



# Agenda

## Planning and Licensing Committee

Wednesday, 10 February 2021 at 7.00 pm

Council Chamber, Town Hall, Ingrave Road, Brentwood, Essex CM15  
8AY

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### Membership (Quorum – 4 )

Cllrs J Cloke (Chair), McCheyne (Vice-Chair), Bridge, Chilvers, Fryd, Haigh, Jakobsson, Keeble, Morrissey, Mynott, Tanner and Tierney

### Substitute Members

Cllrs Aspinell, Barrett, Dr Barrett, McLaren, Nolan and Reed

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### Agenda

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<b>Live broadcast</b>			
<a href="#">Live broadcast will start at 7pm and available for repeated viewing.</a>			
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7. **Planning Enforcement Activity Overview (October to December 2020)**

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8. **Urgent Business**

A handwritten signature in black ink, appearing to read 'J. Stephenson', is centered on a light blue rectangular background.

Jonathan Stephenson  
Chief Executive

Town Hall  
Brentwood, Essex  
02.02.2021

## Information for Members

Please note the changes in blue apply to remote meetings

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### Introduction

The Government has enacted The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 no 392 (the Regulations) which came into force on the 4 April 2020 and will remain in force until the 7 May 2021.

The Council will hold Committee meetings remotely and enable the public to participate by streaming those meetings that are open to the public.

Only those Committee meetings where the public have a right to speak will the facility be available to enable them to participate where the technology is not available for them to exercise this right then their participation will be by written communication read out at the remote meeting.

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### Substitutes

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Where substitution is permitted, substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi- judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

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### Rights to Attend and Speak

Any member may remotely attend any Committee to which these rules apply.

Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.


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### Point of Order/ Personal explanation/ Point of Information

Point of Order	Personal Explanation	Point of Information or clarification
A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Mayor on the point of order will be final.	A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Mayor on the admissibility of a personal explanation will be final.	A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate, If the Mayor gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Mayor on the admissibility of a point of information or clarification will be final.

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** Guidelines on filming, photography, recording and use of social media at council and committee meetings**

**The Council will be holding remote Committee meetings and will make these accessible to the public remotely by being recorded and streamed. Whilst the Regulations apply the following paragraphs will not apply to the meetings of the Council.**

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings, these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

** Private Session**

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Committee does so, you will be asked to leave the meeting.

**The Chair or Clerk to the Committee will disconnect all persons who should leave the meeting prior to continuing there will be a short break to ensure that this has happened.**

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** Access**

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** Evacuation Procedures**

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## Minutes

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### Planning and Licensing Committee Wednesday, 9th December, 2020

#### Attendance

Cllr J Cloke (Chair)	Cllr Jakobsson
Cllr McCheyne (Vice-Chair)	Cllr Keeble
Cllr Bridge	Cllr Morrissey
Cllr Chilvers	Cllr Mynott
Cllr Fryd	Cllr Tanner
Cllr Haigh	Cllr Tierney

#### Apologies

#### Substitute Present

#### Also Present

Cllr Aspinell  
Cllr Mrs Davies

#### Officers Present

Philip Drane	- Director of Planning and Economy
Brooke Pride	- Planning Officer
Amanda Julian	- Director of Law and Governance and Monitoring Officer
Jonathan Quilter	- Strategic Planning Manager

#### 617. Apologies for Absence

All Members of the Committee were present.

#### 618. Minutes of the Previous Meeting

Members **RESOLVED** to approve the Minutes of the Planning and Licensing Committee held on 11<sup>th</sup> November 2020 as a true record.

**619. Minutes of the Licensing Sub Committee 11.11.2020**

The Minutes of the Licensing Sub-Committee held on 11<sup>th</sup> November 2020 were approved as a true record. Cllr Mrs Davies advised a statement she had made on behalf of residents was not included in these minutes. However, it transpired subsequently that she was referring to the minutes of the 23<sup>rd</sup> November Licensing sub-committee which would be included in the agenda for the January 2021 Planning and Licensing Committee.

**620. Variation in the order of the Agenda**

Members agreed to take Item 6 Fees and Charges before Item 4 Application No: 20/00895/FUL – Land to the rear of 131 to 135 Hatch Road, Pilgrims Hatch, Brentwood.

**621. Fees and Charges**

Fees and charges made by the Council for various services are reviewed on an annual basis by the relevant Committees relating to the services provided. Recommended amendments to the fees and charges were incorporated into the budget setting process to take effect from the following financial year. Services areas have reviewed their fees and charges and submitted schedules to finance to co-ordinate.

A motion was **MOVED** by Cllr Cloke and **SECONDED** by Cllr McCheyne to approve the recommendations in the report.

Following a discussion a vote was taken and it was **RESOLVED** that Members:

- 1. Approve the proposed charges for 2021/22 as attached in Appendices A, B, C, D and E subject to the annual budget setting process.**

**Reasons for Recommendation**

Officers review fees and charges annually and this will be used to inform the 2021/22 budget setting process.

[Cllr Fryd declared a pecuniary interest and abstained from the vote.]

**622. Application no 20/00895/FUL - Land to the rear of 131 to 135 Hatch Road, Pilgrims Hatch, Brentwood.**

The application had been referred to the Committee at the request of Councillor Aspinell for the following reason(s):

The proposal conflicts with the policies that cover highways safety and traffic levels, design, appearance and layout, conservation of buildings, trees and open land, impact on the appearance of the area, effect on the level of daylight and privacy of the existing property: My opinion and that of my ward colleagues this application is far more detrimental than previously reviewed applications on this sites.

The application related to the construction of a pair of semi-detached dwellings with associated parking. The application site forms part of the rear gardens of 131, 133 and 135 Hatch Road and is rectangular in shape. The new dwellings would face Gloucester Road; plot 1 would form a side boundary with the properties facing Hatch Road and plot 2 would form a side boundary with the rear gardens of 79 and 77 Cornwall Road. Three trees are shown within the plot, all of which are shown to be retained. Surrounding development is made up of a mix of two storey dwellings, short rows of terraces, detached and semi-detached houses.

Ms Pride, Planning Officer, summarised the report.

Statements had been received from Mr David Powell in objection to the application, Mr Vincent Debon in support of the application and Mr Jonathan Rainbird, the Applicant. These were read aloud by the Chair.

Ward Councillors Aspinell and Mrs Davies addressed the committee in objection to the application.

Cllr Mynott **MOVED** and Cllr Fryd **SECONDED** that the application be **REFUSED**. Following a debate a vote was taken and Members voted as follows:

FOR: Cllrs Chilvers, Fryd, Haigh, Keeble, Morrisey and Mynott. (6)

AGAINST: Cllrs Bridge, Cloke, Jakobsson, McCheyne, Tanner and Tierney (6)

ABSTAIN: (0)

The Chair used his casting vote and the **MOTION** was lost.

Cllr Cloke **MOVED** and Cllr McCheyne **SECONDED** that the application be **APPROVED**. Following a debate a vote was taken and Members voted as follows:

FOR: Cllrs Bridge, Cloke, Jakobsson, McCheyne, Tanner and Tierney (6)

AGAINST: Cllrs Chilvers, Fryd, Haigh, Keeble, Morrisey and Mynott. (6)

ABSTAIN: (0)

The Chair used his casting vote and application was **APPROVED** subject to the conditions:

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 MAT01 Samples (details acceptable)

No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In Order to safeguard the character and appearance of the area.

4

Prior to the commencement of the development hereby permitted details of the Method of Construction of the driveway within the Tree Protection Zone should be submitted to and approved in writing by the local planning authority. The construction of the driveway shall be constructed in accordance with the agreed details.

Reason: In order to protect trees and hedges of importance to safeguard the character and appearance of the area.

5

No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not



brought out onto the highway in the interests of highway safety and Policy T2 of the Brentwood Replacement Local Plan.

6

Prior to first occupation of the development and as shown in principle on planning drawing 2053 10 rev K, the vehicular accesses shall each be constructed at right angles to the highway boundary and to the existing carriageway. The width of each access at its junction with the highway shall be 3.6 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge. Full details to be agreed in writing with the Local Planning Authority.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with Policy T2 of the Brentwood Replacement Local Plan.

7

Any redundant part of the existing dropped kerb vehicular access to the south of the site frontage shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge, footway and kerbing immediately the new accesses are brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with Policy T2 of the Brentwood Replacement Local Plan.

8

Prior to first occupation and as shown in principle on planning drawing 2053 10 rev K, the tandem parking spaces shall be provided for each dwelling. The parking areas shall be retained in the agreed form at all times.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy T2 of the Brentwood Replacement Local Plan.

9

Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with Policy T2 of the Brentwood Replacement Local Plan.

10

The windows identified on the approved drawings as being obscure glazed shall be:- a) glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration and b) non-opening below a height of 1.7m above the floor of the room in which the window is installed. The window(s) shall be installed prior to the first occupation of the building or use of the room of which the window(s) is installed. Those windows shall remain so glazed and non-openable. (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition)

Reason: In order to prevent an unacceptable degree of overlooking of nearby residential properties.

11

Aside from those indicated on the approved drawings, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order) no dormer windows, or rooflights shall be constructed and no change shall be made to the shape of the roof without the prior grant of specific planning permission by the local planning authority.

Reason: To safeguard the living conditions of the occupiers of neighbouring dwellings and protect the character and appearance of the surrounding area.

12

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), the dwelling hereby permitted shall not be extended or enlarged in any way without the prior grant of specific planning permission by the local planning authority.

Reason: To safeguard the living conditions of the future occupiers of the dwellings.

13

Details of existing and proposed site levels and the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Construction shall be in strict accordance with the approved details.

Reason: To safeguard the character and appearance of the area and the living conditions of nearby residents.

**623. Application no 20/01419/FUL - King Georges Playing Fields, Ingrave Road, Brentwood**

Planning permission was being sought for the erection of a modular building to provide additional changing facilities for the RFC. The club are currently using changing facilities in the nearby leisure complex. However, this is not a long term practical solution and changing rooms close to the Club House and pitches would be beneficial. The building would be 2.8m high with a footprint of 142m<sup>2</sup> offering x2 large changing rooms (with space for officials) adjunct and adjacent to the existing club house, sufficient for the foreseeable future. The building would be single storey and rectangular with a simplistic design. The material pallet, would take the form of 120mm x 20mm, shiplap profile rainscreen cladding by Envirobuild – Pioneer range, with a walnut finish.

Cllr Cloke **MOVED** and Cllr McCheyne **SECONDED** that the application be **APPROVED**. Members voted as follows:

FOR: Cllrs Bridge, Chilvers, Cloke, Fryd, Haigh, Jakobsson, Keeble, McCheyne, Morrissey, Mynott, Tanner and Tierney.(12)

AGAINST: (0)

ABSTAIN: (0)

#### **624. Urgent Business**

There were no items of urgent business.

The meeting concluded at 20:06

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## Minutes

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### Licensing Sub-Committee Monday, 23rd November, 2020

#### Attendance

Cllr J Cloke  
Cllr Tanner

Cllr Tierney

#### Also Present

Cllr Mrs Davies  
Cllr McCheyne

#### Officers Present

Paul Adams	-	Principal Licensing Officer
Dave Leonard	-	Licensing Officer
Alastair Lockhart	-	Legal Adviser
Jean Sharp	-	Governance and Member Support Officer
Maria Moses	-	Licensing Officer

#### 577. Appointment of Chair

Members **RESOLVED** that Cllr Cloke should Chair the hearing.

#### 578. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter would be determined on the facts before the Sub-Committee and the rules of natural justice would apply.

#### 579. Licensing Act 2003 - Application to Review a Premises Licence - Dusk, Ongar Road, Pilgrims Hatch, Brentwood. CM15 9SS

The Sub-committee was reminded that an authorisation was required in respect of any premises where it was intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

An appropriate authorisation was either, a premises licence, a club premises certificate or a Temporary Event Notice.

Licence holders were required, when offering any licensable activity, to ensure that they promoted the licensing objectives at all times. The operating schedule of the application contained details of the activities applied for and the control measures that the applicant would have in place in order to promote these objectives. Such measures would, where appropriate, be converted into enforceable conditions on any licence issued.

The four licensing objectives were:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

Any representation must be able to demonstrate that on the balance of probability the application in its current form would fail to adequately promote one or more of the licensing objectives. No other matters might be considered.

An application had been received for a review of the premises licence in respect of ***Dusk, Ongar Road, Pilgrims Hatch, CM15 9SS***. Thirteen relevant representations had been received during the consultation period. The review related to the Licensing objective: **Prevention of Public Nuisance**.

The application for a Review of the premises licence at Dusk - a multi-cuisine, fine dining restaurant and lounge with function room - was received on 27 September 2020 from Mrs Bashir, a local resident in Ongar Road, Brentwood. Mrs. Bashir referred to noise nuisance and anti-social behaviour.

Representations were received from two Responsible Authorities - Environmental Health and The Licensing Authority of Brentwood Council regarding concerns over public noise nuisance especially in relation to the use of the outside smoking area at Dusk.

Eleven further representations had been received from six residential households and one councillor. The grievances all related to the noise nuisance being caused by the playing of late-night music in the outdoor lounge/smoking area and the noise cause by the patrons using this area. The subsequent dispersal of patrons in an otherwise quiet, semi-rural location also caused concern and contributed to the disruptive sleep patterns experienced by families.

The Licensing Officer, Ms Moses, introduced the report then Mrs Bashir addressed the Sub-committee regarding her request for the premises licence to be reviewed.

Mr Carter – Environmental Health Manager – and Mr Leonard – Licencing Officer – advised the sub-committee of their concerns in relation to noise nuisance.

Mr Billington, a local resident addressed the Sub-committee and Cllr McCheyne spoke on behalf of other local residents, both expressing concern over noise nuisance.

Ward Councillor Mrs Davies also addressed the Sub-committee expressing concern over noise nuisance and anti-social behaviour experienced by residents.

Mr Mahmood, representing the Dusk licence holders spoke in support of his clients, refuting some of the assertions regarding the sound levels and anti-social behaviour in the car park at his clients' premises.

In coming to their decision Sub-committee members considered the representations made regarding noise outbreak from the premises and also had regard to Brentwood Borough Council's own licensing statement and guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

The representations centered on the level of noise emanating from the premises outside lounge area, both music and customer noise, and the level of noise and disturbance that occurred when customers left the premises around closing time.

The Sub-committee felt that imposing conditions to curb the noise emanating from the premises was an appropriate and proportionate action in order to promote the prevention of public nuisance which on the basis of the representations Members determined was occurring.

The Sub-committee therefore decided that the following conditions would be placed on the Licence:

- That no live or recordable music to be played in the outside (lounge) area after 22:30 hrs. This should replace Condition 5 on Annex 3 already imposed on the Licence.
- That no live or recorded music shall be played in the outside (lounge) area between 12 noon and 22:30 hrs until an automatic noise limiting device has been installed and a noise limit agreed with Brentwood Borough Council's Environmental Health Team, such noise limit must not be exceeded at any time. This should replace Condition 7 of Annex 3 already imposed on the Licence.

- That a written noise management policy which was acceptable to Brentwood Borough Council Environmental Health Team be put in place and adhered to.

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# Agenda Item 4

<b>Committee:</b> Planning and Licensing Committee	<b>Date:</b> 10 February 2021
<b>Subject:</b> National Standards and Taxi Policy	<b>Wards affected:</b> All
<b>Report of:</b> Paul Adams, Licensing Manager	<b>Public</b>
<b>Report Author:</b> Paul Adams, Licensing Manager <b>Telephone:</b> 01277312500 <b>E-mail:</b> paul.adams@brentwood.gov.uk	<b>For information</b>

## Summary

The DFT have published the Statutory Taxi and Private Hire Vehicle Standards which sets out the minimum standards for licensing authorities to apply with regards to certain aspects of taxi licensing, this report considers these standards and brings together the Council's policies and procedures into one policy document, reviewing areas of our existing policy to ensure that the minimum standards are met, ready for consultation with the taxi trade and stakeholders.

## **Recommendations**

### **Members are asked to:**

- R1. Note the DFT Statutory and Private Hire Vehicle Standards.
- R2. Consider the revised policy and any changes that the Statutory Taxi and Private Hire Vehicle Standards have required.
- R3. Agree that the revised policy go out for consultation, with any consultation responses being reported back to this committee for further consideration.

## Main Report

### **Introduction and Background**

1. July 2020 the Department for Transport Published its Statutory Taxi and Private Hire Vehicle Standards which sets out the minimum standards for licensing authorities to apply with regards to certain aspects of taxi licensing, and is attached as **Appendix A**.

The main aspects of the standards are:

- Administering the licensing regime including a local licensing policy.
- Decision making including training of decision makers.

- Gathering and sharing information. Including the use of the Disclosure and Barring Service (DBS) checking process, and sharing of information with other licensing authorities
  - Fit and proper test including relevance of criminal convictions
  - Minimum requirements for driver licensing.
  - Criminality checks for vehicle licence holders
  - CCTV in vehicles
  - Criminality checks for operator licences
  - Operator record keeping requirements
2. Brentwood Borough Council has a number of policies, procedures and conditions that relate to the licensing of Hackney Carriage Vehicles and Drivers, Private Hire Vehicles, Drivers and Operators.
  3. In order to meet the recommendation that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on Taxi and Private Hire vehicle licensing. A single policy document titled Hackney Carriage and Private Hire Licensing Policy has been created, attached as **Appendix B**, which has incorporated the below existing documentation. A summary of the changes to the existing documents is also provided.
  4. **Appendix C**, Statements of Policy relating to the relevance of Convictions. This Policy has been replaced by the assessment of previous convictions provided in the standards. The motoring convictions standard has been expanded to give more definition, which is in line with the Institute of Licensing guidance on previous convictions as well as the inclusion of convictions that are relevant to taxi licensing offences.
  5. **Appendix D**, Private Hire Driver pre licensing Conditions and Hackney Carriage Bylaws. The conditions have been updated to reflect the timeframe and scope that notifications of convictions etc. need to be made to Council. The driver dress code has also been updated.
  6. The additional pre licensing requirements have been added which is in line with the standards:
    - Sign up to the DBS update service (after the initial DBS check has been completed).
    - The requirement for a Certificate of Good Conduct has been updated to be in line with the national standards.
    - Have been checked against the National Anti-Fraud Network (NAFN) database on refusals and revocations of hackney carriage and private hire licence.
    - Have met the Council's Language proficiency requirements.
    - Pass a PATS training course.
    - Undertaken the Council's CSE and safeguarding training.

7. Consideration of the method of assessment for language proficiency is still being investigated. It is proposed that people that hold a recognised qualification that has been taught in English will meet this standard. For those that do not have a qualification, they will need to participate in an assessment process via an approved assessment centre subject to local availability.
8. **Appendix E**, Private Hire Operator Conditions. These conditions have been updated to reflect the revised records that need to be kept and the requirement to check the suitability of employees against the council's suitability criteria.
9. The Private Hire Operator pre licensing requirements also now includes the requirement to provide a basic disclosure from the DBS (unless the applicant is also a licensed driver with Brentwood Council), with a fit and proper test being applied to the applicant.
10. **Appendix F**, Hackney Carriage and Private Hire Vehicle specification and licence conditions remains unchanged at this time. A full review of this section of the policy will be undertaken this year, with consideration being given around the promotion of the use of electric and hybrid vehicles.
11. The vehicle proprietor pre licensing requirements now includes the requirement to provide a basic disclosure from the DBS (unless the applicant is also a licensed driver with Brentwood Council), with a fit and proper test being applied to the applicant.
12. As part of this review interested parties will be consulted with including licence holders and their representatives, and the public.

### **Issue, Options and Analysis of Options**

13. The Council as a Licensing Authority must comply with the National Standards unless it has good reason not to do so. In order to meet the recommendation that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing the existing policies and procedures have been updated to reflect the requirements of the national standard.
14. Changes to Council policy will come into immediate effect for new licence applicants once the policy is adopted. Changes to suitability criteria around criminal convictions will also be applied with immediate effect to existing licence holders. Changes around training requirements and record keeping will be applied to existing licence holders, with a reasonable period for implementation relevant to the requirements imposed.

## **Reasons for Recommendation**

15. This policy must be consulted upon as part of the review process. If there are relevant representations made this committee will have an opportunity to consider those before adoption.

## **Consultation**

16. Consultation on the draft policy will be undertaken. All licence holders will be written to inviting them to view the draft policy, and to make any comments in writing to the Licensing Department.

17. Consultation will also be undertaken with other stakeholders such as disability access groups, safeguarding and transport professionals.

18. The draft policy will also be published on the Council's website for comments.

19. The consultation period will run for 6 weeks. Any relevant representations made will be reported to this committee to consider those before referral to Full Council for adoption

## **References to Corporate Plan**

20. There are no references to the corporate plan.

## **Implications**

### **Financial Implications**

**Name & Title: Louise Moss, Senior Accountant**

**Tel & Email louise.moss@brentwood.gov.uk**

21. There are no financial implications for Brentwood Council.

### **Legal Implications**

**Name & Title: Amanda Julian, Corporate Director of Law & Governance**

**Tel & Email: 01277 312500/amanda.jullian@brentwood.gov.uk**

22. The granting of Licences is a legal function of the authority and the introduction of the national standards by the Department of Transport must be applied to the Council's policies and procedures unless there is good reason not to do so.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

23. The revision of the policy has been required by the Department for Transport national standards. A revised Community and Equality Impact Assessment should be undertaken before the final policy is published. There are no Diversity and Equality Implications at this stage.

**Background Papers** (include their location and identify whether any are exempt or protected by copyright)

- Statutory Taxi and Private Hire Standards.
- IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades.

### **Appendices to this report**

- **Appendix A** - Department for Transport, Statutory Taxi and Private Hire Vehicle Standards.
- **Appendix B** – Draft Hackney Carriage and Private Hire Licensing Policy.
- **Appendix C** – Statements of Policy relating to the relevance of Convictions.
- **Appendix D** - Private Hire Driver pre licensing Conditions and Hackney Carriage Bylaws
- **Appendix E** – Private Hire Operator Conditions and Pre Licence Requirements.
- **Appendix F** - Hackney Carriage and Private Hire Vehicle specification and licence conditions.

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# **Hackney Carriage and Private Hire Licensing Policy**

**April 2021 – April 2026**

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## 1. Introduction

- 1.1. The overriding aim of Brentwood Borough Council when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, is the protection of the public and others who use, or can be affected by, Hackney Carriage and Private Hire services.
- 1.2. This policy brings together, into one cohesive document, all previous policy and procedures on all aspects Hackney Carriage and Private Hire Licensing in Brentwood.
- 1.3. Each case will always be considered on its merits having regards to this policy. Brentwood Borough Council will only depart from this policy where it considers appropriate to do so. This will normally happen where Brentwood Borough Council considers that there are exceptional circumstances which warrant a different decision.
- 1.4. This policy came into effect on the XXXXXXXXXX 2021 and will be reviewed every 5 years, or sooner should there be a significant issue in Borough, or reason to consider all or part of this policy.
- 1.5. This policy has been developed with regards to the Department for Transport Statutory Taxi and Private Hire Vehicle Standards and other relevant guidance. Consultation on this policy has been undertaken with both the Hackney Carriage and Private Hire trade; and with groups that are likely to be the trade's customers, such as groups representing disabled people, organisations with a wider transport interest etc. a full list of those that were consulted is attached as Appendix H.
- 1.6. This policy will come into immediate effect for new licence applicants. For existing licence holders, the suitability criteria around criminal convictions will be applied with immediate effect, along with the conditions of licences. Changes of training requirements and record keeping will be applied to existing licence holders, with a reasonable period for implementation relevant to the requirements imposed. Where this is the case the time frame given will be stated in this policy against the requirement.

## 2. Decision Making

- 2.1. The Taxi and Private Hire Vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer.
- 2.2. Brentwood Borough Council's Scheme of Delegation is attached as Appendix H
- 2.3. All Hackney Carriage and Private Hire matters under the Council Constitution are dealt with by the Council's Planning and Licensing Committee or by its Licensing Sub-Committee. The Brentwood Borough Council Constitution is published on the [Council's website](#).
- 2.4. All individuals that determine whether a licence is issued will be required to undertake sufficient training. This includes Members and Officers. This training will at least meet the minimum requirements of the DFT standards. Member training requirements and obligations are contained within the Council Constitution.

## 3. Failure to Disclose Information

- 3.1. Withholding information when submitting an application can be interpreted as deception and may lead to refusal of the application for this reason alone.
- 3.2. Failure to notify the Licensing Department of any arrest, conviction, caution or other relevant matter during the duration of the licence in accordance with a licence condition or bylaw, will also be treated as deception and may lead to refusal/revocation/suspension of a licence for this reason alone.

## 4. Complaints against licence holders

- 4.1. Complaints about licence holders will be recorded on the Council's database. All complaints will be investigated, and appropriate action taken, which may include, no further action, a written warning, referral to a licensing sub-committee for consideration, or suspension or revocation of the licence.
- 4.2. A pattern of complaints about a licence holder may be sufficient on the balance of probabilities to take more formal action than an individual complaint may warrant alone.
- 4.3. Matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to conviction may also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

## 5. Driver Licences

### 5.1. Overview

- 5.1.1. For the safety and protection of the public, any person that drives a Private Hire or Hackney Carriage Vehicle that is licensed by Brentwood Borough Council, must hold the relevant driver's licence that is also issued by Brentwood Borough Council.
- 5.1.2. For the purposes of this policy the term "driver's licence" will refer to a Hackney Carriage or Private Hire Driver's licence, or a Combined licence where the holder is entitled to drive both types of vehicles.
- 5.1.3. Drivers cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59).
- 5.1.4. In determining if a person is "fit and proper", this authority will consider the updated expression "safe and suitable" and will largely apply the test:  
  
'Would you (as a member of the licensing committee or other person charged with the ability to grant a driver's licence) 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?'
- 5.1.5. Failure to comply with any pre licensing requirement or condition of the licence may be grounds for refusal of application or revocation of the licence for that reason alone.

### 5.2. Duration of Licences

- 5.2.1. A Driver's licence will normally be issued for a three year duration.
- 5.2.2. Any shorter duration will only be issued if it is appropriate in the specific circumstances of the case, such as when the applicant has requested a one year licence or where required, which may include but is not limited to the licence holder's leave to remain in the UK is time-limited.

### 5.3. Pre-Licensing Requirements

- 5.3.1. To qualify for a driver's licence you must:
  - Be aged 21 or over.
  - Hold a full DVLA or equivalent driver's licence for at least 3 years.
  - Have the right to work in the UK.
  - Submit a fully completed application form.
  - Be subject to an Enhanced DBS check
  - Sign up to the DBS update service (after the initial DBS check has been completed).
  - If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom then criminal records information or a 'Certificate of Good Character' from overseas must also be provided.

- Have been checked against the National Anti-Fraud Network (NAFN) database on refusals and revocations of Hackney Carriage and Private Hire licence.
- Have met the Council's Medical Fitness Criteria which is in line with the DVLA Group 2 standard.
- Have met the Council's Safeguarding and Child Sexual Exploitation Awareness Training criteria.
- Have passed the Council's Knowledge Test.
- Have met the Council's approved disability awareness training requirements.
- Have met the Council's Language proficiency requirements.
- Have paid the licence fee (please see current fees list).

#### 5.4. Disclosure and Barring Service (DBS) Check

- 5.4.1. An enhanced DBS check must include a check of the children and adult barred Lists (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2).
- 5.4.2. Licence holders should maintain their DBS Certificate through the DBS Update service continuously through the duration of their licence, failure to do so is likely to lead to the immediate suspension of the licence.
- 5.4.3. Existing licence holders will need to undertake a new enhanced DBS check and maintain their DBS Certificate within 6 months from the implementation of this policy, or at the next renewal of their licence if that is sooner.

#### 5.5. Assessment of Previous Convictions

- 5.5.1. The criteria for determining whether an individual should be granted or retain a Hackney Carriage driver's licence are identical to the criteria for a Private Hire driver's licence, the two are considered together.
- 5.5.2. Appendix A sets out the council's criteria for assessing previous convictions for all driver applications and licence holders.

## 5.6. Previous Refusals and Revocations of Hackney Carriage and Private Hire Licences

- 5.6.1. A check of the National Anti-Fraud Network (NAFN) database on refusals and revocations of Hackney Carriage and Private Hire licence (NR3 database) will be made for every licence application.
- 5.6.2. The applicant will also be required to disclose if they hold or have previously held a licence with another authority, and if they have had an application for a licence refused, revoked or suspended by any other licensing authority.
- 5.6.3. Where an applicant has a previous refusal, suspension or revocation by another authority, contact will be made with the relevant licensing authority to seek further information. If information is disclosed, this information will be taken into account in determining the applicant's fitness to be licensed.
- 5.6.4. Brentwood Borough Council's policy on how we use the NR3 Database can be found at Appendix F

## 5.7. Medical Fitness Criteria

- 5.7.1. Up to the age of 70 years, drivers will be required to undergo a medical examination to DVLA Group 2 standards as to their fitness to drive, every three years, or any lesser period that the examining doctor may decide.
- 5.7.2. Those drivers suffering from known and notified medical disorders and those over 70 years of age, will be required to undergo a medical examination to Group 2 standards annually, or any lesser period that the examining doctor may decide.
- 5.7.3. All medical examinations will be at the expense of the individual driver. The Council reserves the right in accordance with the Local Government (Miscellaneous Provisions) Act 1976 to require an applicant or driver to undertake an independent medical examination to DVLA Group 2 standards at such clinic or hospital as the Council may direct.
- 5.7.4. All medical examinations must be undertaken at one of the Council's agreed medical examination providers as in Appendix B.

## 5.8. Safeguarding and Child Sexual Exploitation Awareness Training

- 5.8.1. All new applicants must have undergone the Council's approved Safeguarding and Child Sexual Exploitation Awareness Training before a licence is granted.
- 5.8.2. Licence holders must undertake the Council's approved refresher training where required every 3 years.
- 5.8.3. The Council's approved Safeguarding and Child Sexual Exploitation Awareness Training courses and providers are detailed in Appendix C.

## 5.9. Disability Awareness Training

- 5.9.1. All new applicants must have undergone the Council's approved Disability Awareness Training before a licence is granted.
- 5.9.2. Licence holders must undertake the Council's approved refresher training where required every 3 years.
- 5.9.3. The Council's approved Disability Awareness Training courses and providers are detailed in Appendix D.
- 5.9.4. The cost of this training is not included in the licence fee and must be paid by the applicant or licence holder direct to the training provider.

#### 5.10. Language Proficiency Requirements

- 5.10.1. All new applicants must undertake the Council's language proficiency assessment before a licence will be granted. This assessment will cover both oral and written English language skills.
- 5.10.2. Existing licence holders will need to undertake this assessment within 12 months from the implementation of this policy, or at the next renewal of the licence if that is sooner.
- 5.10.3. The Council's approved language proficiency assessment process and providers are detailed in Appendix E.
- 5.10.4. The cost of this training is not included in the licence fee and must be paid by the applicant or licence holder direct to the training provider.

#### 5.11. Knowledge Test

- 5.11.1. The Council's Knowledge Test is an electronic test that covers different sections as set out in Appendix G.
- 5.11.2. An application fee allows a maximum of 2 attempts at the knowledge test.
- 5.11.3. There is a fee for additional tests that must be paid for before the test is taken.
- 5.11.4. If you are not successful on a particular test, you will only be expected to answer questions on the sections you did not previously pass.

#### 5.12. Conditions

- 5.12.1. The non-compliance with a licence condition may lead to revocation or suspension of a licence for this reason alone.

### 5.13. Private Hire Driver Conditions

- 5.13.1. A licence holder, on changing his address, shall notify the Council of such change within seven days by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk)
- 5.13.2. Any of the following events in respect of licence holder must be reported by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk) within 48 hours giving full details:
- a) Any charge or conviction
  - b) Any caution (issued by the Police or any other agency)
  - c) An arrest and release for any offence (whether or not charged)
  - d) Issue of any fixed penalty notice for any matter;
  - e) Any harassment or other form of warning or order within the criminal law, including Anti-Social Behaviour Orders or similar.
  - f) Following any conviction or the issue of a fixed penalty notice which results in penalty points being endorsed on the licence holder's DVLA licence.
- 5.13.3. A driver shall at all times when working, wear their badge on their person so that it is clearly visible.
- 5.13.4. No person shall, being the driver of a Private Hire Vehicle, without reasonable excuse:
- a) Refuse to attend the needs of, or refuse assistance to any person with a disability, whether or not they are the user of a wheelchair.
  - b) Refuse to permit the carriage of a dog used as a guide dog for a blind or partially sighted person, a hearing dog for those otherwise impaired, or an assistance dog.
  - c) No person shall, being the driver of a Private Hire Vehicle, charge for carrying a guide dog, hearing dog or assistance dog, or for the carriage of a wheelchair.
- 5.13.5. A driver shall not refuse to carry fewer persons than the number marked on the plate.
- 5.13.6. If a driver carries a hirer to a certain place and the hirer asks the driver to wait, the driver may ask for his fare for driving there and ask also for a deposit against the waiting time. After accepting such a deposit, the driver shall not drive away without the consent of the hirer.
- 5.13.7. The driver of a Private Hire Vehicle who shall have agreed or shall have been hired to be in attendance with the vehicle at an appointed time and place shall:
- a) Unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at the appointed time and place.
  - b) When picking up the hirer, make his presence known in person and shall not attract the hirer's attention by sounding their horn, shouting or making any other disturbing noise.
- 5.13.8. A driver shall:
- a) Convey a reasonable quantity of luggage;
  - b) Afford reasonable assistance in loading and unloading such luggage.

5.13.9. If the Private Hire Vehicle is fitted with a meter, the driver shall, at the commencement of the journey, activate the meter so that the word “HIRED” is clearly visible and shall keep the meter operating until the termination of the hiring. “Commencement of the journey” means:

- a) When the hirer enters the vehicle;
- b) When the driver has attended at an appointed place and has made their presence known to the hirer.
- c) When the driver has presented themselves at an appointed place at a specified time.

5.13.10. The driver of a Private Hire Vehicle shall at all times when the vehicle is hired:

- a) Take all reasonable precautions to ensure the safety of persons travelling in, entering or alighting from their vehicle;
- b) Be clean, respectable, of smart appearance and act with civility towards all persons and shall comply with the reasonable requirements of the hirer(s).

5.13.11. The driver of a Private Hire Vehicle, when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

5.13.12. Once a Private Hire Vehicle has been hired, a driver shall not carry anyone else during that hire, without the explicit consent of the first hirer.

5.13.13. The driver shall not demand from any hirer of a Private Hire Vehicle a fare greater than that agreed with the Operator or, if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter.

5.13.14. The driver of a Private Hire Vehicle shall, immediately after the termination of the hiring, search the vehicle for any property, which may have been accidentally left therein. On finding any property left in his vehicle, a driver shall carry it as soon as possible and in any case within 72 hours, to the Town Hall, Ingrave Road, Brentwood, CM158AY, and deposit it there.

#### 5.14. [Hackney Carriage Bylaws](#)

5.14.1. For the purpose of this consultation there are no changes proposed to the Hackney Carriage Bylaws. The existing documents will be added to this policy document for completeness.



## 6. Private Hire Operator Policy and Conditions

### 6.1. Overview

- 6.1.1. For the safety and protection of the public, Private Hire Operators within Brentwood must have a licence issued by Brentwood Borough Council. The licence permits you to accept bookings for Private Hire work.
- 6.1.2. If you intend to take bookings from an operating base situated outside Brentwood, you must apply for an Operator's licence from the appropriate local council.
- 6.1.3. The objective in licensing Private Hire Vehicle Operators is to protect the public, who may be using Operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a Private Hire Vehicle Operator licence also pose no threat to the public and have no links to serious criminal activity. Although Private Hire Vehicle Operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.
- 6.1.4. Private Hire Vehicle Operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.
- 6.1.5. Failure to comply with any condition of the licence may be grounds for revocation of the licence for that reason alone.

## 6.2. Duration of Licences

- 6.2.1. An Operator licence will normally be issued for a five year duration.
- 6.2.2. Any shorter duration will only be issued if it is appropriate in the specific circumstances of the case, when the licensee has request it or where required, which may include but is not limited to the licence holder's leave to remain in the UK is time-limited.

## 6.3. Suitability of applicant/licence holder

- 6.3.1. A Private Hire Vehicle Operator licence may be applied for by a company or partnership; the 'fit and proper' test will be applied to each of the directors or partners in that company or partnership.
- 6.3.2. The Council will consider whether an applicant or licence holder with a conviction for offences provided in Appendix A, other than those relating to driving, meet the 'fit and proper' threshold.
- 6.3.3. Refusal to licence an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a Private Hire Vehicle Operator licence; this decision will be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## 6.4. Pre Licensing Requirements

- 6.4.1. To apply for a Private Hire Operator licence you need to submit the following:
  - A completed application form
  - Have the right to work in the UK.
  - A basic disclosure from the DBS (unless the applicant is also a licensed driver with Brentwood Borough Council)
  - If any applicant has, from the age of 10 years, has spent six continuous months or more living outside the United Kingdom then criminal records information or a 'Certificate of Good Character' from overseas must also be provided.
  - The fee (please see current fees list)

## 6.5. Conditions

- 6.5.1. Existing licence holders will need to be compliant with all the below condition within 6 months from the implementation of this policy, or at the next renewal of the licence if that is sooner.
- 6.5.2. **General Conditions**
  - 6.5.2.1. The licence holder must not permit the display of the word "Taxi", "Cab" or "Hackney Carriage" on any Private Hire Vehicles operated by them.

6.5.2.2. The Licence holder must notify in writing any change of address of the licence holder or the address of the operating centre by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk) immediately within 48hrs of the change.

### 6.5.3. [Criminality Checks/reporting Convictions and Other Relevant Matters](#)

6.5.3.1. The licence holder must complete a basic disclosure from the DBS annually (unless the licence holder is also a licensed driver with Brentwood Borough Council - Should the individual cease to hold a driver licence a basic certificate will be required immediately)

6.5.3.2. Any of the following events in respect of licence holder, director or partner must be reported by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk) within 48 hours giving full details:

- Any conviction (criminal or driving matter)
- Any caution (issued by the Police or any other agency)
- Issue of any Magistrate's Court summons against them
- Issue of any fixed penalty notice for any matter;
- Any harassment or other form of warning or order within the criminal law, including Anti-Social Behaviour Orders or similar
- Their arrest for any offence (whether or not charged)

### 6.6. [Booking and Dispatch Staff](#)

6.6.1. An up-to-date register of all staff that take bookings or dispatch vehicles must be kept. This record shall be produced on request to any Authorised Officer of the Council or to any Constable for inspection.

6.6.2. When being added to the register, all individuals must have provided a recently issued (within 3 months) Basic DBS. This should be compatible with the Operator's policy on employing ex-offenders. Alternatively the Operator could use a 'responsible organisation' to request the check on their behalf.

6.6.3. A record that the Operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.

6.6.4. Individuals that take bookings and/or dispatch vehicles for an Operator must be required, as part of their employment contract, to advise the Operator of any convictions while they are employed in this role.

6.6.5. The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records.

6.6.6. Operators may outsource booking and dispatch functions, however Operators have an obligation to protect children and vulnerable adults and they must evidence that comparable protections are applied by the company to which they outsource these functions.

6.6.7. Operators or applicants for a licence must provide to the Licensing Authority, their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a Private Hire Vehicle Operator's licence, those with a conviction for offences provided in the annex to this document (Appendix A – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

## 6.7. Record Keeping

6.7.1. Operators must record the following information for each booking:

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

6.7.2. Records must be retained for a minimum of twelve months

## 6.8. Use of passenger carrying vehicles (PCV) licensed drivers

6.8.1. A Driver who holds a PCV licence and the use of a Public Service Vehicle (PSV) such as a minibus to undertake a Private Hire Vehicle booking is not permitted without the informed consent of the booker. Where a Private Hire Vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

# 7. Vehicle Licences

## 7.1. Overview

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

## 7.2. Duration of Licences

7.2.1. A Vehicle licence will only be issued for a one year duration.

### 7.3. Suitability of the Applicant/Licence Holder

7.3.1. Private Hire Vehicle licence may be applied for by a company or partnership; the 'fit and proper' test will be applied to each of the directors or partners in that company or partnership.

7.3.2. The Council will consider whether an applicant or licence holder with a conviction for offences provided in Appendix A, other than those relating to driving, meet the 'fit and proper' threshold.

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

### 7.4. Pre Licensing Requirements

7.4.1. To apply for a Vehicle licence you need to submit the following:

- A completed application form
- A basic disclosure from the DBS (unless the applicant is also a licensed driver with Brentwood Borough Council)
- If any applicant has, from the age of 10 years, has spent six continuous months or more living outside the United Kingdom then criminal records information or a 'Certificate of Good Character' from overseas must also be provided.
- The fee (please see current fees list)
- The original V5C vehicle registration certificate (log book), which must be in the applicants name and current address
- The bill of sale
- A MOT and compliance check
- A valid insurance certificate
- The old licence plate and window card (if renewing the licence)

7.4.2. Existing licence holders will need to comply with the above basic disclosure requirement within 6 months from the implementation of this policy, or at the next renewal of the licence if that is sooner.

### 7.5. Vehicle specification and conditions including CCTV.

7.5.1. For the purpose of this consultation there are no changes proposed to the existing vehicle specification or conditions. These will be subject to review later this year. The existing documents will be added to this policy document for completeness.



## Appendix A – Assessment of Previous Convictions

1. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
2. Matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" may also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
3. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
4. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases.

1. Crimes resulting in death.

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

2. Exploitation.

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

3. Offences involving violence against the person.

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

4. Possession of a weapon.

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

5. Sexual offences.

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

6. Dishonesty.

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

7. Drugs.

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

8. Discrimination.

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

9. Motoring convictions.

Hackney Carriage and Private Hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.



A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

10. Drink driving/driving under the influence of drugs.

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

11. Using a hand-held device whilst driving.

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

12. Hackney Carriage and Private Hire offences.

Where an applicant has a conviction for an offence concerned with or connected to Hackney Carriage or Private Hire (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

13. Vehicle use offences.

Where an applicant has a conviction for any offence which involved the use of a vehicle (including Hackney Carriages and Private Hire Vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## Appendix B- Agreed Medical Examination Providers

The following medical providers are approved by the Council to undertake a medical examination to the group 2 standards for licence holders and applicants.

- The GP surgery at which the applicant /licence holder is registered.
- Cotswolds Medicals
- D4 Medicals
- Where any of the above options are not available, any medical provider with the written consent of the Council's Licensing Manager.

## Appendix C - Approved Safeguarding and Child Sexual Exploitation Awareness Training

The following courses and providers are approved by the Council to satisfy the licensing requirements for the Safeguarding and Child Sexual Exploitation Awareness Training licence holders and applicants.

- Blue Lamp Trust – Taxi Safeguarding elearning.

## Appendix D - Approved Disability Awareness Training courses and providers

The following courses and providers are approved by the Council to satisfy the licensing requirements for the Disability Awareness Training.

- Passenger Assistant Training Scheme (PATS) - The Community Transport Association (CTA) published a list of PATS Training Suppliers, which you can download from the [CTA: Passenger Assistant Training suppliers by county](#) web page.

## Appendix E– Approved Language Proficiency Assessment providers

The following providers are approved by the Council to satisfy the licensing requirements for assessment of language proficiency.

- To be agreed.
- <https://tfl.gov.uk/info-for/taxis-and-private-hire/english-language-requirement>

## Appendix F - Policy on the NR3 Database

Policy to be inserted.

## Appendix G - Knowledge Test

The Knowledge test is a multiple choice electronic test that is split into 6 sections, and consists of 55 questions lasting for a maximum of 50 minutes.

	Topic	Description	Pass mark
1	<b>Highway code</b> 10 questions	Questions relate to things like speed limits, stopping distances, pedestrian crossings, parking and are similar to questions asked on the DVLA theory test.	10
2	<b>Road signs</b> 5 questions	Road signs that you need to recognise.	5
3	<b>Places of interest</b> 10 questions	Landmarks such as pubs, clubs, restaurants, schools, churches, and public buildings you need to be aware of.	9
4	<b>Routes</b> 15 questions for Hackney Carriage drivers only	You'll be expected to select the shortest route between 2 places in the borough. It'll be assumed that there are no roadworks, blockages or anything to stop you going by the direct route. You should note things like roundabouts, no entry signs and one-way streets when giving your answer.	13
5	<b>Conditions and law</b> 10 questions	Conditions relate to both Hackney Carriages and Private Hire Vehicles and drivers.	10
6	<b>Numeracy</b> 5 questions	Questions relate to the cost of fares and the change you must give the customer.	5

## Appendix H – Scheme of Delegation

- To be added.

## Appendix J – List of Consultees for this policy

- Hackney Carriage Licence Holders
- Private Hire Licence Holders
- Taxi Trade Consultative Group - TTCG
- To be added to.

## Appendix K - Useful Documents

- [Statutory Taxi and Private Hire Standards](#) – July 2020
- [Taxi and Private Hire Vehicle Licensing Best Practice Guidance](#) – March 2010
- [IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#) – April 2018
- [Licensing authority guide to right to work checks](#) – 23 January 2018
- [Overseas Criminal Record Checks Guidance](#) – December 2020
- [Assessing fitness to drive – a guide for medical professionals](#) – February 2020
- [Access for wheelchair users to Taxis and Private Hire Vehicles – Statutory Guidance](#) – February 2017
- [Taxis and Private Hire Vehicles Carrying Disabled Passengers – Advice for Licensing Authorities](#) – 15 September 2010
- [Taxis and Private Hire Vehicles Carrying Disabled Passengers – Advice for Drivers and Operators](#) – 15 September 2010
- [DPTAC \(Disabled Persons Transport Advisory Committee\) position on taxis and PHV](#) – August 2020
- [Government Response to report of the task and finish group on taxi and private hire vehicle licensing.](#) – February 2019
- [Guidance for Operators of stretch limousines](#) – March 2011
- [Coronavirus \(COVID-19\): taxis and PHVs](#) -12 January 2021
- [Licensing motorcycles and private hire vehicles](#) – July 2012
- [Private Hire Vehicle Licensing guidance note](#) – August 2011
- [Councillor Handbook: Taxi and PHV Licensing](#) – November 2017
- [Developing an approach to mandatory CCTV in taxis and PHVs](#) – January 2019



# Statutory Taxi & Private Hire Vehicle Standards

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# 1. Introduction

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



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

## Terminology

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

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

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

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

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

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

### 3. Administering the Licensing Regime

#### Licensing policies

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

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

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

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

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

## Duration of licences

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

## Whistleblowing

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

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

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

### Consultation at the local level

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

### Changing licensing policy and requirements

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

## 4. Gathering and Sharing Information

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

### The Disclosure and Barring Service

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



## The Disclosure and Barring Service Update Service

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

### Common Law Police Disclosure

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

### Licensee self-reporting

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

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

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

### Referrals to the Disclosure and Barring Service and the Police

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

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

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

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

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

## Working with the Police

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

## Sharing licensing information with other licensing authorities

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

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

### **Multi-agency Safeguarding Hub (MASH)**

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

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

### Complaints against licensees

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

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

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

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

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

### Overseas convictions

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

## 5. Decision Making

### Administration of the licensing framework

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

### Training decision makers

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

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

### The regulatory structure

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

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

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

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

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

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



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

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

### Fit and proper test

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

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

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

### Criminal convictions and rehabilitation

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

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

## 6. Driver Licensing

### Criminality checks for drivers

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

### Safeguarding awareness

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

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

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

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

### **‘County lines’ exploitation**

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

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

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

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

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

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

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

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

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

### Language proficiency

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

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

## 7. Vehicle Licensing

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

### Criminality checks for vehicle proprietors

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

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

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

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

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

### **In-vehicle visual and audio recording – CCTV**

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

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

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

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

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

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

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

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

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

### **Stretched Limousines**

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



## 8. Private Hire Vehicle Operator Licensing

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

### Criminality checks for private hire vehicle operators

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

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

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

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

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

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

### Booking and dispatch staff

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

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

## Record keeping

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

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

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

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

## Use of passenger carrying vehicles (PCV) licensed drivers

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

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

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

## 9. Enforcing the Licensing Regime

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

### Joint authorisation of enforcement officers

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

### Setting expectations and monitoring

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

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

### Suspension and revocation of driver licences

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

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

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

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

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

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

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

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

## Annex – Assessment of Previous Convictions

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

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

### Crimes resulting in death

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

### Exploitation

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

### Offences involving violence against the person

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

### Possession of a weapon

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

### Sexual offences

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

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

### Dishonesty

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

## Drugs

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

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

## Discrimination

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

## Motoring convictions

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

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

## Drink driving/driving under the influence of drugs

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

## Using a hand-held device whilst driving

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



## Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions <sup>1</sup>	Yes	Yes	Yes	Yes
Spent convictions <sup>2</sup>	No	Yes	Yes	Yes
Spent cautions <sup>1 &amp; 2</sup>	No	Yes	Yes	Yes
Additional police Information <sup>3</sup>	No	No	Yes	Yes
Barred list(s) Information <sup>4</sup>	No	No	No	Yes

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

## Annex – CCTV Guidance

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

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

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

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

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

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

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

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

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

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

## Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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

## **BRENTWOOD BOROUGH COUNCIL**

### **LICENSING OF HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE DRIVERS**

#### **POLICY STATEMENT REGARDING THE RELEVANCE OF CONVICTIONS**

1. The fact that a person has a criminal record does not necessarily mean that he or she is unfit to hold a Combined Hackney Carriage & Private Hire Vehicle Driver's Licence. A balanced judgement concerning an applicant's fitness and propriety will be made, taking into account only those offences which are considered relevant to the applicant's suitability.

2. In deciding the relevance of convictions, offences committed many years in the past will have less relevance. Similarly, a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. The importance of rehabilitation will be weighed against the need to protect the public.

3. To ensure consistent and fair treatment as to whether a criminal or motoring conviction renders an applicant unsuitable, the following guidelines will be applied:

(a) Each case will be decided on its own merits.

(b) An applicant with a current conviction for crime need not be permanently barred from obtaining a licence but should expect to remain free from conviction for three to five years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration must be the protection of the public.

(c) The following examples afford a general guide on the action to be taken in respect of convictions.

(i) Violence

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least three years free of such convictions should be shown before an application is entertained and, even then, a strict warning should be administered.

(ii) Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. For these reasons, a serious view should be taken of any conviction involving dishonesty. In general, a period of three to five years free of conviction should be required before entertaining an application.

### (iii) Indecency Offences

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning or any of the more serious sexual offences should be refused until they can show a substantial period (at least three to five years) free of such offences. More than one conviction of this kind should preclude consideration for at least five years. In either case, if a licence is granted, a strict warning as to future conduct should be issued.

### (iv) Drugs

An applicant with a conviction for a drug-related offence should be required to show a period of at least three years free of convictions before an application is entertained or five years after detoxification treatment if he/she was an addict.

### (v) Drunkenness

#### With a Motor Vehicle

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least three years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant has an alcohol dependency, a special medical examination should be arranged before the application is entertained. If the applicant is found to have an alcohol dependency, a period of at least five years should elapse after successful completion of a course of rehabilitation treatment before a further licence application is considered.

#### Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above).

In some cases, a warning may be sufficient.

#### (vi) Major Traffic Offence

An isolated conviction for reckless driving or driving without due care and attention, etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers.

More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of one to three years free from convictions has elapsed.

#### (vii) Minor Traffic Offences

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding, etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence, then a hackney carriage or private hire vehicle driver's licence may be granted after its restoration but a warning should be issued as to future conduct.

With regard to the accruing of nine points by drivers who already hold such a licence from the Council, bearing in mind the number of miles they drive, it is expected that they might be more likely than the average motorist to get convictions for minor speeding offences. A formal written warning will normally be issued by the Head of Environmental Health & Public Protection Services,

provided that the total of nine penalty points was reached in increments of no more than three and in periods longer than two years.

(d) Where the applicant does not meet the criteria set out in the Council's Combined Hackney Carriage & Private Hire Vehicle Driver's Licence Pre-Licensing Conditions, applications will be considered by the Licensing/Appeals Committee and the Committee will have regard to the set criteria.



**SITE PLAN ATTACHED**

**13 WARLEYWOODS CRESCENT WARLEY BRENTWOOD ESSEX CM14 5JD**

**PROPOSED DROPPED KERB/CROSS OVER TO PROVIDE VEHICULAR ACCESS FROM CRESCENT ROAD**

**APPLICATION NO: 20/01608/HHA**

<b>WARD</b>	Brentwood West	<b>8/13 WEEK DATE</b>	4 January 2021
<b>PARISH</b>		<b>POLICIES</b>	CP1, T2,
<b>CASE OFFICER</b>	Mr Max Gibson		01277 312500
<b>Drawing no(s) relevant to this decision:</b>	04/A; 01/B;		

**The application has been referred to the Committee at the request of Councillor Cloke for the following reason(s):**

The application would set a dangerous precedent resulting in the destruction of communal green space/ grass verge and change the character in the area

Illegal widening of path in front of property has been undertaken.

## **1. Proposal**

This application relates to the construction of a dropped kerb and cross over to provide vehicular access from Crescent Road to 13 Warleywoods Crescent. It should be noted the land outlined in red on plan 04/A has been marked as within the ownership of the applicant, as confirmed by the planning agent in email correspondence. The land outside of the ownership of the applicant, outlined in blue, is in the ownership of Brentwood Borough Council (the grass verge) and Essex Country Council (the pavement and kerb).

Furthermore, amended plans (04/A and 01/B) were submitted to illustrate the ownership of land as claimed by the applicant.

## **2. Policy Context**

Brentwood Replacement Local Plan 2005

Policy CP1 General Development Criteria

Policy T2 New Development & Highway Considerations

Emerging Local Development Plan (LDP) to 2033:

The Brentwood Replacement Local Plan 2005 remains the Development Plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF). Due weight should be given to them, according to their degree of consistency with the NPPF - the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.

The emerging Local Development Plan went through Pre-Submission (Publication Draft) Stage (Regulation 19) consultation early in 2019 with a further focused consultation, following revisions to the detailed wording of some of the proposed housing allocations, later in the year. The plan was submitted to the Planning Inspectorate in February 2020. The Examination in Public opened in December 2020, concentrating on strategic matters, with other hearings due in February 2021, as set out in draft timetabling by the Secretary of State. Provided the Inspector finds the plan to be sound, it is projected that it could be adopted by the Council later in 2021.

As the emerging plan advances and objections become resolved, more weight can be applied to the policies within it. At this stage there are outstanding objections to be resolved, nevertheless, the Plan provides a good indication of the direction of travel in terms of aspirations for growth in the Borough and where development is likely to come forward through draft housing and employment allocations. While submission of the Local Plan is a further step in progress towards adoption, as the plan has yet to be inspected through an Examination in Public it is still considered that it currently has limited weight in the decision making process.

National Policy

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

## **3. Relevant History**

Not applicable.

#### 4. Neighbour Responses

One neighbour objection was received summarised below:

Whether this permission would allow similar proposals along Warleywoods Crescent, will the driveway form part of the land ownership of No. 13, loss of local parking provision.

#### 5. Consultation Responses

- **Great Warley Conservation Society:**

No comment received.

- **Highway Authority:**

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal includes a new vehicle crossover to provide access to an area within the applicant's curtilage for off-street parking, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres and shall be retained at that width to the site boundary. The access shall be provided with an appropriate dropped kerb vehicular crossing of the footway/verge and Brentwood Borough Council land.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

o If planning permission is granted, the proposed dropped kerb will be installed adjacent to an area of carriageway that has a Traffic Regulation Order to enable a

resident permit parking scheme. The parking bay is identified by markings on the carriageway.

The applicant should be made aware that a motorist will be able to park in the parking bay legally. You can apply to remove a relevant part of the parking bay under our Traffic Regulation Order process, which will require an additional fee and costs to complete the removal works. However, as this procedure goes through a consultation process there is no guarantee the parking bay can be removed.

- The new driveway and dropped kerb will cross land owned by the Council. The applicant will require the grant of an access licence to cross the Council's land once all necessary consents and planning permission have been obtained.

- The applicant should be made aware of the potential relocation of the utility apparatus in the highway; any relocation shall be fully at the applicant's expense.

- Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway.

- All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

- The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

- SMO3 - Essex Highways, Childerditch Highways Depot, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD

## **6. Summary of Issues**

Planning permission is sought for a dropped kerb and cross over at 13 Warleywoods Crescent, Warley.

### **Design, character and appearance**

The proposal would include hardstanding of part of the grass verge in front of the application dwelling to join Crescent Drive. It is noted that there is a mirror access at the adjacent dwelling No. 12. The proposal would retain a strip of grass between the tarmac used for access at No. 12 as well as to the other side, the crossover has been reduced in width to 2.5 metres to minimise the impact of the crossing on visual amenity and is also adjacent to an existing access on the grass verge which is limited in depth compared to the dwellings to the East. Due to these factors, it is considered that the proposal would have an acceptable impact on visual amenity and therefore complies with policy CP1 (i) and (iii) of the Brentwood Replacement Local Plan (BRLP) and the NPPF.

### **Highway considerations**

The proposed dropped kerb would extend to a maximum width of 3.6 metres with a 2.5-metre-wide crossover. The Highway Authority have raised no objections, subject to conditions, however, have noted that the new access would emerge onto a road

governed by a Traffic Regulation Order, where parking is allowed within the terms of a resident permit parking scheme.

A separate application to the Highway Authority through the Traffic Regulation Order would be required to remove this parking bay and prevent other permit holders from parking across the entrance to the crossover. The applicant could apply for that parking permit bay to be removed. If permission were granted by the Highway Authority to remove the on-street parking bay this would be mitigated by the additional off street parking spaces provided on the driveway of No.13.

The proposal therefore complies with policies CP1 (iv) and T2 of the BRLP.

### **Other matters**

With regards to comments raised in the neighbour representation, granting of a permission does not transfer ownership of the land over which the crossover would be constructed into the ownership of the applicant. As outlined in the informative an additional license will be required for access to be obtained from the Council, as would be the case for surrounding residents.

### **Conclusion**

As outlined above, the proposal is not considered to result in unacceptable harm to the character of the surrounding area. In planning case law 'precedent' is not a material consideration to be given weight, as each application is assessed on its own merits.

Regarding the ownership of land, the application confirms that the relevant landowners have been notified of the scheme, thus validating the application.

The proposal is therefore considered to comply with policies CP1 and T2 of the BRLP and the NPPF and as such is recommended for approval.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

### **1 TIM01 Standard Time - Full**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### **2 DRA01A Development in accordance with drawings**

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 U37791

The material used to hard surface the existing grass verge shall match that of the adjacent hard surface.

Reason: In order to safeguard the character and appearance of the area.

4 U37792

The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres and shall be retained at that width to the site boundary. The access shall be provided with an appropriate dropped kerb vehicular crossing of the footway/verge and Brentwood Borough Council land.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy T2 of the BRLP.

5 U37793

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy T2 of the BRLP

Informative(s)

1 INF02

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below. The Council has had regard to the concerns expressed by residents but the matters raised are not sufficient to justify the refusal of permission.

2 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

3 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, T2, National Planning Policy Framework (NPPF) 2019 and NPPG 2014.

#### 4 INF22

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### 5 INF15

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO3 - Essex Highways, Childerditch Highways Depot, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD

#### 6 U07406

The applicant should be aware that the proposed dropped kerb will be installed adjacent to an area of carriageway that has a Traffic Regulation Order to enable a resident permit parking scheme. The parking bay is identified by markings on the carriageway. A motorist will be able to park in the parking bay legally. You can apply to remove a relevant part of the parking bay under our Traffic Regulation Order process, which will require an additional fee and costs to complete the removal works. However, as this procedure goes through a consultation process there is no guarantee the parking bay can be removed.

#### 7 U07407

The new driveway and dropped kerb will cross land owned by the Council. The applicant will require the grant of an access licence to cross the Council's land once all necessary consents and planning permission have been obtained.

#### 8 U07408

The applicant should be made aware of the potential relocation of the utility apparatus in the highway; any relocation shall be fully at the applicant's expense.

#### 9 U07409

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway.

### *BACKGROUND DOCUMENTS*

### **DECIDED:**

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# Appendix A



Title : 13 Warleywoods Crescent, Warley, Brentwood, Essex, CM14 5JD

20/01608/HHA

Scale at A4 : 1:1250

Date : 10th February 2021

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel.: (01277) 312500



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<b>Committee:</b> Planning and Licensing Committee	<b>Date:</b> 10 February 2021
<b>Subject:</b> Planning Appeals Update (November 2020 – January 2021)	<b>Wards affected:</b> All
<b>Report of:</b> Phil Drane, Corporate Director (Planning and Economy)	<b>Public</b>
<b>Report Author:</b> Mike Ovenden, Associate Consultant Planner, <a href="mailto:mike.ovenden@brentwood.gov.uk">mike.ovenden@brentwood.gov.uk</a>	<b>For information</b>

## Summary

This report provides Members with information regarding recent planning appeal decisions.

## Main Report

### **Introduction and Background**

1. This report advises the Committee of decisions that have been received in respect of planning appeals determined since November 2020. The intention is to provide this report at every other committee, alternating with an enforcement overview report. It provides a summary of the main issues and comments made by inspectors, which can be useful when making decisions on current and future planning applications.
2. It can be seen from the summaries that different inspectors reached different views on similar matters, for example the degree of consistency between the 2005 local plan and the National Planning Policy Framework (NPPF). Although not indicated in the summaries below inspectors have an inconsistent approach to the planning conditions they are willing to impose, for example requiring provision of a travel information pack often requested by highways and also on the removal of specified permitted development rights.
3. The committee is aware that a local planning authority's record at defending appeals is the Ministry of Housing, Communities and Local Government (MHCLG) chosen measure taken to assess the quality of its decision making. This is broken down into Majors (M) and Non Majors (NM) with a maximum allowable 'loss rate' of ten percent of the total number of applications of that type determined. The measure is challenging for Majors due to the low number of such applications the authority determined, in contrast to the measure for non Majors where the authority receives a large number of non major applications. The summary below identifies the type of appeal in each case. Two cases listed in this report were determined by committee, both were refused contrary to recommendation, and these are marked with a (C).
4. The application documents and the appeal decisions are available to view on the Council's website at [www.brentwood.gov.uk/planning](http://www.brentwood.gov.uk/planning) and via Public Access.

## Appeal Decisions

5. The following appeal decisions have been received since the start of November 2020.

<b>Application No:</b>	<b>19/01574/FUL</b>	<b>NM</b>
Location:	197 Roman Road Mountnessing Brentwood	
Proposal:	Demolition of conservatory and removal of roof and construction of ground and first floor rear extension with new roof and reconfiguration of internal layout with material change to elevations	
Appeal Decision:	Appeal Dismissed	06.11.2020

6. The Inspector identified one main issue: the effect of the proposed first floor rear extension on the living conditions of occupiers at 8 and 9 Church Crescent with respect to overlooking and privacy. This reflected the Council's reason for refusing the application.
7. The distance between the first floor rear windows of the extended dwelling and those of the dwellings to the rear would be significantly below the 35m window-window distance required in the Brentwood Local Plan 2005 (Appendix 1), the effect made worse by difference in levels. The appellant referred to lesser standards in the updated Essex Design Guide, though the Inspector considered it acceptable for local planning authorities to set their own standards, and a different approach in the Council's emerging Local Development Plan (LDP). At this point the Inspector considered the LDP to have limited weight.
8. Even considering, neighbouring properties, a previously permitted scheme, the Inspector found the degree of overlooking to be unacceptable and dismissed the appeal.

**Application No: 19/01396/FUL**

NM

Location: Hatch House 17 Coxtie Green Road Pilgrims Hatch South Weald

Proposal: Demolition of outhouses and stables and construction of 2 detached bungalows with associated parking

Appeal Decision: Appeal Dismissed

23.11.2020

9. The Inspector identified four issues:

- a) whether the development would be inappropriate development in the Green Belt;
- b) the effect on the character and appearance of the area;
- c) noise from nearby commercial premises on the living conditions of future occupiers of the proposed dwellings; and
- d) very special circumstances necessary to justify the development.

10. The inspector afforded full weight to the 2005 plan's green belt policies. The proposal was not considered to meet any of the exceptions to inappropriate development in the greenbelt given in the NPPF and would materially harm its openness. The proposal would introduce an urban form of development harming its existing character and appearance. The Inspector was not persuaded that occupiers would be adversely affect by noise from adjacent commercial units.

11. The inspector was not persuaded that the green belt boundaries were 'out of date', pointing out that boundaries should only be changed in exceptional circumstances and that was not proposed in the LDP; the NPPF sought to protect the green belt even where there is a lack of five year land supply; the applicants claim about the sustainability of the location or potential 'low carbon footprint' were considered to carry limited weight. The Inspector dismissed the appeal.

**Application No: 19/01469/FUL**

NM

Location: Ivy Cottage Mill Green Road Fryerning Ingatestone

Proposal: Demolition of existing outbuildings, construction of new outbuilding and alteration and extension of existing dwelling including construction of basement, ground floor rear extension, first floor rear extension, single storey side/rear extension, roof extension and replacement of front porch

Appeal Decision: Appeal Allowed

12.11.2020

12. The Inspector identified four issues:

- a) whether the development would be inappropriate development in the Green Belt;
- b) its effect on the green belt;
- c) effect on character of host building and the conservation area; and
- d) very special circumstances necessary to justify the development.

13. The Inspector identified inconsistencies between green belt policies in the 2005 plan and the NPPF and so gave them 'moderate weight'. The inspector agreed with all parties that the development was inappropriate development. The inspector considered that the harm to the green belt would be 'moderate'.

14. The building is not listed or locally listed and the works to the building would not be harmful to the building or the conservation area. When assessing the planning balance, the inspector noted that part of the proposal (the basement would be below ground), the scheme would have a limited effect on openness, and would have a very similar effect to a previously permitted scheme which is a realistic fall back position. This latter issue amounted to very special circumstances.

**Application No: 19/01027/FUL**

NM

Location: Flat 1 Carousel Highland Avenue Brentwood

Proposal: Conversion of 2x flats into single dwellinghouse to include single storey rear extension, six rooflights and flat roof dormer to the existing roof and alterations to fenestration

Appeal Decision: Appeal Allowed

16.11.2020

15. The Inspector identified two issues:

- a) living conditions due to loft conversion; and
- b) effect of the overall loss of one dwelling on local housing land supply.

16. The second floor accommodation (in the converted roofspace) would be compliant reliant on rooflights for ventilation, light and outlook as their only windows. The inspector considered that overall dwelling as a whole would provide acceptable living conditions, given the outlook from windows to the ground and first floor accommodation and its generous garden.

17. On the second issue, the inspector identified an out of date approach in Policy CP vi) (no net loss of units) whereas the NPPF, which seeks to significantly boost overall numbers, does not resist changes to existing housing stock where this would meet a demand for another form of residential accommodation in the area. He considered that the loss of one dwelling involved in the 2:1 conversion was not material and while no evidence had been provided of a particular need to retain small units there was significant evidence of the need for larger dwellings which this proposal would make a contribution to meeting.

**Application No:** 19/01551/FUL

NM

**Location:** 37A Hanging Hill Lane Hutton Brentwood

**Proposal:** Demolition of existing chalet dwelling and construction of 1 pair of semi-detached dwellings with new vehicular access

**Appeal Decision:** Appeal Allowed (C)

03.12.2020

18. The inspector identified one main issue: the effect of the proposal on the character and appearance of the area.

19. The inspector considered that the proposal would not be at odds with the mixed character of the area, the hipped roof would limit the bulk of the building and its overall design would be appropriate for its context. The dwellings would have small but acceptable gardens and the development would not be cramped or overdeveloped. He was satisfied that the proposal would not have a material impact on the living conditions of the occupiers of adjoining properties as a result of loss of light or overlooking.

**Application No:** 20/00146/FUL NM  
**Location:** 27 Hampden Crescent Warley Brentwood  
**Proposal:** Demolition of existing outbuildings and garage, construct detached bungalow with parking, private amenity, bin store and secure garden bike storage  
**Appeal Decision:** Appeal Allowed 06.11.2020

20. The inspector identified one main issue: the effect of the proposed bungalow on the character and appearance of Hampden Crescent and the surrounding area with respect to design, form and layout.

21. The footprint would be deep and narrow, though the scale of the building would be smaller and lower than other dwellings. The site is tucked away and therefore the difference in form and design to other dwellings in the locality would not harm the generally uniform and well established character or appearance of Hampden Crescent.

**Application No:** 19/01460/FUL NM  
**Location:** 14-16 Crown Street Brentwood CM14 4BA  
**Proposal:** Installation of a new shop front in association with the subdivision of the existing ground floor shop unit, construction of a two storey rear extension, replacement windows, the formation of 2no. one bedroom flats to the first floor and a commercial unit to the rear at ground floor  
**Appeal Decision:** Appeal Dismissed 01.12.2020

22. The Inspector identified two issues:

- a) the effect on character and appearance of the Brentwood Town Centre Conservation Area; and
- b) on the living conditions of 12 Crown Street, with particular reference to overbearing impact and loss of light.

23. On the first issue The Inspector noted the historic and architectural interests and the distinct character of this part of Crown Street. The proposal would result in the infilling of the historic terraces which would significantly detract from the character and form of the historic Victorian terrace, eroding much of the original plan form that is currently evident. He noted other examples of similar development but did not see that as a justification to permitted a



harmful development. He saw the benefits claimed by the appellant as not outweighing that harm. On the second issue, he was not persuaded that the proposal would have a harmful effect on the occupation of adjacent properties.

**Application No:** 20/00338/FUL NM  
**Location:** 2 Danes Way Pilgrims Hatch Brentwood  
**Proposal:** Construction of bungalow  
**Appeal Decision:** Appeal Allowed 26.11.2020

24. This proposal was the subdivision of a generous garden to one of a pair of two storey semi detached dwellings and the erection of a bungalow to its side to replace a single storey extension and garage. The Inspector identified two issues (1) the effect of the proposed dwelling on the character and appearance of the area; and (2) whether it would provide acceptable living conditions for future occupiers, with particular reference to internal living standards.

25. On the first issue, the Inspector considered the existing garage had eroded some of the sense of space, the site in its current form contributed little to the appearance of the area and the development would not appear cramped but would be in character with existing development.

26. With regard to living standards, the Inspector judged that it fell below the national space standards guidance, which has not been adopted by the Council, but would still provide an acceptable form of accommodation.

**Application No:** 20/00273/FUL NM  
**Location:** 16 Heybridge Road Ingatestone CM4 9AG  
**Proposal:** Hip to gable roof, dormer window to rear and velux rooflights to front to create first floor, single storey rear extension and alterations to fenestration to include reduction in window to side and new side door (Retrospective)  
**Appeal Decision:** Appeal Dismissed 13.11.2020

27. The main issue identified by the Inspector was the effect of the rear dormer on the character and appearance of the surrounding area. The dormer would

appear as a bulky addition to the dwelling that would completely dominate the rear roofscape and be highly visible from locations in the locality. Overall he considered the proposal would result in an over dominant dormer window contrary to Policy H17 and was generally poor design contrary to Policy CP1.

**Application No:** 20/00126/FUL NM  
**Location:** 121 Priests Lane Shenfield Brentwood  
**Proposal:** Remove front boundary hedge and construct new boundary wall with 1.2m high brick piers and brick wall/railings and new central access set back from the highway with electric entrance gate  
**Appeal Decision:** Appeal Allowed 02.11.2020

28. The main issue is the effect of the development on the character and appearance of Priests Lane. The Inspector referred to the prevalence of front boundary hedges and other planting within front gardens giving the frontages of the properties in Priests Lane a quite verdant appearance. Nevertheless, noting that this street is within a built up area he took the view that installation of the proposed wall and railings would not result in an urbanising effect or an uncharacteristic sense of formality.

**Application No:** 19/00578/COND/2 -  
**Location:** Sussex Cottage 2 Challacombe Close Hutton Brentwood  
**Proposal:** Discharge of conditions 3 (Details of materials) of application 19/00578/FUL (Demolition of existing dwelling, construction of new replacement dwelling to include formation of an ancillary basement pool room and gym under main dwelling with basement courtyard, new gates and brick piers to driveway and hard and soft landscaping)  
**Appeal Decision:** Appeal Withdrawn 04.12.2020

29. The applicant had submitted a better proposal to discharge the condition which had been approved so withdrew the appeal before it was determined.

**Application No: 19/01512/FUL**

NM

Location: Eversley, Kingsley Road, Hutton, CM13 2SH

Proposal: Demolition and replacement of the existing detached dwelling, with 3 new detached dwellings, as well as the formation of two new vehicular accesses and crossovers and associated ancillary works.'

Appeal Decision: Appeal dismissed

07.12.2020

30. The Inspector identified three main issues in this appeal:

- a) The effect of the proposal on the character and appearance of the area,
- b) The effect of the proposal on the living conditions of the occupiers of nearby dwellings and on the living conditions of any future occupiers of the development;
- c) The effect of the development on the health of a nearby Silver Birch tree and the effect of this on the character and appearance of the area.

31. The inspector commented that the character of the area was of linear development across the frontage of sites and that the erection of a dwelling to the rear would be out of character, and together with supporting development – the access and its garage – would urbanise the area, detract from the amenity of neighbours. With regard to the two frontage dwellings these would also act to urbanise the area through their size and design. The proposal would be likely to affect the Silver Birch in the highway verge which is a positive feature in the streetscape. Given that the tree is on land outside the applicants control there was no evidence that the applicant would be able to replace it leading to the loss of that tree to the detriment of the character of the area. The Inspector concluded that the harm of the proposal would outweigh its small boost to the housing supply and local economy.

**Application No: 19/01476/FUL**

NM

Location: Garth Cottage, Cricketers Lane, Herongate, CM13 3QB

Proposal: Demolition of existing garage and construct detached dwelling (revised application of 19/0400/FUL).

Appeal Decision: Appeal dismissed

07.12.2020

32. This decision was given in the same letter giving the decision on the case below relating to the same site. This proposal was for a separate dwelling on two floors that was larger than a scheme previously permitted but smaller than one previously refused. He noted the mixed character of the area including other chalet style dwellings. However, the proposed dwelling would be in close proximity to the host property, which is single storey. Given its proximity to Garth Cottage, the overall height and prominent features such as the front dormer windows and large gabled entrance, the proposed dwelling would appear overly large in relation to its constrained plot and in relation to Garth Cottage. The introduction of a dwelling of this scale into what is predominantly the rear garden of Garth Cottage, would impact upon the spatial character of this part of Cricketers Lane. He found no harm in relation to the setting of the listed building or in relation to the living conditions of future occupiers in terms of outdoor space.

33. A related application for costs against the Council was refused.

**Application No:** 20/00468/FUL

NM

**Location:** Garth Cottage, Cricketers Lane, Herongate, CM13 3QB

**Proposal:** Demolition of existing garage and construct detached dwelling

**Appeal Decision:** Appeal Allowed (C)

04.12.2020

34. This decision was given in the same letter giving the decision on the case above relating to the same site. This proposal was for a separate dwelling on one level that was slightly larger than a scheme previously permitted but smaller than others applied for since that permission. In essence the Inspector considered that the minor increase in width from the approved development would be acceptable.

35. When refusing the application, the committee had said that there was no need for this type of housing in the area. No evidence had been provided and he gave the claim no significant weight. He noted the lack of a five year land supply. He was not persuaded that the proposal would be harmful to the listed building (Suffolk House), or to the nearby Conservation Area. He was not persuaded that the proposal would be harmful to highways safety and said he could not consider third party claims about damage to kerbs, the road, walls, hedges etc.

36. A related application for costs against the Council was refused. The Inspector said "Whilst I have come to a different conclusion, the decision is a matter of

subjective judgement. Thus, the Council did not act unreasonably in this case.”

**Application No:** 20/00101/FUL NM  
Location: Flora, Days Lane, Pilgrims Hatch, CM15 9SJ  
Proposal: Demolition of rear lean to and replace with single storey rear extension  
Appeal Decision: Appeal dismissed 14.12.2020

37. The main issues were (1) whether the proposed development constitutes inappropriate development in the Green Belt, (2) its effect on the openness of the Green Belt, and (3) would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

38. On the first issue, the proposal would result in considerable built form over that of the original dwelling making it inappropriate development. The proposal would detract from openness. While the proposal would not be harmful, contained modest elements relating to sustainability and none amounted to very special circumstances that clearly outweigh its harm.

**Application No:** 20/00428/FUL NM  
Location: 37A Hanging Hill Lane, Hutton, Brentwood, Essex CM13 2HY  
Proposal: Demolition of existing chalet dwelling and construction of 1 pair of semi-detached dwellings with new vehicular access  
Appeal Decision: Appeal withdrawn 21.12.2020

39. The appeal was withdrawn. The same site was granted planning permission on appeal - see 19/01551/FUL above.

**Application No:** 20/00924/HHA NM  
Location: 105 Hanging Hill Lane, Hutton, Brentwood, CM13 2HG  
Proposal: Removal of existing rear single storey extension, re-modelling of existing front single storey extension and addition of new storey above original bungalow

Appeal Decision: Appeal dismissed

05.01.2021

40. This proposal was for the alteration of a bungalow to become a two storey dwelling. The Inspector considered the proposal would result in the creation of a taller, wider, deeper and bulkier building than currently exists, becoming taller than the neighbouring dwellings to either side. It would not appear subordinate to the host property but would result in a building that would appear dominant in its immediate surroundings. The Inspector summed it up as “an unsympathetic addition, crammed into its plot, out of keeping with the general attributes of the surrounding area” with “the effect of “looming” over the front of this neighbouring dwelling, to the detriment of the outlook from that property.”

**Application No:** 19/01302/FUL

NM

**Location:** Camilla Lacey, 7 Hillwood Close, Hutton, Brentwood, Essex, CM13 2PE

**Proposal:** Demolition of existing dwelling and erection of new dwelling and outbuilding and associated landscaping works

Appeal Decision: Appeal allowed

19.01.2021

41. The Inspector identified the main issue in this appeal is the effect of the proposed development on the character and appearance of the area. She proposed noted the range of dwelling sizes and typologies in the locality and referred to a long expired permission for extensions that would have substantially increased the scale of the dwelling. The Inspector noted a number of large dwellings with similar features in Hutton Mount, noted that it would be a four storey (including basement) dwelling replacing a two storey property, that it would be higher than its neighbours. She considered that “crucially” due to its position and with neighbouring dwellings set an angle “...its additional mass and bulk would not be unduly dominant and would assimilate acceptably within the street scene”.

**Application No:** 19/01199/FUL

NM

**Location:** 4 Nags Head Lane, Brentwood CM14 5NJ

**Proposal:** ‘New detached dwellinghouses’

Appeal Decision: Appeal dismissed

22.01.2021

42. This appeal followed one dismissed in 2016 and the Inspector clearly took that decision into account when considering this one. The 2016 Inspector had concluded that the development was not inappropriate development in the green belt, a judgement that the planning authority had accepted when determining this application and the Inspector reached the same view. He considered that insufficient evidence had been provided for him to conclude that the effect of the development on biodiversity would be acceptable. He noted that the site was poorly served by cycle and walking routes and that most journeys from the site would be via car, though given the location of the site these would be relatively short with limited harm. He had no particular concern about the design and layout of the development, including the acoustic fencing to mitigate motorway and railway noise, and did not consider it would harm the character or appearance of the area. It was noticeable that many of the concerns raised by interested parties were dismissed based on those parties not providing firm evidence to support their assertions.

43. The Inspector made a clear statement that due to low levels of housing delivery in the borough and the lack of a five year land supply that the 'presumption on favour of sustainable development' (often referred to as the 'tilted balance') was engaged. Despite that the development would create only four dwellings and the harm of the proposal outweigh its benefits.

<b>Application No:</b>	<b>19/01566/FUL</b>	<b>NM</b>
Location:	1A Doddinghurst Road, Brentwood Essex CM15 9EJ	
Proposal:	Demolition of existing detached garage and construction of two storey side	
Appeal Decision:	Appeal dismissed	01.02.2021

44. The Inspector considered the main issue were the effect on (a) the character and appearance of the street scene and (b) the living conditions of the occupiers of the adjoining property.

45. The application dwelling is a two storey dwelling set at higher land than its neighbour to the right – a bungalow. On the first issue, the Inspector considered that it would not be harmful in the street scene. However, on the second issue, he found the increased height and bulk would the dominate the outlook and reduce the light to windows in the bungalow next door, unmitigated to any significant extent by being set away from the boundary.

## **Consultation**

46. Individual applications include statutory consultation periods.

## **References to Corporate Strategy**

47. The Council's Planning Development Management team perform statutory planning functions as the local planning authority. The team assists in achieving objectives across the Corporate Strategy, including economic growth, environmental protection, community development and delivering effective and efficient services. The planning appeals system is part of the local decision making process.

## **Implications**

### **Financial Implications**

**Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)**

**Tel/Email: 01277 312500/jacqueline.vanmellaerts@brentwood.gov.uk**

48. There are no direct financial implication arising from this report. The cost of defending appeals is covered by the Development Management budget. Lost appeals can result in additional financial implications if costs are awarded, for instance. This is projected and considered when setting the budget.

### **Legal Implications**

**Name & Title: Amanda Julian, Corporate Director (Law & Governance) and Monitoring Officer**

**Tel & Email: 01277 312500/amanda.julian@brentwood.gov.uk**

49. There are no legal implications arising from this report.

### **Economic Implications**

**Name/Title: Phil Drane, Corporate Director (Planning & Economy)**

**Tel/Email: 01277 312500/philip.drane@brentwood.gov.uk**

50. There are no direct economic implications arising from the report.

## **Background papers**

None

## **Appendices to report**

None



# Agenda Item 7

<b>Committee:</b> Planning and Licencing Committee	<b>Date:</b> 10 February 2021
<b>Subject:</b> Planning Enforcement Activity Overview (October to December 2020)	<b>Wards Affected:</b> All
<b>Report of:</b> Phil Drane, Corporate Director (Planning and Economy)	<b>Public</b>
<b>Report Author/s:</b> Name: Caroline McCaffrey/Richard Bates Telephone: 01277 312500 E-mail: caroline.mccaffrey@brentwood.gov.uk	<b>For Information</b>

## Summary

This report summarises the enforcement activity undertaken in Brentwood Borough for the period between 1 October 2020 and 31 December 2020. This follows an update brought to the committee in October 2020.

## Main Report

### **Introduction and Background**

1. The purpose of this report is to provide the Planning and Licencing Committee with an overview of the Planning Enforcement activity in the period October to December 2020 (Quarter 3). This follows an update brought to the committee on 14 October 2020 (Item 545), as part of regular updates on Planning Enforcement Activity.
2. The Council has a duty to investigate complaints about development, including building and engineering works and changes of use that may have been carried out without permission or consent.
3. Effective planning enforcement is a useful tool in tackling breaches that would otherwise have had an unacceptable impact on amenity in the Borough and to help maintain the integrity of the Development Management process.
4. There are a range of enforcement powers available to the Council, however whether the Council takes any enforcement action is a discretionary matter. When considering taking any formal action the Council must consider if it is expedient to do so having had regard to the Development Plan, and any other material considerations including the Local Enforcement Plan. It is also necessary to weigh up whether taking Enforcement Action is in the public interest.
5. Taking formal Enforcement Action should be regarded as a last resort and many breaches of planning control can be resolved without formal action being

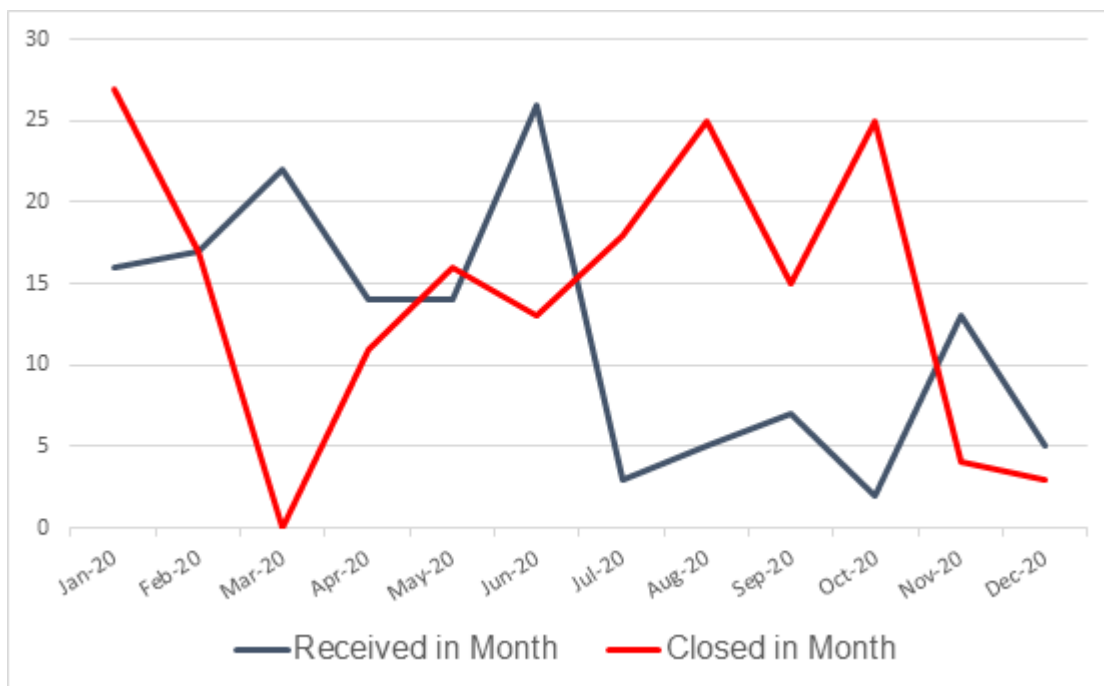
taken. For example, retrospective planning permission can be obtained or the breach ceases or is remedied through negotiation.

6. Often the Council receives complaints regarding alleged breaches of planning control that involve other services within the Council or other organisations. Where this happens, the Planning Enforcement team will work with other officers or organisations such as the Corporate Enforcement Team and neighbouring local planning authorities.
7. Councillors are often the public face of the Council and Member involvement in planning matters is crucial in maintaining an effective enforcement service. This report has therefore been prepared to provide an overview of the enforcement function between October and December. Whilst serving Enforcement Notices (EN) can be high profile what often gets overlooked is the amount of work involved where informal action has been taken and resulted in a breach ceasing or being regularised. It is important that Members understand the overall number of service requests and consequent workload that the service deals with.
8. It is intended to bring regular quarterly reports to the Planning and Licencing committee which will compare workload over previous quarters.

#### **Number of new complaints**

9. Figure 1 shows the number of enforcement cases that have been opened and closed in between January 2020 and December 2020 to show the trend over the 12-month period.

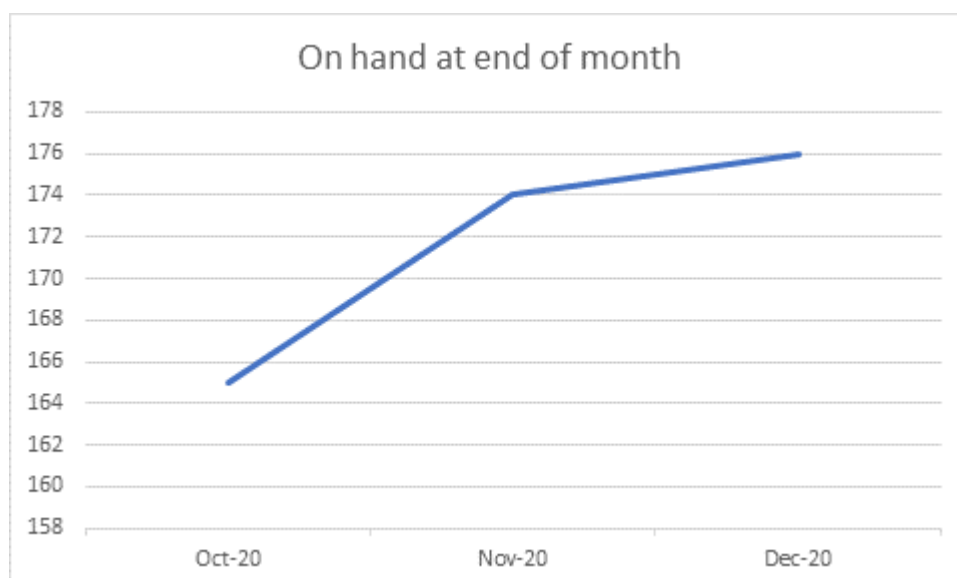
FIGURE 1: Number of cases opened and number of cases closed



Cases opened Q3	20
Cases opened Q2	15
Cases closed Q3	32
Cases closed Q2	58
Total Cases opened in 12 months	164
Total Cases closed in 12 months	206

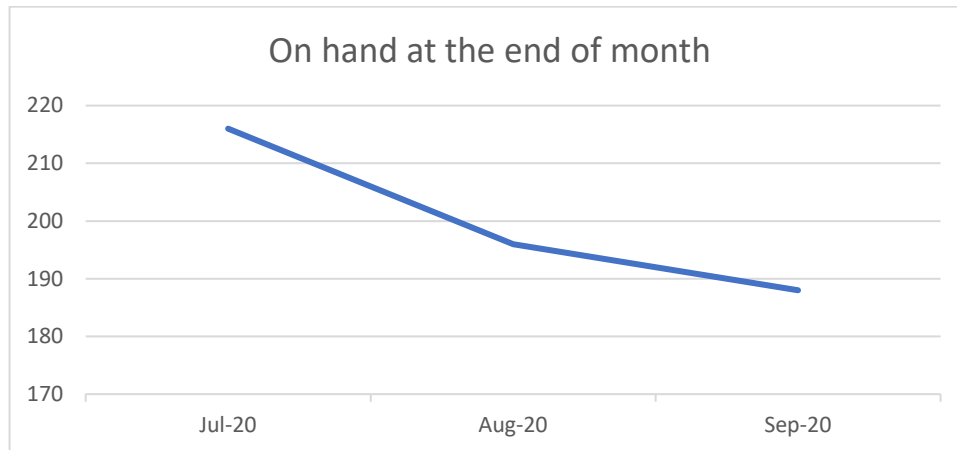
### Total number of complaints on hand for investigation

FIGURE 2: Total number of enforcement complaints on hand (Oct-Dec 2020)



10. The total number of cases on hand is 176 as recorded at the end of this quarterly period. Although this graph shows an increase over the whole quarter, it still represents a decrease of 12 cases compared to the end of Q2 shown in Figure 3 below.

FIGURE 3: Total number of enforcement complaints on hand (Jul-Sep 2020)



#### **Total number of Notices served**

11. As noted previously, the aim of the enforcement service is to resolve unauthorised development or uses of land primarily through negotiation without using formal enforcement powers as recommended by government guidance set out within the national planning practice guidance.
12. In cases where negotiations cannot achieve a resolution, the Council has given delegated authority to its officers to exercise many of the legislative powers to resolve breaches of planning control.
13. Any notice has a period for compliance which will vary depending on the nature of the breach and the steps required to remedy the situation. After the compliance period the Enforcement Team will visit to check whether the notice has been complied with. Failure to comply with the requirements of a notice may result in the Council seeking to prosecute.
14. Appendix A sets out the current situation regarding serving of Enforcement Notices. In the period of review, four Enforcement Notices have been served, two of which are now at appeal stage and two are still within the period for compliance. This brings the total number of enforcement notices served within the last 12 months to eight, with six of those in the appeal process.

15. There are rights of appeal associated with any Enforcement Notice in the same way that an applicant can appeal against the refusal of a planning application. For example, an appeal against a planning Enforcement Notice (as opposed to a Listed Building Enforcement Notice) can be made on the basis of the following grounds:

- a) That planning permission ought to be granted or the condition or limitation concerned ought to be discharged;
- b) The matters stated in the enforcement notice have not occurred;
- c) The matters stated in the enforcement notice (if they occurred) do not constitute a breach of planning control;
- d) At the date when the notice was issued, no enforcement action could be taken;
- e) Copies of the enforcement notice were not served in accordance with the relevant statutory requirements;
- f) The steps required by the notice exceed what is reasonably necessary to either remedy any breach or to remedy any injury to amenity (i.e. the steps are excessive); and or
- g) Any period for compliance falls short of what should reasonably be allowed.

16. Where an appeal is lodged, the notice is effectively held in abeyance pending the outcome of the appeal. Unfortunately the appeals process is slow. For example, appeals to be heard by written representations the Planning Inspectorate is taking approximately 37 weeks to determine them. The current appeal to be heard at Public Inquiry has been deferred until April 2021 because of the need to produce witnesses in person.

### **Legal Action**

17. In the last quarter no new injunctions have been issued, however those sites previously reported are being kept under review, namely:

**Land Adj The Spinney, School Road, Kelvedon Hatch** served on 07/04/2020 (suspected impending traveller incursion on green belt land)

**Land at Five Acre Farm, Warley Street** served on 21/05/2020 (unauthorised travellers site to prevent further breaches on green belt land)

**Land adj Elm Farm, Chelmsford Road** served on 27/07/2020 (suspected impending traveller incursion on green belt land)

### **Staffing**

18. Despite recruitment campaigns the service has been carrying a vacant full time Enforcement Officer post for more than two years. At the start of Q2 the service contracted 2 agency staff (one part time) to assist with the on-hand cases resulting in a number of historic cases being investigated and closed.

The service is reviewing the ongoing requirements of the post and considering the most appropriate way to recruit.

## **Consultation**

19. None

## **References to Corporate Plan**

20. The Corporate Plan 2020-2025 identifies the Council's five key priorities, the most relevant to the service "Protecting our Environment". The success of the service is paramount in maintaining a high level of confidence within the Planning System. The Council's Enforcement Plan provides the Councils' priorities for enforcement action, provides transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers, in turn providing clarity for all parties engaged in the development process.

## **Implications**

### **Financial Implications**

**Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)**

**Tel/Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk**

21. This report is for noting and as such there are not direct financial implications. Any additional financial costs as a result of enforcement action has to be met from within existing resources.

### **Legal Implications**

**Name & Title: Amanda Julian, Corporate Director (Law & Governance) and Monitoring Officer**

**Tel & Email: 01277 312705/amanda.julian@brentwood.gov.uk**

22. The power to issue an enforcement notice is discretionary. It should only be used where the Local Planning Authority is satisfied that there has been a breach of planning control and it is expedient to issue a notice, having regard to the provisions of the development plan and to any other material considerations.

### **Economic Implications**

**Name/Title: Phil Drane, Corporate Director (Planning & Economy)**

**Tel/Email: 01277 312610/philip.drane@brentwood.gov.uk**

23. There are no economic implications arising from this report.

## **Background Papers**

- Item 545, Planning and Licensing Committee, 14 October 2020, Planning Enforcement Activity Overview

## **Appendices to this report**

- Appendix A: Planning Enforcement Activity (October – December 2020)

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# Appendix A

## Appendix A: Planning Enforcement Activity (October – December 2020)

Case No.	Address	Breach	Enforcement Notice issued	Compliance/Appeal
18/00008/UNOPDE	Hunts Farm, Old Church Lane, Mountnessing, CM13	Unauthorised construction of a residential dwelling and change of use of the land to builders yard	10 November 2020	9 March 2021  (Appeal submitted against Enforcement Notice, awaiting appeal date)
19/00152/UNLCOU	Rustic Dene, Parkwood, Doddinghurst Road, Doddinghurst, CM15	Unauthorised sub-division of planning unit to create an addition primary separate dwelling	11 November 2020	14 June 2021  (Appeal submitted against Enforcement Notice, awaiting Public Inquiry date)
20/00129/ONOPDE	St Ninians, Alexander Lane, Hutton, CM13	Unauthorised erection of a balcony not in accordance with approved planning permission	24 November 2020	15 February 2021  (Still in compliance period)
20/00107/UNLCOU	Riverside, Albys Lane, Navestock, RM4	Unauthorised change of use of land to residential use and commercial use	1 December 2020	6 July 2021  (Still in compliance period)

### Previous Quarters:

19/00103/UNOPDE	Five Acre Farm, Warley Street, Great Warley, CM13	Unauthorised change of use of land to residential travellers site	19 February 2020	22 September 2020  (Appeal submitted against Enforcement Notice, awaiting Public Inquiry date)
16/00080/UNOPDE	Craigilea, Chivers Road, Stondon Massey, CM15	Unauthorised change of use of land to residential use	18 March 2020	29 October 2020  (Appeal submitted against Enforcement Notice, awaiting appeal date)
17/00102/UNLCOU	Land adj, Oakwood, Little Hyde Lane, Ingatestone, CM4	Unauthorised change of use of land to residential curtilage use	15 July 2020	17 November 2020  (Appeal submitted against Enforcement Notice, awaiting appeal date)
20/00090/UNOPDE	Land at The Bumbles, Mill Green Road, Mill Green, CM4	Unauthorised development of an outbuilding, being used as residential	15 September 2020	16 January 2021  Appeal submitted against Enforcement Notice, awaiting appeal date)

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## **Members Interests**

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, of if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

## **Planning and Licensing Committee**

### **Planning**

- (a) Town and Country Planning Act 1990 and any related legislation including: -
- (i) determination of planning applications;
  - (ii) enforcement of planning control;
  - (iii) waste land notices, purchase notices, etc.
- (b) Listed Buildings and Conservation Areas Act 1990
- (i) determination of applications for Listed Buildings and Conservation Area consent;
  - (ii) enforcement of Listed Building and Conservation Area legislation.
- (c) To consider and determine the Council's comments where appropriate on major development outside the Borough when consulted by other Local Planning Authorities.
- (i) To guide the Council in setting its policy objectives and priorities.
  - (ii) To carry out the duties and powers of the Council under current legislation;
  - (iii) To develop, implement and monitor the relevant strategies and policies relating to the Terms of Reference of the committee.
  - (iv) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;
  - (v) To consider and approve relevant service plans;
  - (vi) To comply with the standing orders and financial regulations of the Council;
  - (vii) To operate within the budget allocated to the committee by the Council.
  - (viii) To determine fees and charges relevant to the committee;

To review and monitor the operational impact of policies and to recommend proposals for new initiatives and policy developments including new legislation or central government guidance

- (d) Powers and duties of the local planning authority in relation to the planning of sustainable development; local development schemes; local development plan and monitoring reports and neighbourhood planning

### **Licensing**

- (a) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Licensing Act 2003.
- (b) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Gambling Act 2005.
- (c) To determine all fees and charges relevant to matters disposed by the Planning and Licensing Committee.
- (d) To exercise all other functions relating to licensing and registration including
- i. Trading Requirements
  - ii. All functions relating to hackney carriage drivers and vehicles and private hire drivers vehicles and operators
  - iii. Animal Welfare and Security
  - iv. Skin Piercing, Acupuncture, Electrolysis and Tattooing
  - v. Sex establishments (including Sex Entertainment Venues (SEV))
  - vi. Pavement Permits
  - vii. Charitable Collections
  - viii. Camping, Caravan Sites and Mobile Homes
  - ix. Scrap Metal
  - x. Game Dealers
- (e) Any other matters relating to licensing as may be referred to the committee for consideration.

- (f) To hear and determine licensing applications and appeals where objections and /or representations have been received in relation to any of the above functions.
- (g) To manage and monitor the budgets in respect of licensing and vehicle licensing.