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Tuesday, 20 June 2017

To: The Members of the **Licensing Committee**
(Councillors: Adrian Page (Chairman), Bill Chapman (Vice Chairman), Dan Adams, Paul Deach, Surinder Gandhum, Ruth Hutchinson, Paul Innicki, David Lewis, Jonathan Lytle, Bruce Mansell, Joanne Potter, Nic Price, Pat Tedder, Valerie White and John Winterton)

Dear Councillor,

A meeting of the **Licensing Committee** will be held at Council Chamber, Surrey Heath House on **Wednesday, 28 June 2017 at 7.00 pm**. The agenda will be set out as below.

Please note that this meeting will be recorded.

Yours sincerely

Karen Whelan

Chief Executive

AGENDA

Pages

Part 1 (Public)

1 Apologies for Absence

2 Minutes of Previous Meeting

3 - 6

To consider and approve the minutes of the meeting of the Licensing Committee held on 15 March 2017

3 Declarations of Interest

Members are invited to declare any Disclosable Pecuniary Interests and non-pecuniary interests they may have with respect to matters which are to be considered at this meeting. Members who consider they may have an interest are invited to consult the Monitoring Officer or the Democratic Services Officer prior to the meeting.

4 Hackney Carriage and Private Hire Drivers and Private Hire Operators 7 - 38
Convictions Policy

To receive a report setting out the results of the consultation process on the proposed new Convictions Policy for Hackney Carriage and Private Hire Drivers and Operators. To consider the responses and agree a new Policy document.

5 Licensing Act 2003 - Summary of Decisions 39 - 56

To receive a report summarising the licensing decisions made under delegated powers since the Committee's last meeting.

**Minutes of a Meeting of the Licensing
Committee held at Council Chamber,
Surrey Heath House on 15 March 2017**

+ Cllr Bill Chapman (Chairman)
+ Cllr Ian Sams (Vice Chairman)

+ Cllr David Allen	+ Cllr Oliver Lewis
+ Cllr Nick Chambers	+ Cllr Bruce Mansell
+ Cllr Mrs Vivienne Chapman	+ Cllr Nic Price
+ Cllr Surinder Gandhum	+ Cllr Pat Tedder
+ Cllr Ruth Hutchinson	- Cllr Joanne Potter
+ Cllr Paul Innicki	- Cllr Valerie White
+ Cllr David Lewis	

+ Present
- Apologies for absence presented

In Attendance: Cllr Chris Pitt

10/L Minutes of Previous Meeting

RESOLVED that the minutes of the meeting of the Licensing Committee held on 23 November 2016 be approved as a correct record and signed by the Chairman.

11/L Declarations of Interest

There were no declarations of interest.

12/L Safeguarding Training and Convictions Policy for Hackney Carriage and Private Hire Drivers and Private Hire Operators

The Committee received a report providing an update on work to introduce mandatory safeguarding training for hackney carriage and private hire licence holders and the work taking place to review the Convictions Policy for Licenced Drivers and Operators.

The 2014 Jay Inquiry into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Government Review of Rotherham Borough Council identified not only that taxi drivers had had a key role in facilitating and engaging in CSE but also that those involved in the licensing and enforcement of taxi and private hire regulations were often unable or unwilling to tackle the issue and were not using their regulatory powers effectively.

The government places a responsibility upon local authorities, private hire operators and individual drivers to ensure that licensed drivers are aware of warning signs that could indicate a passenger was at risk of CSE and that training

was available for hackney carriage and private hire vehicle drivers and operators to help then deal with potential CSE scenarios.

The Council played a pivotal role in ensuring that those wishing to hold a Hackney Carriage or Private Hire Driver or Operator's Licence are considered to be 'fit and proper' persons and that drivers and operators were aware of the signs that could indicate that a passenger was at risk from CSE. Surrey Heath Borough Council does not currently include CSE specific training in its requirements for those wishing to drive a licensed vehicle however drivers and operators were strongly advised to take up offers of safeguarding training that were made by the Council and other organisations. A standalone safeguarding training session run by the Council on 28 February 2017 had been attended by 103 drivers and operators and 60% of the drivers and operators holding licences issued by the Borough Council have now participated in safeguarding training.

The Committee was informed that, in an effort to further improve the calibre of the Borough's licensed trade, officers were exploring the possibility of introducing a requirement for drivers and operators to undergo mandatory safeguarding training as part of the licence requirements. Officers are working with Surrey County Council and the other Surrey District Councils to develop a consistent approach to CSE and to agree consistent procedures for the vetting and licensing of drivers and taxis and agree standards for revoking licences across Surrey and a further report on the matter would be brought to the Committee's next meeting.

The Committee was informed that as part of its ongoing review of policies, the Council's Hackney Carriage and Private Hire Convictions Policy had been reviewed to ensure that it took into account the latest legislation and was in line with recognised best practice.

The draft Policy had been developed using Local Government Association guidance. It was felt that the policy not only reflected the current social climate but also provided an appropriate balance between the need to safeguard the public and the rights of applicants.

It was clarified that currently all applicants had to apply for an enhanced Disclosure Barring Service (DBS) Check and submit this with their licence application. Drivers and operators were then required to complete a new DBS check every three years in order to continue working.

The Draft Policy would be subject to a six week public consultation period and a report on the outcomes would be brought back to the Committee's meeting on 23 June 2017 for consideration.

RESOLVED that:

- i. The work currently being undertaken by officers in relation to Child Sexual Exploitation be noted.
- ii. The draft Hackney Carriage and Private Hire Convictions Policy, attached as Annex A to the report, be approved for the purposes of consultation for a period of 6 weeks.

13/L Licensing Act 2003 - Summary of Decisions

The Committee received a report setting out a summary of the decisions taken under delegated powers in respect of licence applications where no representations had been received from the responsible authorities or any other persons.

The Committee noted the report.

Chairman

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Convictions Policy for Hackney Carriage and Private Hire Drivers and Private Hire Operators

Portfolio:	Community
Ward(s) Affected:	All

Purpose

To receive the results of the consultation process on the proposed new Convictions Policy for Hackney Carriage and Private Hire Drivers and Operators. To consider the responses and agree a new Policy document

Background

1. The subject of this report was considered by this Committee at the previous meeting on 15 March 2017.
2. It is a matter of good practice to keep Council Policies under review and where necessary update them so as to better reflect the present need within the local area and national agenda.
3. The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
 - that a person is a fit and proper person.
 - that the person does not pose a threat to the public.
 - that the public are safeguarded from dishonest persons.
 - the safeguarding of children and young persons.
4. The Council requires applicants and licenced drivers to provide information in respect of their health, driving record and criminal record. In addition to this, they must also undertake tests on their knowledge of the relevant law and the local area. All these elements are considered within the “fit and proper” test.
5. The Local Government (Miscellaneous Provision) Act 1976 requires that a Licensing Authority must be satisfied that the applicant is a fit and proper person to hold a licence.
6. The Local Government Association (LGA) has provided a template policy which has been used by Officers throughout Surrey.
7. A draft policy relating to the relevance of previous convictions and other relevant information was approved for consultation by Committee on 15 March 2017 (Annex 1).
8. Public consultation took place for 6 weeks from 17 March to 28 April 2017. In addition to details of the consultation being sent to all licensed hackney carriage and private hire drivers and private hire operators, all Surrey Licensing Authorities and Surrey County Council Safeguarding Children were also consulted.
9. Details of the consultation were also placed on the Council’s website and advertised through the Council’s social media channels.

Current Position

10. During the public consultation period no replies were received from any licensed driver, private hire operator or any other members of the public.

11. Comments from Surrey County Council and other Surrey Licensing Authorities and the Surrey Solicitors Group were collated by Officers from Guildford Borough Council on behalf of Councils throughout the County. These were generally administrative in nature however Officers from Surrey County Council have requested further detail regarding people who are banned from working with children or vulnerable adults.
12. Officers have noted the comment made by Surrey County Council and have given the point raised due consideration with the addition of the following paragraph;

People banned from working with children or vulnerable adults
A serious view is to be taken of any applicant or licence holder who has been banned from working with children or vulnerable adults. A licence will not normally be granted if an applicant is on the Protection of Children Act list or Protection of Vulnerable Adults List. Further detail can be seen in Appendix 1.
13. Officers have incorporated the additional paragraph and administrative amendments into a revised draft Policy which is attached at Annex 2.
14. Following approval of the revised draft Policy by the Licensing Committee, the final version may then be adopted by the Council.

Resource Implications

15. The only additional resource implication arising from the consultation process was postage and stationary costs. The vast majority of the consultation letters were sent by electronic means. The total costs were met within the existing budget.

Options

16. Any amendments to the existing Policy are made at the discretion of the Council, but due weight will need to be given to any representations made as a result of the consultation process.

Recommendations

17. That the Committee:
 - i) Note the comments received as a result of the consultation
 - ii) Approve the revised Convictions Policy for Hackney Carriage and Private Hire Drivers and Private Hire Operators, as set out at Annex 2 of the report.

Background Papers: None

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Head of Service: Tim Pashen – Executive Head of Community Services

Taxi and Private Hire Licensing

**Policy relating to the relevance of previous convictions
and other relevant information**

1. Introduction

- 1.1 This policy provides guidance to the Licensing Committee and Licensing Officers on the criteria to take into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or Private Hire Driver Licence. Whilst criminal convictions will play a significant part in the Licensing Authority's determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and other police information etc.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, the principles within it are equally applicable to the determination of Private Hire Operator and Vehicle/Hackney Carriage licence applications. Consequently, where a conviction (as defined below) is considered relevant to the fitness and propriety / suitability of an individual to hold (or be granted) a Private Hire Operator Licence or a vehicle licence, then this policy must be referred to in the determination of that licence / application.
- 1.3 This policy will be immediately applied to all current licences, in addition to being considered at the time of renewal and grant of a licence.
- 1.4 It is the responsibility of Surrey Heath Borough Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976. In exercising this duty the Council will consider the need to ensure the safety of the public as its primary consideration. Licences will not be issued unless the person is considered to be 'fit and proper'.
- 1.5 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
 - 1.6 That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
 - 1.7 That the person does not pose a threat to the public
 - 1.8 That the public are safeguarded from dishonest persons
 - 1.9 The safety of children, young persons and vulnerable adults
- 1.10 The term "Fit and Proper Person" for the purposes of taxi and private hire licensing is not legally defined. However, in determining whether a person is fit and proper to hold a licence, those tasked with determining licences/ applications are effectively asking the following question of themselves:
- 1.11 'Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?'
- 1.12 If the answer to the question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.
- 1.13 In order to assess the suitability of an applicant (and to inform decision makers when answering the question above), the Council will undertake whatever checks and apply whatever processes

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it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work,
- Medical fitness
- Standard of driving / driving ability

1.14 The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).

1.15 The previous licensing history of existing / former licence holders.

1.16 In addition, the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies.

1.17 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for a driver's licence
- Existing licensed drivers whose licences are being reviewed
- Licensing officers
- Members of the licensing committee/sub-committee
- Magistrates and Judges hearing appeals against local authority decisions

1.18 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the committee may depart from the guidelines.

1.19 In this policy the word "Conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information. In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.

1.20 In this policy the word applicant refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the council as part of the policy implementation process. It also includes existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.

1.21 The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

2. General Policy

- 2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:
- Remain free of conviction for an appropriate period as detailed below; and
 - Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 2.2 The standards and criteria set out in paragraphs 6 to 16 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3. Appeals

- 3.1 Any applicant refused a driver's licence, or who has their licence suspended or revoked on the grounds that the council is not satisfied they are a fit and proper person to hold such a licence has a right to appeal to the Magistrate's Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s 77 (1)].

4. Powers

- 4.1 Section 61 of the Local Government Miscellaneous Provisions Act 1976 allow the council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage driver's licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 4.3 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and / or a Private Hire Vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will look into:
- How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were
 - When the offence(s) were committed
 - The date of the conviction, warning, caution etc
 - Circumstances of the individual concerned
 - Any sentence imposed by the court
 - The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc

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- Whether they form part of a pattern of offending
 - Any other character check considered reasonable (e.g. personal references)
 - Any other factors that might be relevant, for example:
 - ❖ The previous conduct of an existing or former licence holder, or
 - ❖ Whether the applicant has intentionally misled the council or lied as part of the application process,
 - ❖ Information provided by other agencies/council departments.
- 4.4 Existing holders of driver's licences are required to notify the council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 4.5 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Licensing Team for advice.
- 4.6 The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense, this includes any fees payable to the DBS.
- 4.7 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities, and information disclosed by the police under the Common Law Police Disclosure Scheme or other similar arrangements. Examples of such information sources that may be used include social care information, benefits payments etc.
- 4.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (S57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 4.9 Any offences or behaviour not covered by this Policy will not prevent the Council from taking into account those offences or behaviours.

5. Options when determining an application/licence

- 5.1 When determining an application or reviewing an existing licence the Council have the following options:
- approve the application or take no further action
 - refuse the application/revoke the licence/suspend the licence
 - issue a warning
 - For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their drivers' licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards. Such a test will be at the licence holder's expense.

6. Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 A licence will not be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 6.3 Consideration may only be given to the granting / issuing of a licence if at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:
- Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm
 - Grievous bodily harm
 - Robbery
 - Possession of firearm
 - Riot
 - Assault Police
 - Violent disorder
 - Resisting arrest
 - Any racially-aggravated offence against a person or property
 - Common assault
 - Affray
 - Any offence that may be categorised as domestic violence
 - Any Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
 - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 6.4 Consideration may only be given to the granting / issuing of a licence if at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:
- Obstruction
 - Criminal damage
 - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 6.5 A licence will not be granted if an applicant has more than one conviction for an offence of a violent nature.

7. Possession of a weapon

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

- 7.2 Depending on the circumstances of the offence, at least 3 years must have passed since the completion of the sentence, before a licence is granted.

8. Sexual and indecency offences

- 8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will be refused a licence. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 8.2 In addition to the above the council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other similar register.

9. Dishonesty

- 9.1 A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

- 9.2 In general, a minimum period of 5 years free of conviction or at least 5 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging

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- or any similar offences (including attempted or conspiracy to commit) offences which replace the above

9.3 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence.

10. Alcohol and Drugs

10.1 A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully.

10.2 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be granted. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be granted.

10.3 Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the supply of drugs.

10.4 A licence will not be granted where the applicant has a conviction for offences related to the possession of illegal / controlled drugs until at least 10 years have passed since the completion of any sentence and / or licence period, and only then after full consideration of the nature of the offence and the quantity / type of drugs involved.

10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.

11. Driving offences involving the loss of life

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

11.2 A licence will not be granted if an applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

12. Other traffic offences

- 12.1 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal.
- 12.2 For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driver licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards (taxi and private hire test). Such a test will be at the licence holder's expense.
- 12.3 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court rather than a fixed penalty), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least one year free of such convictions. For applicants with more than one offence this should normally be increased to two years.
- 12.4 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

13. Outstanding Charges or Summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application may be suspended until the matter is resolved, this decision will be made on a case by case basis.

14. Non-conviction information

- 14.1 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of both the witness / complainant and the licence holder will be taken into account.
- 14.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent and / or sexual offences.
- 14.3 In assessing the action to take, the safety of the travelling public must be the paramount concern.

15. Licensing Offences

- 15.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

16. Insurance Offences

- 16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 16.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his Operator's Licence revoked immediately and will not be permitted to hold a licence for a period of at least three years.

17. Applicants with periods of residency outside the UK

- 17.1 If an applicant has spent six continuous months or more overseas (since the age of 16) the council will expect to see evidence of a criminal record check from the country / countries visited covering the period.
- 17.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the council will require a certificate of good conduct authenticated by the relevant embassy.

18. Summary

- 18.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (the period of time depending on the crime committed, as detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the committee needs to be mindful of the need to protect the public and caution should be exercised.
- 18.2 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.
- 18.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. (S61(2B) of the Local Government (Miscellaneous Provisions) Act 1976).
- 18.4 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.

Annex A – Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts (accurate at the time of this document).

	Code	Offence	Penalty Points
Accident offences	AC10	Failing to stop after an accident	5 to 10
	AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
	AC30	Undefined accident offences	4 to 9
Disqualified driver	BA10	Driving while disqualified by order of court	6
	BA30	Attempting to drive while disqualified by order of court	6
	BA40	Causing death by driving while disqualified	3 to 11
	BA60	Causing serious injury by driving while disqualified	3 to 11
Careless driving	CD10	Driving without due care and attention	3 to 9
	CD20	Driving without reasonable consideration for other road users	3 to 9
	CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9
	CD40	Causing death through careless driving when unfit through drink	3 to 11
	CD50	Causing death by careless driving when unfit through drugs	3 to 11
	CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
	CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11
	CD80	Causing death by careless, or inconsiderate, driving	3 to 11
	CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11
Construction and use offences	CU10	Using a vehicle with defective brakes	3
	CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
	CU30	Using a vehicle with defective tyre(s)	3
	CU40	Using a vehicle with defective steering	3
	CU50	Causing or likely to cause danger by reason of load or passengers	3
	CU80	Breach of requirements as to control of the vehicle, mobile telephone etc	3
Reckless / dangerous driving	DD10	Causing serious injury by dangerous driving	3 to 11
	DD40	Dangerous driving	3 to 11
	DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
	DD80	Causing death by dangerous driving	3 to 11
	DD90	Furious driving	3 to 9
Drink	DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
	DR20	Driving or attempting to drive while unfit through drink	3 to 11
	DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11
	DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11

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	Code	Offence	Penalty Points
Drink	DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10
	DR40	In charge of a vehicle while alcohol level above limit	10
	DR50	In charge of a vehicle while unfit through drink	10
	DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
	DR70	Failing to provide specimen for breath test	4
Drugs	DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11
	DG60	Causing death by careless driving with drug level above the limit	3 to 11
	DR80	Driving or attempting to drive when unfit through drugs	3 to 11
	DG40	In charge of a vehicle while drug level above specified limit	10
	DR90	In charge of a vehicle when unfit through drugs	10
Insurance offences	IN10	Using a vehicle uninsured against third party risks	6 to 8
Licence offences	LC20	Driving otherwise than in accordance with a licence	3 to 6
	LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
	LC 40	Driving a vehicle having failed to notify a disability	3 to 6
	LC 50	Driving after a licence has been revoked or refused on medical grounds	3 to 6
Miscellaneous offences	MS10	Leaving a vehicle in a dangerous position	3
	MS20	Unlawful pillion riding	3
	MS30	Play street offences	2
	MS50	Motor racing on the highway	3 to 11
	MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
	MS70	Driving with uncorrected defective eyesight	3
	MS80	Refusing to submit to an eyesight test	3
	MS90	Failure to give information as to identity of driver etc	6
Motorway offences	MW10	Contravention of special roads regulations (excluding speed limits)	3
Pedestrian crossings	PC10	Undefined contravention of pedestrian crossing regulations	3
	PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
	PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3
Speed limits	SP10	Exceeding goods vehicle speed limits	3 to 6
	SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
	SP30	Exceeding statutory speed limit on a public road	3 to 6
	SP40	Exceeding passenger vehicle speed limit	3 to 6
	SP50	Exceeding speed limit on a motorway	3 to 6
Traffic direction and signs	TS10	Failing to comply with traffic light signals	3
	TS20	Failing to comply with double white lines	3
	TS30	Failing to comply with 'stop' sign	3
	TS40	Failing to comply with direction of a constable/warden	3
	TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3
	TS60	Failing to comply with a school crossing patrol sign	3

Public Consultation Document

	Code	Offence	Penalty Points
Traffic direction and signs	TS70	Undefined failure to comply with a traffic direction sign	3
Special code	TT99	To signify a disqualification under totting up procedure. If the total of penalty points reaches 12 or more within 3 years the driver is liable to be disqualified	
Theft or unauthorised taking	UT50	Aggravated taking of a vehicle	3 to 11

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Policy relating to the relevance of convictions and other relevant
character or behaviour information

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1. Introduction

- 1.1 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or Private Hire Driver Licence. In addition to criminal convictions the Council will also take into account other factors such as demeanour, attitude, general character, non-criminal behaviour and other police information etc.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, however, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold or be granted a Private Hire Operator Licence or vehicle licence, then this policy must be referred to in the determination of that licence/application.
- 1.3 The Council is mindful that each case must be considered on its merits and where the circumstances demand, the Council may depart from this policy.
- 1.4 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
 - Applicants for a driver's, vehicle or private hire operator licence
 - Existing licensees whose licences are being reviewed or renewed
 - Licensing officers
 - Members of the licensing committee/sub-committee
 - Magistrates and Judges hearing appeals against local authority decisions
- 1.5 For renewal applications and current licence holders the guidance will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.
- 1.6 It is the responsibility of Surrey Heath Borough Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and the Hackney Carriage Byelaws. In exercising this duty the Council must consider the need to ensure the safety of the public its' primary consideration. Licences cannot be issued unless the person is considered to be 'fit and proper'.
- 1.7 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
 - That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest persons
 - The safety of children, young persons and vulnerable adults

- 1.8 In determining whether a person is fit and proper to hold a licence and having taken into account all relevant considerations and information, the Council will ask itself the following question:

‘Would you allow your son, daughter, spouse, partner, mother, father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’

If the answer to the above is an unqualified ‘yes’, then the person can be considered to be fit and proper. In all other cases a licence will be refused.

- 1.9 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Number of endorsed DVSA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Social Services other licensing authorities, other departments within the Council, and statutory agencies.

- 1.10 In this policy, the word “applicant” refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the council as part of the policy implementation process. It also includes existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.
- 1.11 In this policy, the word “conviction” is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.
- 1.12 The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

2 General Policy

- 2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- a. Remain free of conviction for an appropriate period as detailed below; and
 - b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 2.2 The standards and criteria set out in paragraphs 4 to 12 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3 Powers

- 3.1 Section 61 of the Local Government Miscellaneous Provisions Act 1976 allow the council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 3.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage driver's licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

4 Consideration of disclosed criminal history

- 4.1 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will look at:
- How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were
 - When the offence(s) were committed
 - The date of the conviction, warning, caution etc.
 - Circumstances of the individual concerned
 - Any sentence imposed by the court
 - The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
 - Whether they form part of a pattern of offending
 - The applicant's attitude

- Any other character check considered reasonable (e.g. personal references if requested by the Council)
- Any other factors that might be relevant, for example:
 - The previous conduct of an existing or former licence holder,
 - Whether the applicant has intentionally misled the council or lied as part of the application process,
 - Information provided by other agencies/council departments.

4.2 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.

4.3 Existing holders of driver's licences are required to notify the council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.

4.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

4.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

5 Options when determining an application/licence

5.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:

- grant the licence or take no further action
- grant the licence with additional conditions
- refuse, revoke, or suspend the licence
- issue a warning

5.2 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

6. Offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 6.2 Consideration may only be given to the granting / issuing of a licence if at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:
- Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm
 - Assault occasioning actual bodily harm
 - Grievous bodily harm
 - Robbery
 - Possession of firearm
 - Riot
 - Assault Police
 - Violent disorder
 - Resisting arrest
 - Any racially-aggravated offence against a person or property
 - Common assault
 - Affray
 - Any offence that may be categorised as domestic violence
 - Harassment, alarm or distress, intentional harassment or fear of provocation of violence
 - Any offence (including attempted or conspiracy to commit offences) similar to those above.
- 6.3 Consideration may only be given to the granting / issuing of a licence if at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:
- Obstruction
 - Criminal damage
 - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 6.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

7. Offences involving a weapon

- 7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.
- 7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.
- 7.3 2 or more convictions for a violent offence will normally result in an application being refused.

8. Sexual and indecency offences

- 8.1 All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused. Such offences include:
- Rape
 - Assault by penetration
 - Offences involving children or vulnerable adults
 - Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
 - Making or distributing obscene material
 - Possession of indecent photographs depicting child pornography.
 - Sexual assault
 - Indecent assault
 - Exploitation of prostitution
 - Soliciting (kerb crawling)
 - Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
 - Making obscene / indecent telephone calls
 - Indecent exposure
 - Any similar offences (including attempted or conspiracy to commit) which replace the above
- 8.2 In addition to the above the council will not normally grant a licence to any applicant who is or has ever been on the Sex Offenders Register or similar register.

9. Dishonesty

- 9.1 A serious view is taken of any conviction involving dishonesty.
- 9.2 A minimum period of 5 years free of conviction or at least 5 years since the completion of sentence (whichever is longer) is required to have passed before a licence is granted. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- false representation
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above

9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

9.4 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence.

10. Alcohol and Drugs

10.1 A serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs.

10.2 At least 5 years, after the restoration of the DVLA driving licence following a drink drive conviction should elapse before an application will be granted.

10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 10 years or at least 10 years have passed since the completion of any sentence and/or licence period, whichever is the greater. There will then be full consideration of the nature of the offence and the quantity / type of drugs involved.

10.4 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs.

10.5 If there is evidence of persistent drugs or alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.

11. Driving offences involving the loss of life

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

11.2 A licence will not normally be granted if an applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

12 Other traffic offences

12.1 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.

12.2 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal.

12.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 2 years.

12.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

12.4 In this policy, the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

13 Outstanding Charges or Summonses

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

13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

14 People banned from working with children or vulnerable adults

- 14.1 *A serious view is to be taken of any applicant or licence holder who has been banned from working with children or vulnerable adults. A licence will not normally be granted if an applicant is on the Protection of Children Act list or Protection of Vulnerable Adults List. Further detail can be seen in Appendix 1.*

15 Non-conviction information

- 15.1 The Council will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take following the receipt of information), the credibility of both the witness / complainant and the licence holder will be taken into account.
- 15.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.
- 15.3 In assessing the action to take, public safety will be the paramount concern, decisions will be taken on balance of probability.

16 Licensing Offences

- 16.1 Offences under taxi and private hire legislation such as plying for hire without a licence, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 5 years has passed since conviction.

17 Insurance Offences

- 17.1 A serious view will be taken of convictions for driving or being in charge of a vehicle without insurance. A previous isolated incident will not necessarily stop a licence being granted provided an individual has been free of conviction for 3 years. However strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 17.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his Operator's Licence reviewed with a view to immediate revocation and will not be permitted to hold a licence for a period of at least three years from the date of any revocation.
- 17.3 Where a specific offence is not mentioned, a suitable period will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would

otherwise indicate that a licence might be granted.

18 Applicants with periods of residency outside the UK

- 18.1 If an applicant has spent six continuous months or more overseas (since the age of 16) the council will expect to see evidence of a criminal record check from the country / countries visited covering the period.
- 18.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the council will require a certificate of good conduct authenticated by the relevant embassy.

19 Summary

- 19.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Council will be mindful of the need to protect the public and caution will be exercised.
- 19.2 While it is possible that an applicant may have a number of convictions that, individually, do not prevent a licence from being granted, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

People banned from working with children or vulnerable adults**Children**

The guidance from NACRO¹ provides that people will be banned from working with children if they are considered unsuitable to work with children and are on a list maintained by the Department for Education and Skills and also the Department for Health. People who are banned are those:

- On a list held under Section 142 of the Education Act 2002 (List 99)
- On the Protection of Children Act (PoCA) list
- On the National Assembly of Wales list
- Aged 18 or over convicted of certain specified offences against those aged under 18 (or 16 in some instances) and given a hospital or guardianship order or a custodial sentence of 12 months or more. Suspended sentences of 12 months or more are treated as qualifying sentences.

A person will also be banned if they have been convicted of certain specified offences under Schedule 4 of the Criminal Justice and Court Services Act 2000, examples include:

- Intercourse with a girl under 16
- Offences relating to child pornography
- Gross indecency with a child.
- Abduction and false imprisonment
- Abuse of trust
- Assault occasioning actual bodily harm
- Homicide and threats to kill
- Incest, and cruelty to children
- Offences relating to prostitution
- Rape, and indecent assault
- Supplying a class A drug to a child
- Wounding and causing grievous bodily harm.

¹ NACRO – Recruiting ex-offenders: the employer's perspective (www.crb.homeoffice.gov.uk)

It is important to also consider the term 'working with children' as it covers a number of areas. According to the Guide on the Protection of Children, broadly these are:

- Employment in certain establishments that provide functions for children such as schools, children's homes and children's hospitals. All staff, whether primary or secondary carers or ancillary staff are deemed to be primary carers;
- Employment in day-care premises, except where the work takes place in a different part of the premises to where day-care activities are situated, or if it occurs during times of the day when children are not being looked after;
- Caring for, training, supervising or being in sole charge of children
- A position where normal duties involve unsupervised contact with children. This would cover, for example, a minicab firm whose drivers are employed to transport unaccompanied children on a regular basis, but not those who do this on an irregular or one-off basis
- Child employment. Where the young person is under the age of 16, those responsible for caring for them in the course of their employment are covered by the definition;
- Positions of influence and control over children, which could place them at risk.

Vulnerable Adults – POVA List

Under the Care Standards Act 2000, a person is banned from working with vulnerable adults if they are included on the Protection of Vulnerable Adults (POVA) list.

Similar to with the POCA list, care staff may be placed on the list if they have been dismissed, resigned, retired, made redundant, transferred or suspended on the grounds of misconduct which harmed or put at risk of harm a vulnerable adult.

It will be an imprisonable offence for anyone banned from such work to obtain it, and for an employer knowingly to employ a banned person.

Schedule 4 of the Safeguarding Vulnerable Groups Act 2006

Part 1 – Regulated Activity relating to Children

- 1) An activity is a regulated activity relating to children if—
 - a) it is mentioned in paragraph 2(1), and
 - b) it is carried out frequently by the same person or the period condition is satisfied.
- 2) An activity is a regulated activity relating to children if—
 - a) it is carried out frequently by the same person or the period condition is satisfied,
 - b) it is carried out in an establishment mentioned in paragraph 3(1),

- c) it is carried out by a person while engaging in any form of work (whether or not for gain),
- d) it is carried out for or in connection with the purposes of the establishment, and
- e) it gives that person the opportunity, in consequence of anything he is permitted or required to do in connection with the activity, to have contact with children.

Part 2 – Regulated Activity relating to Vulnerable Adults

- 1) Each of the following is a regulated activity relating to vulnerable adults if it is carried out frequently by the same person or the period condition is satisfied—
 - a) any form of training, teaching or instruction provided wholly or mainly for vulnerable adults;
 - b) any form of care for or supervision of vulnerable adults;
 - c) any form of assistance, advice or guidance provided wholly or mainly for vulnerable adults;
 - d) any form of treatment or therapy provided for a vulnerable adult;
 - e) moderating a public electronic interactive communication service which is likely to be used wholly or mainly by vulnerable adults;
 - f) driving a vehicle which is being used only for the purpose of conveying vulnerable adults and any person caring for the vulnerable adults pursuant to arrangements made in prescribed circumstances
 - g) anything done on behalf of a vulnerable adult in such circumstances as prescribed.

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LICENSING ACT 2003 – SUMMARY OF DECISIONS

Portfolio:	Community
Ward(s) Affected:	All

Purpose

To report decisions that have been taken in respect of licence applications that have been dealt with under powers delegated to the Executive Head – Community and to the Licensing Officer and the outcomes of any Licensing Sub-Committee hearings held since the Committee’s last meeting

Background

1. Details of decisions taken under delegated powers in relations to applications, representations etc have to be reported to the Licensing Committee in accordance with the provisions of the Licensing Act 2003.

Current Position

2. In accordance with the provisions of the Licensing Act 2003 powers have been delegated to the Executive Head of Community and to the Licensing Officer to determine applications for premises licences, club premises certificates and personal licences where no representations have been received from responsible authorities or interested parties.
3. If representations are received, consideration has to be given as to whether such representations are relevant, are not vexatious or frivolous and have been submitted in accordance with statutory requirements. No representations have been rejected on the grounds since the last report on these matters to the Committee.
4. When representations have been received powers are delegated to the Licensing Adjudication Sub-Committee to determine the licence following consideration of these representations. Since the Committee’s last meeting on 15 March 2017 one Licensing Sub-Committee has been held in respect of Dimons Convenience Store, 126 Frimley Road, Camberley, GU15 2QN and Chobham Service Station, Station Road, GU24 8AJ.
5. A summary of the decisions that have been taken in respect of applications that have been considered and determined since the last meeting of the Committee is attached as Annex A. These details are submitted for information only and do not require ratification by the Committee.

Recommendation

6. The Committee is advised to NOTE this report.

Background Papers: None

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Head of Service: Tim Pashen – Executive Head of Community

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Premises Licences Approved Under Delegated Powers Between 01 March 2017 and 31 May 2017

<i>Premises</i>		<i>Application Type</i>	<i>Application Date</i>	<i>Licence Number</i>
CAMBERLEY PREMIER INN	10 PARK STREET, CAMBERLEY, GU15 3PL	Variation of Premises Supervisor	31/03/2017	SHBCPR-08235
CAMBERLEY PREMIER INN	10 PARK STREET, CAMBERLEY, GU15 3PL	Variation of Premises Supervisor	23/05/2017	SHBCPR-08235
DIMON'S LOCAL	126 FRIMLEY ROAD, CAMBERLEY, GU15 2QN	Review of Premises Licence	07/03/2017	SHBCPR-14322
DIMON'S LOCAL	126 FRIMLEY ROAD, CAMBERLEY, GU15 2QN	Application for Premises Licence	26/05/2017	SHBCPR-17353
DOMINO'S PIZZA	61 HIGH STREET, BAGSHOT, GU19 5AH	Replacement Premise/Club	28/03/2017	SHBCPR-07224
DUKE OF YORK	88-90 HIGH STREET, CAMBERLEY, GU15 3RS	Variation of Premises Supervisor	26/05/2017	SHBCPR-00057
FOUR HORSESHOES	FOUR HORSESHOES, 75 FRIMLEY ROAD, CAMBERLEY, GU15 3EQ	Variation of Premises Supervisor	08/03/2017	SHBCPR-05162
Frimley Green Service Station	257 FRIMLEY GREEN ROAD, FRIMLEY GREEN, CAMBERLEY,	Variation of Premises Supervisor	03/05/2017	SHBCPR-10273
Frimley Green Service Station	257 FRIMLEY GREEN ROAD, FRIMLEY GREEN, CAMBERLEY,	Transfer of Premises Licence Holder	03/05/2017	SHBCPR-10273
HARE AND HOUNDS	BRENTMOOR DENE, BRENTMOOR ROAD, WEST END, WOKING, GU24	Variation of Premises Supervisor	02/05/2017	SHBCPR-05156
LIDL	25 THE ATRIUM, CHARLES STREET, CAMBERLEY, GU15 3GH	Variation of Premises Supervisor	06/04/2017	SHBCPR-08249
Macdonald Frimley Hall Hotel	FRIMLEY HALL HOTEL, FRIMLEY HALL DRIVE, CAMBERLEY, GU15	Change of Address	24/04/2017	SHBCPR-05160
PIZZA EXPRESS	PIZZA EXPRESS, 52 Park Street, Camberley, Surrey, GU15 3PT	Minor Premises Variation	25/04/2017	SHBCPR-05126
PIZZA EXPRESS	PIZZA EXPRESS, 52 Park Street, Camberley, Surrey, GU15 3PT	Variation of Premises Supervisor	27/03/2017	SHBCPR-05126
SAINSBURY'S	199 Guildford Road, Bisley, Woking, Surrey, GU24 9DL	Variation of Premises Supervisor	16/05/2017	SHBCPR-14308
SODEXO AT ELI LILLY & CO LTD (STAFF	EAST LODGE, ERLWOOD MANOR, LONDON ROAD, WINDLESHAM,	Transfer Premises Licence	26/04/2017	SHBCPR-07228
SOUTHERN CO-OPERATIVE LTD	19 FRIMLEY ROAD, CAMBERLEY, GU15 3EN	Variation of Premises Supervisor	19/04/2017	SHBCPR-12293
STOVELL'S	125 WINDSOR ROAD, CHOBHAM, WOKING, GU24 8QS	Change of Address	29/03/2017	SHBCPR-00522
SURREY ARMS	71-73 HIGH STREET, CAMBERLEY, GU15 3RB	Variation of Premises Supervisor	11/04/2017	SHBCPR-00544
SURREY ARMS	71-73 HIGH STREET, CAMBERLEY, GU15 3RB	Variation of Premises Supervisor	19/05/2017	SHBCPR-00544

***Club Certificates Approved Under Delegated Powers Between
01 March 2017 and 31 July 2017***

Premises

***Application
Type***

Licence Number

***Personal Licences Approved Under Delegated Powers
Between 01 March 2017 and 31 May 2017***

<i>Name</i>		<i>Licence Number</i>
Bayliss	Caroline	SHBCPER-09576
Bruma	Maria Andrada	SHBCPER-16076
Burns	Paul William	SHBCPER-16084
Butler	Paul Marc	SHBCPER-16080
Conway	Jay Emma	SHBCPER-15976
Dodd	Matthew	SHBCPER-15995
Gamble	Joseph Matthew	SHBCPER-16085
Graves	James	SHBCPER-16083
Haynes	Barry	SHBCPER-05139
Kinsey	Lauren Rose	SHBCPER-16071
Kysel	Robert	SHBCPER-15964
Loftesnes	Elin	SHBCPER-16074
Maden	Richard Stephen	SHBCPER-08528
Milward	Alison Margaret	SHBCPER-16082
Mumford	Jack Daniel	SHBCPER-16070
Naik	Prashant Dolatrai	SHBCPER-16073
Page	Kiaya Elizabeth	SHBCPER-16075
Parsons	Daniel Rupert	SHBCPER-16077
Pawley	Darren Richard	SHBCPER-16068
Powell	Jeremy Robert Hall	SHBCPER-16005
Purcell	Christopher Neil	SHBCPER-16078
Rafe	Christopher William	SHBCPER-06402
Sanger	Gareth Philip	SHBCPER-16087
Seal	Christopher Andrew Matthew	SHBCPER-16079
Smith	Alexandra Jay	SHBCPER-09559
Stevens	John Philip	SHBCPER-16086
Straver	Anthony Christopher Bernard	SHBCPER-05296
Tiglao	Jennifer	SHBCPER-06374
Waijoo	Bishal	SHBCPER-16048

Temporary Event Notices Received Between 01 March 2017 and 31 May 2017

*(No representations have been received from the Police in respect of any of the notices listed
and all events have been authorised to take place)*

Event Date	Premises Name	
18-Mar-2017	Temporary Event Notices	0 PARK STREET, CAMBERLEY
18-Mar-2017	Temporary Event Notices	0 PARK STREET, CAMBERLEY
15-Apr-2017	Temporary Event Notices	0 PARK STREET, CAMBERLEY
15-Apr-2017	Temporary Event Notices	0 PARK STREET, CAMBERLEY
20-May-2017		0 PARK STREET, CAMBERLEY
20-May-2017	Temporary Event Notices	0 PARK STREET, CAMBERLEY
20-Apr-2017	Tru	52 HIGH STREET, CAMBERLEY, GU15 3RS
28-May-2017	Tru	52 HIGH STREET, CAMBERLEY, GU15 3RS
7-Apr-2017	GLO HAIR SALON	64 PARK STREET, CAMBERLEY, GU15 3PT
22-Apr-2017	All Saints Community Hall	All Saints Community Hall, Broadway Road, Lightwater, Surrey, GU18 5SJ
8-Apr-2017	Bisley Village Hall	BISLEY VILLAGE GREEN, GUILDFORD ROAD, BISLEY, WOKING, GU24 9EG
19-May-2017	Bagshot County Infant School	Bagshot County Infant School, School Lane, Bagshot, Surrey, GU19 5BP
4-Mar-2017	THE CEDAR TREE	CEDAR TREE, 1 HIGH STREET, BAGSHOT, GU19 5AG
25-Mar-2017	Chobham Cricket Club	CHOBHAM CRICKET CLUB, 56A HIGH STREET, CHOBHAM WOKING, GU24 8AA
27-May-2017		COOMBE EDGE, SUNNINGHILL ROAD, WINDLESHAM, GU: 6PP
29-Apr-2017	Chobham Rugby Football Club	Chobham RFC, Fowlers Wells, Windsor Road, Chobham, Woking, Surrey
6-May-2017	Chobham Rugby Football Club	Chobham RFC, Fowlers Wells, Windsor Road, Chobham, Woking, Surrey
13-May-2017	Collingwood College	Collingwood College, Kingston Road, Camberley, Surrey, GU1 4AE
19-Apr-2017	Frimley Lodge Park	FRIMLEY LODGE PARK, STURT ROAD, FRIMLEY GREEN, CAMBERLEY, GU16 6HY

Event Date	Premises Name	
20-May-2017	Frimley Lodge Park	FRIMLEY LODGE PARK, STURT ROAD, FRIMLEY GREEN, CAMBERLEY, GU16 6HY
5-May-2017	Frimhurst Family Home	Frimhurst Family Home, Guildford Road, Frimley Green, Camberley, Surrey, GU16 6NU
25-Mar-2017		GRAVEYARD , ST LAWRENCES CHURCH, HIGH STREET, CHOBHAM, WOKING, GU24 8AF
27-May-2017	RANDALLS	GROUND FLOOR, 1 THE SQUARE, LIGHTWATER, GU18 5S
20-May-2017	Holy Trinity Primary School	Holy Trinity Church Of England School, 42 Benner Lane, West End, Woking, Surrey, GU24 9JQ
3-Mar-2017	Kings International College For Business and the Arts	Kings International College For Business And The Arts, Watchetts Drive, Camberley, Surrey, GU15 2PQ
6-May-2017	Mytchett Primary School	Mytchett County Primary School, Hamesmoor Road, Mytchett, Camberley, Surrey, GU16 6JB
13-May-2017	Recreation Ground	Recreation Ground, Broadway Road, Lightwater, Surrey
30-Mar-2017		ST PAULS CHURCH, CRAWLEY RIDGE, CAMBERLEY, GU1 2AD
10-Mar-2017	St Augustine Roman Catholic Primary School	St Augustine Roman Catholic Primary School, Tomlinscote Way, Frimley, Camberley, Surrey, GU16 8PY
29-Apr-2017	St Marys Church	St Marys Church Centre, Park Road, Camberley, Surrey, GU1 2SR
22-Apr-2017	ST PETERS CHURCH	St Peters Church, Frimley Green Road, Frimley, Camberley, Surrey, GU16 8AG
29-Apr-2017	ST PETERS CHURCH	St Peters Church, Frimley Green Road, Frimley, Camberley, Surrey, GU16 8AG
7-Apr-2017	Agincourt Nightclub	THE AGINCOURT, 487 LONDON ROAD, CAMBERLEY, GU1 3JA
14-May-2017	LITTLE OAKS PRE-SCHOOL	THE GROVE COUNTY PRIMARY SCHOOL, CHOBHAM ROAD, FRIMLEY, CAMBERLEY, GU16 8PG
22-May-2017		TIMBER HILL, CHERTSEY ROAD, CHOBHAM, WOKING, GU24 8JF
11-Mar-2017	Tomlinscote County Secondary School	Tomlinscote County Secondary School, Tomlinscote Way, Frimley, Camberley, Surrey, GU16 8PY
18-Mar-2017	Tomlinscote County Secondary School	Tomlinscote County Secondary School, Tomlinscote Way, Frimley, Camberley, Surrey, GU16 8PY
12-May-2017	Tomlinscote County Secondary School	Tomlinscote County Secondary School, Tomlinscote Way, Frimley, Camberley, Surrey, GU16 8PY
23-Mar-2017	Valley End C of E Infant School	VALLEY END CHURCH OF ENGLAND INFANT SCHOOL, VALLEY END ROAD, CHOBHAM, WOKING, GU24 8TB
29-Apr-2017	Chobham Village Hall	VILLAGE HALL, STATION ROAD, CHOBHAM, WOKING, GU24 8AQ
20-May-2017	Windlesham Village County Infants School	WINDLESHAM VILLAGE COUNTY INFANT SCHOOL, SCHOOL ROAD, WINDLESHAM, GU20 6PD

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**Minutes of a Meeting of the Licensing
Sub Committee held at Council
Chamber, Surrey Heath House, Knoll
Road, Camberley, GU15 3HD on
20 March 2017**

+ Cllr Bill Chapman (Chairman)

+ Cllr David Lewis	- Cllr Nic Price
- Cllr Ruth Hutchinson	+ Cllr Ian Sams

+ Present

- Apologies for absence presented

In Attendance: Rupert Ainsworth, Rontec Watford Ltd
 Paula Barnshaw, Licensing Administrator
 Robert Botkai, Winckworth Sherwood LLP
 Bridget Peplow, Legal Advisor
 Derek Seekings, Senior Licensing Officer
 Katharine Simpson, Democratic and Electoral Services Officer

1/LS Election of Chairman

RESOLVED that Councillor Chapman be elected Chairman of the Licensing Sub-Committee.

COUNCILLOR CHAPMAN IN THE CHAIR

2/LS Declarations of Interest

There were no declarations of interest.

3/LS The Procedure for Hearings of the Licensing Sub-Committee

The Sub Committee and meeting attendees noted the procedure that would be followed during the Sub-Committee Hearing.

4/LS Application for a Variation of a Premises Licence - Chobham Service Station, Station Road, Chobham, Woking, Surrey GU24 8AJ

The Sub-Committee was informed that the hearing had been convened to decide the outcome of an application for a variation of a premises license for Chobham Service Station, Station Road, Chobham, GU24 8AJ

The current licence meant that the petrol filling station had to stop selling alcohol for consumption off site between the hours of midnight and 6am and could not sell refreshments between the hours of 23:00pm and 05:00am. The application sought a variation that, if granted, would enable the filling station to

sell alcohol for consumption offsite twenty four hours a day seven days a week and provide late night refreshment to customers between the hours of 23:00pm and 5am.

The Sub-Committee was advised that the application had been correctly completed and the application had been advertised and responsible authorities notified in line with statutory regulations.

The Sub-Committee carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the Applicants Rupert Ainsworth, Rontec Watford Limited and Robert Botkai, Winckworth Sherwood LLP;
- the interested parties (2) who submitted written representations;

together with reference to the Licensing Objectives: Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, particularly noise nuisance, and Protection of Children from Harm, the Council's own Licensing Policy and the Secretary of State's guidance.

The Sub Committee noted that an additional written submission had been provided by one of the interested parties which expanded on the points raised in their initial submission. The Sub-Committee also noted that no representations had been received from any of the Responsible Bodies and that no objections had been received in relation to the application for a licence to provide late night refreshments.

The Sub-Committee noted the concerns of the public representations, which included:

Crime and Disorder/Prevention of Public Nuisance

- The sale of alcohol 24 hours a day would draw people into the area causing disruption to local residents.
- There would be minimal levels of staffing at the filling station overnight; a situation that could lead to unsafe working conditions if customers were allowed inside the filling station building.
- Night time alcohol sales could increase the risk of violent or criminal disturbances in the surrounding areas.

The Applicants informed the Sub Committee that Rontec was an established company with a portfolio of over 200 petrol filling stations across the Country; the majority of which had alcohol licences. The application to vary the premises licence would, if granted, bring the licenced hours in line with the filling station's opening hours.

The Sub-Committee also took note of the fact that:

- At the majority of petrol filling stations operated by Rontec it was standard operating practice for the filling stations to be single manned

from 10pm with staff serving all customers through the night payment window.

- All Rontec sites were risk assessed and appropriate security measures put in place including CCTV, security systems and panic buttons
- The late night refreshment offer would be a very limited service which would enable customers to purchase hot beverages dispensed from a coffee machine and a limited range of hot snacks.
- The filling station was currently selling alcohol until midnight and had experienced no problems with disruptive customers to date.
- Rontec would be willing to work with local residents to address any concerns or problems that might arise as a result of the extended licencing hours.

In reaching their decision, the Sub Committee took into consideration the representations made in relation to the prevention of public nuisance and the prevention of crime and disorder. However, it was considered that the concerns were based on speculation as to what might happen and did not meet the threshold that would undermine the relevant licensing objectives. From the representations made, the Sub Committee had confidence that the Applicant would ensure that the Service Station was well managed and would trade as a responsible body, with a clear plan and policies in place to deal with any issues.

The decision making process was a matter of judgement by the Sub Committee and having weighed all the evidence provided by the interested parties and the Applicant the evidence came down clearly in favour of granting the variation. The Applicant had clearly addressed their minds to the processes and policies required to ensure that the licensing objectives were promoted. It had to be recognised that whilst the interested parties raised objections under the 4 licensing objectives, the objections had little evidential support and when weighed in the balance carried little weight. A number of the representations made by the objectors did not relate to the licensing objectives and as such they were not matters that the Sub Committee could consider.

The Sub Committee was aware that there were a number of objections however it was considered that the objections were broadly based on what might happen rather than what would happen and there was insufficient evidence provided to allow the Sub Committee to find that the problems referred to would occur. On balance, the Sub Committee decided that granting the variation, in line with the conditions already on the licence and as set out below, would not have an adverse impact on the promotion of the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, and Protection of Children from Harm. The Sub Committee found no evidence to justify refusing the variation.

The Sub-Committee confirmed that the decision would not set a precedent because each licensing application would be judged on its merits. The Sub Committee also noted the objectors request to delay the decision for a period of time to allow for the impact of the extended opening hours to be assessed. The Sub Committee confirmed that it had no legal power to do this.

The Licensing Sub Committee **RESOLVED** to grant the variation subject to the existing licence conditions set out below:

Mandatory conditions:

- i. No supply of Alcohol may be made under the premises licence:
 - a. At a time when there is no designated premises supervisor in respect of the premises licence, or at
 - b. A time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- ii. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- iii. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale of alcohol.
 - a. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Additional conditions consistent with the operating schedule

General conditions: None

Prevention of Crime and Disorder

- iv. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
- v. The CCTV system shall be capable of producing immediate copies of recording on site. Copies of recordings will be capable of being recorded digitally onto CD/DVD or other equivalent medium.
- vi. Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
- vii. The CCTV system will incorporate a camera covering the entrance door and the alcohol display areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
- viii. The CCTV system will display, on any recording, the correct time and date of the recording.
- ix. A system will be in place to maintain the quality of the recorded image.
- x. The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.

Public Safety

- xi. The premises licence holder will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police.

Prevention of Public Nuisance

- xii. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

Protection of Children from Harm

- xiii. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any

customer attempting to purchase alcohol, who appears to be under the age of 18 (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification bearing the customer's photograph, date of birth and the Proof of Age Standards Scheme (or similarly accredited scheme) hologram.

CHAIRMAN

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**Minutes of a Meeting of the Licensing Sub
Committee held at Council Chamber,
Surrey Heath House on 24 April 2017**

+ Cllr Bill Chapman
+ Cllr Pat Tedder

+ Cllr Valerie White

+ Present
- Apologies for absence presented

Reserve Member: Cllr David Lewis

In Attendance: Paula Barnshaw, Administrative Officer (Licensing), Surrey Heath
Borough Council
Kate Butler, Surrey County Council
Rab Carnie, Licensing Officer, Surrey Police
Manmeet Grover, Licence Holder
Jessica Harris-Hooton, Solicitor, Surrey Heath Borough Council
Jasbeer Singh Kapoor
Manpreet Kapoor
Graham Kendall, Expert Witness, Surrey Police
PS Adam Luck, Surrey Police
Mr Panchal, Personal Licence Courses Ltd.
PC Kyle Miller, Surrey Police
Mr Saville, Solicitor, Surrey Police
Derek Seekings, Senior Licensing Officer, Surrey Heath Borough
Council
PC Anna Whiteside, Surrey Police

1/LS Election of Chairman

RESOLVED that Councillor Bill Chapman be elected Chairman of the Licensing Sub Committee.

COUNCILLOR CHAPMAN IN THE CHAIR

2/LS Declarations of Interest

There were no declarations of interest.

3/LS Licensing Sub Committee Procedure

The Sub Committee and meeting attendees noted the procedure that would be followed during the hearing.

**4/LS Application to Review a Premises Licence- Dimons Convenience Store, 126
Frimley Road, Camberley,**

After careful consideration of all the information presented to the Licensing Sub-Committee both written and oral, from the applicant and responsible bodies, the Licensing Sub-Committee concluded that the premises licence in respect of Dimons Convenience Store, 126 Frimley Road, Camberley, GU15 2QN should be revoked.

The Sub-Committee noted the concerns raised by Surrey Police about the illegal sale of Nitrous Oxide canisters from the premises, the lack of training provided to staff in relation to the sale of age restricted products and the failure to keep accurate, up to date records of refused sales.

The Sub-Committee also took note of the fact that:

- It was intended that, as part of the Management Contract entered into on 17 December 2015, the licence should be transferred to Mr Jasbeer Singh Kapoor.
- The terms of the Management Contract applied equally to Mr Jasbeer Singh Kapoor and Mr Hashmeet Singh Kapoor.
- Although a Trading Standards approved staff training package had been issued to the store, staff members had stated in police witness statements that they had not received any formal training and simply sold the stock that was brought into the store by the Manager.
- Concerns had been raised that the Challenge 25 Policy was not being adhered to and that warnings relating to the sale of age restricted goods raised by the cash register's computer software were being ignored by staff in the shop.

The Sub-Committee also noted that one representation had been received from the Child Employment Manager at Surrey County Council in respect of the sale of illegal substances to children under the age of 18 years old, placing them at risk of harm.

In reaching their decision, the Sub Committee took into consideration the representations made in relation to the prevention of crime and disorder, public safety and the protection of children from harm. From the representations made, the Sub Committee did not feel confident that the proposed transfer of the licence or the suggestion that Mr Hashmeet Singh Kapoor would be banned from entering the premises would alleviate concerns about the day to day running of the store when it had been made clear during the hearing that the management contract applied equally to both Mr Jasbeer Singh Kapoor and Mr Hashmeet Singh Kapoor.

The decision making process was a matter of judgement by the Sub Committee and having weighed all the evidence provided by the responsible bodies and the licence holder it was considered that the evidence came down clearly in favour of revoking the licence.

The Sub-Committee noted the Licence Holder's proposal that the licence be suspended for a period of six months to enable training and policies to be put in place. However, it was felt that there had been ample time to put training in place since the original failed test purchase had occurred in 2015 and that, although the member of staff working in the convenience store at the time of the failed test purchase had been sacked, there was no evidence that training had been put in place to help support other staff members to uphold the four licencing objectives.

During their deliberations, the Sub-Committee considered the possibility of placing additional conditions on the licence. It was felt, that in light of the evidence presented at the hearing, the original licence conditions were not being adhered to currently and that there was no guarantee that adding more conditions on the licence would help improve standards. It was therefore decided that this option should not be pursued.

Whilst it was acknowledged that the Sub-Committee had the power to remove the Designated Premises Supervisor, there were clear indications that management and oversight of the store was not sufficiently strong to uphold the licensing objectives and that without any control over who might become the Designated Premises Supervisor, there

was no guarantee that this situation would improve. It was therefore decided that, in this particular case, this would not be an appropriate course of action.

In their deliberations, the Sub Committee noted that the Home Office's 'Revised Guidance issued Under Section 182 of The Licensing Act 2003' published in April 2017, which made it clear that the Licensing Authority's role when determining a licence review that has arisen as a result of a crime being committed on the premises was to ensure the promotion of the crime prevention objective. Furthermore, it was noted that sections 11.27 and 11.28 of Revised Guidance stated that criminal activity pertaining to the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 should be treated particularly seriously and that licence revocation should be seriously considered.

On balance, the Sub Committee decided that not revoking the licence would have an adverse impact on the promotion of the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, and Protection of Children from Harm. The Sub-Committee confirmed that the decision would not set a precedent because each application for a licence to be reviewed would be judged on its merits.

RESOLVED that the premises licence in respect of Dimons Convenience Store, 126 Frimley Road, Camberley, GU15 2QN should be revoked.

Chairman

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