duties in their capacity as an independent member.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

None specific.

Author: Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT, and Property and Facilities)

As contained within the report.

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

Housing

None specific.

Author: Andrew Murray, Head of Housing

Community Wellbeing

None specific.

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

There is no legal or constitutional requirement for the Committee to have an independent person on the Audit and Standards Committee, however, it is considered good practice to do so.

Author: Simon Hill, Head of Governance

Appendices

None.

Background Papers

None.

Glossary of terms/abbreviations used

None

**MINUTES OF THE LICENSING COMMITTEE
HELD ON**

6 July 2021

7.30 - 8.10 pm

PRESENT**Committee Members**

Councillor Nick Churchill (Chair)
Councillor Clive Souter (Vice-Chair)
Councillor David Carter
Councillor Joel Charles
Councillor Jodi Dunne
Councillor Andrew Johnson
Councillor Nancy Watson
Councillor Gareth Williams

Officers

Chris Bennett, Principal Environmental Health Officer
Michael Pitt, Environment and Licensing Manager
Adam Rees, Senior Governance Support Officer
Denise Westwood, Assistant FCilex

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Maggie Hulcoop.

2. DECLARATIONS OF INTEREST

None.

3. MINUTES

RESOLVED the minutes of the meeting held on 9 March 2021 are agreed as a correct record and signed by the Chair.

4. MATTERS ARISING

None.

5. WRITTEN QUESTIONS AND PETITIONS

None.

6. COMMITTEE WORK PLAN

The Committee received its work plan for 2021/22.

RESOLVED that the Work Plan was agreed as appended to the minutes.

The Committee noted that Chris Bennett was due to take a new role at the Council and thanked him for his hard work assisting the Committee.

7. **LICENSING SUB COMMITTEE DECISIONS 2020/21**

The Committee received a report summarising the decisions taken by the Licensing and Regulatory Sub Committees in 2020/21.

RESOLVED that the Committee noted the report.

8. **LICENSING TEAM ENFORCEMENT ACTIVITY AND SERVICE UPDATE 2020/21**

The Committee received a report on the Licensing Team Enforcement Activity and a service update for 2020/21.

RESOLVED that the Committee:

A Notes the enforcement activity from 1 April 2020 to 31 March 2021 carried out by the Licensing Team.

B Notes the service delivery update for 2020/21, which has been included to provide information outlining the impact of the pandemic.

9. **REFERENCES FROM OTHER COMMITTEES**

None.

10. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE

Licensing Committee Work Plan 2021/22

Tuesday 6 July 2021	Tuesday 7 September 2021	Tuesday 16 November 2021	Tuesday 18 January 2022	Tuesday 8 March 2022
Licensing Sub Committee Decisions 2020/21	Options to address street drinking from within the Licensing System	Harlow Council Food Safety Enforcement Plan 2021/2022	DFT Standards; Policy required on stretched limousines	DFT Standards; over-arching taxi and private hire policy; recommend consultation
Licensing Team Enforcement Activity & Service update 2020/21	DFT Standards; New requirements for private hire vehicle proprietors / operators and staff	Update report following Street Trading Policy Consultation (consultation ends 24 August 2021)	DFT Standards; Review of taxi / private hire driver licence duration	
	Fees and Charges Review (as required)	Review Gambling Licensing Policy Statement	DFT Standards; Introduction of Language Proficiency Testing for taxi and private hire drivers	
			The relationship between Licensing and Community safety policy areas	

Revision 4; amended 7/7/21

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

7 July 2021

7.30 - 7.47 pm

PRESENT

Committee Members

Councillor Michael Garnett (Chair)
Councillor Simon Carter (as substitute for Councillor Sue Livings)
Councillor Maggie Hulcoop (as substitute for Councillor Jean Clark)
Councillor Ash Malik
Councillor Nicky Purse

Officers

Gavin Cooper, Development Manager
Julie Galvin, Legal Services Manager
Tanusha Waters, Planning and Building Control Manager
Lisa Thornett, Corporate Governance Support Officer

13. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillors Jean Clark, Mike Danvers, James Leppard and Sue Livings.

Councillor Simon Carter attended as a substitute for Councillor Sue Livings and Councillor Maggie Hulcoop attended as a substitute for Councillor Jean Clark.

14. **DECLARATIONS OF INTEREST**

Councillor Michael Garnett declared a non-pecuniary interest in item 7 (HW/FUL/21/00231) as an Old Harlow Ward Councillor and Harlow North County Councillor.

15. **MINUTES**

RESOLVED that the minutes of the meeting held on 8 June 2021 were agreed as a correct record and signed by the Chair.

16. **MATTERS ARISING**

None.

17. **WRITTEN QUESTIONS**

None.

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

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

19. **HW/FUL/21/00231 - 20 RODEN CLOSE, HARLOW, ESSEX, CM17 0LE**

The Committee received a report and application (HW/FUL/21/00231) on the demolition of the existing detached bungalow and garage and the erection of one pair of semi-detached dwellings.

The Committee also received a supplementary report which contained further information from the Applicant and a proposed amendment to Condition 5.

Councillor Michael Garnett (seconded by Councillor Maggie Hulcoop) proposed an amendment to Condition 5 (as set out in the supplementary agenda). The amendment was carried.

Councillor Simon Carter (seconded by Councillor Ash Malik) proposed an additional condition for details on the finished floor levels. The amendment was carried.

Councillor Nicky Purse (seconded by Councillor Simon Carter) proposed an amendment to Condition 2. The amendment was carried.

RESOLVED that planning permission is **GRANTED** subject to the conditions in the report, the amendment to Condition 5 as detailed in the supplementary agenda, the following amendment to Condition 2 (materials) and the following additional amendment:

2. Prior to the commencement of development, comprehensive details of all the external materials shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, walls, roof, windows, doors, soffits, guttering, mortar mix and the hard landscaping of the front garden. Where appropriate, a sample panel of a minimum 1m² shall be erected on site to demonstrate the use of materials proposed. The development shall thereafter be carried out in strict accordance with the approved details.

REASON: In the interest of visual amenity and to accord with policy PL1 of the Harlow Local Development Plan, December 2020.

Additional Condition - NO DEVELOPMENT SHALL TAKE PLACE BEFORE details of the proposed finished floor levels; ridge and eaves heights of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels,

eaves and ridge heights of surrounding property. The development shall be carried out as approved.

REASON: To ensure that the development would not harm the character and appearance of the street scene in accordance with policy PL1 of the Harlow Local Development Plan 2020.

20. **HW/HSE/21/00212 - 18 WHIELDON GRANGE, HARLOW, ESSEX, CM17 9WG**

The Committee received a report and application (HW/HSE/21/00212) on a first floor side extension over existing garage.

The Committee also received a supplementary report which contained further representations received.

Councillor Nicky Purse (seconded by Councillor Simon Carter) proposed an additional condition for the working hours. The amendment was carried.

RESOLVED that planning permission is **GRANTED** subject to the conditions in the report and the following additional condition:

No construction works or any other associated works, including any machinery operations, in connection with the development shall take place outside the hours of 0800-1800 on weekdays and 0800-1300 on Saturdays. No works shall take place on Sundays or bank Holidays.

REASON: To minimise disruption to neighbours and obstruction of the highway in light of Policies PL2 and IN2 of the Harlow Local Development Plan, December 2020.

21. **REFERENCES FROM OTHER COMMITTEES**

None.

22. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE

**MINUTES OF THE CABINET
HELD ON**

12 July 2021

7.30 - 8.50 pm

PRESENT**Committee Members**

Councillor Andrew Johnson, Leader of the Council and Lead on Economic Recovery

Councillor Joel Charles, Deputy Leader and Portfolio Holder for Community Resilience

Councillor Simon Carter, Portfolio Holder for Housing

Councillor Alastair Gunn, Portfolio Holder for Environment

Councillor Michael Hardware, Portfolio Holder for Strategic Growth

Councillor Russell Perrin, Portfolio Holder for Finance and Governance

Councillor Dan Swords, Portfolio Holder for Regeneration

Additional Attendees

Councillor James Leppard

Councillor Nicky Purse

Councillor Matthew Saggars

Councillor Gareth Williams

Officers

Brian Keane, Chief Executive

Andrew Bramidge, Head of

Environment and Planning

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

Jane Greer, Head of Community Wellbeing

Simon Hill, Head of Governance

Andrew Murray, Head of Housing

Adam Rees, Senior Governance Support Officer

Other Councillors

Councillor Mike Danvers

Councillor David Carter

Councillor Tony Durcan

Councillor Tony Edwards

Councillor Chris Vince

Councillor Nancy Watson

16. APOLOGIES FOR ABSENCE

None.

17. DECLARATIONS OF INTEREST

None.

18. MINUTES

RESOLVED that the minutes of the meeting held on 17 June 2021 are agreed as a correct record and signed by the Leader.

19. MATTERS ARISING

None.

20. **WRITTEN QUESTIONS FROM THE PUBLIC**

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

21. **WRITTEN QUESTIONS FROM COUNCILLORS**

None.

22. **PETITIONS**

None.

23. **FORWARD PLAN**

RESOLVED that the Forward Plan is noted.

24. **YEAR END 2020/21 FINANCE AND PERFORMANCE REPORT**

Cabinet received a report on the year end Finance and Performance for 2020/21.

Proposed by Councillor Russell Perrin (seconded by Councillor Andrew Johnson) it was:

RESOLVED that Cabinet:

- A** Acknowledges the outturn position set out in within the report in respect of the General Fund for the year ending 31 March 2021.
- B** Recognises the End of Year operational performance and risk management that has been achieved in 2020/21 across all Council services.
- C** Approves the transfer to reserves of £2,144,000 as set out in Appendix 3C to the report.
- D** Approves the carrying forward of £242,320 of budgets from 2020/21 to 2021/22 in respect of the General Fund as set out in Appendix 3B to the report is delegated to the Deputy to the Chief Executive/Head of Finance and Property Service in consultation with the Portfolio Holder for Finance and Governance. The approval or otherwise to be to be determined by no later than 30 July 2021.

25. **CAPITAL PROGRAMMES OUTTURN REPORT 2020/21**

Cabinet received a report on the Capital Programmes Outturn for 2020/21.

Proposed by Councillor Russell Perrin (seconded by Councillor Simon Carter) it was:

RESOLVED that Cabinet:

- A** Notes that the Housing Capital Programme (HCP) final outturn for 2020/21 is £21.556 million as set out in Appendix 1 to the report.
- B** Approves the £1.250 million carry forward request for capital schemes from 2020/21 HCP into 2021/22 as set out in Appendix 2 to the report.
- C** Note that the Non-Housing Capital Programme (NHCP) final outturn for 2020/21 is £11.504 million as set out in Appendix 3 to the report.
- D** Approves the £3.984 million carry forward request for capital schemes from 2020/21 NHCP into 2021/22 as set out in Appendix 4 to the report.

26. **HOUSING REVENUE ACCOUNT OUTTURN REPORT 2020/21**

Cabinet received a report on the Housing Revenue Account Outturn for 2020/21.

Proposed by Councillor Simon Carter (seconded by Councillor Russell Perrin) it was:

RESOLVED that Cabinet:

- A** Notes the Housing Revenue Account (HRA) Outturn Report 2020/21 as set out in following paragraphs and in Appendix 1.
- B** Approves the £1.188 million in revenue carry forward requests as set out in Appendix 2 to the report.
- C** Notes that the HRA general working balance as at 31 March 2021 is £16.243 million as set out in Table 1 of the report.
- D** Notes that the Major Repairs Reserve balance as at 31 March 2021 is £1.574 million as set out in Table 3 of the report.
- E** Notes the balance of £7.068 million of retained Right to Buy (RTB) receipts held as at 31 March 2021 in order to finance the new build programme as set out in Table 4 of the report.

27. **RENEWAL OF ARTICLE 4 DIRECTIONS**

Cabinet received a report on the renewal of Article 4 Directions.

Proposed by Councillor Michael Hardware (seconded by Councillor Dan Swords) it was:

RESOLVED that Cabinet:

- A** Approval in principle is given for new Article 4 Directions in Harlow Town Centre, Pinnacles, Templefields and Burnt Mill to limit changes from office to residential use, to take account of the new Use Classes and for this to take effect from 31 July 2022, when the existing Article 4 extensions expire.
- B** A new Article 4 Direction is put in place to limit the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 to limit of changes from Retail to Residential use in the Harlow Town Centre.
- C** Notes that further background work will be undertaken to support the confirmation of the Article 4 directions at the point of enactment and notification to the Secretary of State.

28. **HARLOW DESIGN GUIDE - APPROVAL FOR CONSULTATION**

Cabinet received the draft Harlow Design Guide for approval for consultation.

Proposed by Councillor Michael Hardware (seconded by Councillor Dan Swords) it was:

RESOLVED that Cabinet:

- A** Approves the Draft Design Guide Addendum Supplementary Planning Document (as set out at Appendix A to the report), to enable it to be published for the purposes of consultation under Section 12(b) of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).
- B** Delegates authority to the Head of Environment and Planning, to make and approve any minor or inconsequential amendments to the Draft Design Guide Addendum Supplementary Planning Document arising from the statutory consultation.

29. **CABINET POLICY DEVELOPMENT WORKING GROUP WORK PLAN 2021/22**

Cabinet received the Cabinet Policy Development Working Group work plan for 2021/22.

RESOLVED that Cabinet approves the Work Plan.

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

None.

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

None.

32. **MATTERS OF URGENT BUSINESS**

None.

LEADER OF THE COUNCIL

Cabinet – 12 July 2021

Questions from the Public

1 Neil Warner-Baker to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

I am a resident and stakeholder of the land where the proposed Stort Crossing, Pye Corner to Edinburgh Way is going to take place. On 11/6/21 I showed you and my ward Cllr, Matthew Saggars some of the many concerns I have regarding the proposed river crossing. Among my concerns, I showed you the poor state of the existing surface water storm drain system where it enters the River Stort at Riverway and the associated stench. I recall that you took photographic evidence.

I also showed you the serious flood damage in the form of up rooted trees and the under boring to the historic Latton Mill, which has all occurred since the recent widening of Edinburgh Way and other building schemes to the east of the town. All of this poses a risk to the existing flood defences that were installed at great expense to Harlow Council circa 2002/3. This is when the nearby weir was compromised by flooding and caused a partial collapse of the footpath south of the River Stort backwater and a threat to Mead Park industrial estate.

Recently, you gave a statement on behalf of the leadership of the council to Yourharlow.com stating that you would raise my objections with the relevant authorities and stakeholders. However, many Cllrs, including those with relevant portfolios, as well as our MP have indicated that they will refer all my questions and concerns to you.

I am concerned that the relevant authorities such as the Highway Authority, might not have been contacted. It is essential to investigate whether these schemes have caused an increase of surface water discharging into the River Stort. This will seriously affect the planning decision of The Central and Eastern proposed River Stort Crossing.

Please could you show me that you have consulted in full with the council and update me on progress in relation to my concerns?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

The Gilston development, and its associated transport infrastructure, has been the subject of significant debate and consultation over many years, and a project we have inherited from the previous Labour administration. The development is enshrined in the East Hertfordshire Local Plan, which was adopted in 2018 following public consultation and an independent examination which found the Plan to be sound. Equally, the principle of the river crossings to support the development at Gilston is also enshrined in the Harlow Local Development Plan which was also

consulted upon and was adopted in December 2020 by the previous administration also following independent examination by a planning inspector.

Harlow Council is supportive of the development of new housing to the north of Harlow at Gilston as being vital to meet the future needs of the town and the surrounding area. It is vital to ensure that appropriate levels of infrastructure are provided to support this development and traffic modelling has demonstrated that the Eastern Stort Crossing is required to enable this.

Equally, we have to balance the increasing need for new housing with impacts on the environment. Climate change and global warming is a major issue facing humanity and we need to minimise the impact upon it. Conversely, there has been a housing shortage in the UK for many years. It is one of the reasons why house prices are so high and why it is difficult for many, in particular the younger generations, to get on the housing ladder.

It is a very difficult balance to find.

In answer to Mr Warner-Baker's question I can confirm that the Highway Authorities and the Lead Local Flood Authorities have been engaged and provided comments on the application for the Eastern Stort Crossing.

The proposal includes a series of new drainage infrastructure which will deal with surface water arising from the new road.

Note that the bridge is elevated at the River Way location over existing features. Surface water runoff from the new highway will be stored beneath the highway surface and systems designed to accommodate flows that may arise from a one-in-30-year storm event.

Towards River Way, where the urban area is more constrained, the new roundabout surface water will be attenuated and treated via conveyance and a separator to remove fine pollutants, particles and oils before discharge into the River Stort.

All drainage infrastructure must meet the same level of surface water run off as a greenfield (undeveloped) site. The assessments indicate that there will be no impact on surface water flooding arising from the development.

In terms of preventing flood risk and integrating sustainable drainage through design, the Eastern Stort Crossing proposal meets the requirements of the Environment Agency and the lead local flood authorities. The Drainage Strategy has been agreed in principle at this stage and subsequent engineering design stages will refine details about the proposed attenuation features, which will be controlled by a series of conditions attached to any planning approval. The highways authority has also confirmed to me that approval of these final details will be required before the Section 278 road adoption process can be completed. I am therefore satisfied that

there is sufficient engagement from the relevant authorities in relation to this proposal.

Stakeholders for the River Stort Crossing, which have and will continue to be engaged as the Gilston development progresses include:

Natural England
The Environment Agency
The Highways Agency
Lead Local Flood Authorities
Highways Authorities
Ecology Departments
Archaeology Departments
Minerals and Waste Authorities (at both County Councils)
Herts and Middlesex Wildlife Trust
Essex Wildlife Trust
The Canal and River Trust
Network Rail
Greater Anglia
National Aerodrome Safeguarding Team at Stansted Airport

Connectivity via the Stort crossings is integral to our once-in-a-lifetime opportunity to attract the transformative investment and growth that Harlow needs in order to fulfil our significant potential.

Sir Frederick Gibberd described Harlow as “an organism which would go on changing and being rebuilt as the needs of the people altered” and the Garden Town and associated infrastructure is the beginning of that new chapter.

There is no evidence to link the river flooding with the expansion of Edinburgh Way. These may be nothing more than coincidence - there are a number of drainage channels and potential sources of increased flow into the River Stort over the last few years when there have also been, and probably the actual cause of, a number of very high rainfall incidences.

The river catchment for the Stort is huge, and most of the Stort navigation comprises hard reinforced bank edges as it functions as a navigable waterway.

There are few parts of the river where the banks are not reinforced and therefore vulnerable to erosion. The Latton Island section is one such location where banks are not reinforced in all locations as the river splits in two to provide a relief flow of water around the lock.

Harlow Council is aware of the erosion damage at the weir mentioned by Mr Warner-Baker. I can confirm that the Council’s Environment team is currently in discussion with

the Environment Agency and the Canal and Rivers Trust to agree a programme of repairs to this part of the river bank.

Supplementary question from Neil Warner-Baker:

The Canal and Rivers Trust still say that the issues they have raised have not been addressed. Have you reviewed the issues they have raised?

Supplementary reply from Councillor Michael Hardware:

I'm assured that they have been contacted.

**MINUTES OF THE SCRUTINY COMMITTEE
HELD ON**

13 July 2021

7.30 - 8.30 pm

PRESENT

Committee Members

Councillor Tony Edwards (Chair)
Councillor David Carter (Vice-Chair)
Councillor Shona Johnson
Councillor Nicky Purse
Councillor Gareth Williams

Also Present

Councillor Simon Carter
Councillor Andrew Johnson

Officers

Simon Hill, Head of Governance
Adam Rees, Senior Governance Support Officer

1. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillor Eugenie Harvey.

2. **DECLARATIONS OF INTEREST**

None.

3. **MINUTES**

RESOLVED that the minutes of the meeting held on 16 March 2021 are agreed as a correct record and signed by the Chair.

4. **MATTERS ARISING**

None.

5. **WRITTEN QUESTIONS FROM MEMBERS OF THE PUBLIC**

None.

6. **WRITTEN QUESTIONS FROM COUNCILLORS**

None.

7. **RESPONSES OF THE CABINET TO REPORTS OF THE SCRUTINY COMMITTEE**

RESOLVED that the following response be noted.

- a) Response of the Cabinet to accept the recommendations of the Scrutiny Committee from the Review of the Delivery of the Council House Building Programme

8. **SCRUTINY COMMITTEE WORK PLAN 2021/22**

- a) Discussion with Leader

The Chair invited the Leader to outline his priorities for the coming year and to highlight areas where the Leader felt that the Scrutiny Committee could add value to the Cabinet's work.

The Leader said he would welcome input on the following areas:

- Carbon Management Plan
- Electric Vehicle Charging Points
- Transport Strategy
- Town Centre Regeneration
- Health and Wellbeing Strategy
- Community Safety Strategy
- Community Infrastructure Levy

The Chair thanked the Leader and said the Committee would consider his suggestions and would look at areas it could have pre-scrutiny of. This would include the Community Safety Strategy as set out in the draft work plan.

- b) Agreement of Work Plan

The Committee considered a report setting out a proposed work plan for 2020/21.

RESOLVED that the work plan attached as Appendix A to the report be approved.

9. **HOUSING AND ACCOMMODATION REQUIREMENTS FOR ADULTS WITH A MODERATE/SEVERE LEARNING DISABILITY**

The Committee considered a report on a review of housing and accommodation requirements for adults with moderate and severe learning disabilities.

RESOLVED that the Committee recommended to Cabinet that the recommendations in the consultant's report (attached as Appendix A to the report) be adopted.

10. **CALL IN SUB COMMITTEE PROCEDURES**

The Committee received a report setting out a proposed process for modifying or withdrawing call ins.

RESOLVED that it be recommended to Full Council that the procedure for modifying or withdrawing a call in (attached as Appendix A to the report) be adopted and included in the Constitution.

11. **ANNUAL REPORT OF THE SCRUTINY COMMITTEE 2020/21**

The Committee received an annual report on the work of the Scrutiny Committee.

RESOLVED that it be recommended to Full Council that it notes the report.

12. **REFERENCES FROM OTHER COMMITTEES**

None.

13. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE