



LICENSING AND REGISTRATION COMMITTEE

DATE:	Wednesday 11 April 2018
TIME:	7.30 pm
VENUE:	Council Chamber, Council Offices, Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

Councillor Cossens (Chairman)	Councillor J Henderson
Councillor Callender (Vice-Chairman)	Councillor Pemberton
Councillor Amos	Councillor Skeels Jnr
Councillor Bennison	Councillor Watson
Councillor B Brown	Councillor White
Councillor M Brown	Councillor Whitmore
Councillor Bucke	Councillor Winfield
Councillor V Guglielmi	

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Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Katie Sullivan on 01255 686585.

DATE OF PUBLICATION: WEDNESDAY 28 MARCH 2018

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 6)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 12 April 2017.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or other interest, and nature of it, in relation to any item on the agenda.

4 Minutes of the Meeting of the Licensing (General Purposes) Sub-Committee held on 5 June 2017 (Pages 7 - 12)

The Committee is to receive and note, for information only, the above minutes.

5 Minutes of the Meeting of the Licensing (General Purposes) Sub-Committee held on 11 December 2017 (Pages 13 - 16)

The Committee is to receive and note, for information only, the above minutes.

6 Minutes of the Meeting of the Licensing (General Purposes) Sub-Committee held on 23 February 2018 (Pages 17 - 18)

The Committee is to receive and note, for information only, the above minutes.

7 Minutes of the Meeting of the Premises/Personal Licences Sub-Committee "C" held on 15 May 2017 (Pages 19 - 26)

The Committee is to receive and note, for information only, the above minutes.

8 Minutes of the Meeting of the Premises/Personal Licences Sub-Committee "A" held on 14 August 2017 (Pages 27 - 32)

The Committee is to receive and note, for information only, the above minutes.

9 Minutes of the Meeting of the Premises/Personal Licences Sub-Committee "C" held on 20 November 2017 (Pages 33 - 42)

The Committee is to receive and note, for information only, the above minutes.

10 Report of Corporate Director (Operational Services) - A.1 - Licensing Act 2003 - Applications Approved under Delegated Powers (Pages 43 - 56)

Details of licences that have been approved under Delegated Powers during the period 7 October 2015 to 13 March 2018 are submitted for the Committee's information.

11 Report of Corporate Director (Operational Services) - A.2 Hackney Carriage Fares (Pages 57 - 64)

To consider a letter received on 6 December 2017 from the Tendring District Taxi Association requesting both an increase in the scale of fares, and a change in distance for which the fare is calculated that is currently operative within the District.

12 Exclusion of Press and Public

To pass the following resolution:-

"That under Schedule 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the items of business to be considered below on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act"

13 Exempt Minutes of the Meeting of the Licensing (General Purposes) Sub-Committee held on 5 June 2017 (Pages 65 - 74)

The Committee is to receive and note, for information only, the above exempt minutes.

14 Exempt Minutes of the Meeting of the Licensing (General Purposes) Sub-Committee held on 11 December 2017 (Pages 75 - 80)

The Committee is to receive and note, for information only, the above exempt minutes.

15 Exempt Minutes of the Meeting of the Licensing (General Purposes) Sub-Committee held on 23 February 2018 (Pages 81 - 86)

The Committee is to receive and note, for information only, the above exempt minutes.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

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Your calmness and assistance is greatly appreciated.

MINUTES OF THE MEETING OF THE LICENSING AND REGISTRATION COMMITTEE, HELD ON WEDNESDAY 12 APRIL 2017 AT 7.30 PM IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY

Present:	Councillors Cossens (Chairman), Callender (Vice-Chairman), Amos, B Brown, M Brown, V Guglielmi, Raby, Skeels Jnr, Watson, White, Whitmore and Winfield
In Attendance:	Mark Westall (Head of Customer and Commercial Services), Linda Trembath (Senior Solicitor - Litigation and Governance), Simon Harvey (Licensing Manager) and Katie Sullivan (Committee Services Officer)

23. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Bucke and J Henderson (with no substitutions).

24. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee held on Wednesday 18 January 2017 were approved as a correct record and signed by the Chairman.

25. DECLARATIONS OF INTEREST

There were none.

26. MINUTES OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE HELD ON 20 MARCH 2017

The Committee received and noted, for information only, the minutes of the meeting of the Licensing (General Purposes) Sub-Committee held on 20 March 2017.

27. REPORT OF THE MANAGEMENT AND MEMBERS' SUPPORT MANAGER - A.1 - CORPORATE ENFORCEMENT STRATEGY

The Committee had before it a report (A.1) which sought its consideration of the Council's draft Corporate Enforcement Strategy. The draft Strategy was attached to the report as Appendix A.

It was reported that:

- At Cabinet on 16 December 2016, the draft Corporate Enforcement Strategy had been agreed for consultation. Within the Council, it had been agreed that the Strategy be considered by the Planning, Licensing and Registration and Community Leadership and Partnerships Committees.
- The purpose of the Corporate Enforcement Strategy was to set out the overarching "umbrella" principles to apply to all service departments and its Officers within the Council which undertook enforcement functions.
- The Council's enforcement responsibilities and powers covered a wide range of legislation with a variety of formal and informal sanctions, which aimed to protect the

interests and rights of people in relation to the environment that they use. The enforcement of regulatory legislation enabled the Council to achieve its priorities contained within the Corporate Plan and fitted with national policy, codes and guidance.

- It was important that those enforcement functions were carried out in an equitable, practical and consistent manner, and that both those subject to regulation and those on whose behalf enforcement was carried out could understand the approach taken. The purpose of the Corporate Enforcement Strategy was to explain clearly and publicly summarise Tendring District Council's intended approach towards enforcement and dealing with non-compliance.
- It was important to note that the Licensing and Registration and Planning Committees retained the legal responsibility and power with regards to enforcement decisions including the proposed adoption of a corporate Harm Risk Assessment Checklist and Template however, it was intended that some general principles could be agreed across the Council to form a corporate approach.
- The draft Strategy included the following sections on how the Council would deal with enforcement:-
 - Openness & Transparency;
 - Helpfulness;
 - Consistency;
 - Proportionality;
 - Targeting resources on higher risk; and
 - Accountability.

The Council's Senior Solicitor (Litigation and Governance), went through the Strategy with the Committee and asked for any comments and suggestions. Members' responses included the following:

- (1) Articles to be put in the press to help educate the public on what to expect when it comes to enforcement;
- (2) A review of the Strategy to take place every 4 years to enable newly elected Councillors to express their comments and suggestions;
- (3) Suggested word changes to the draft strategy; and
- (4) Review of Appendix B to ensure all the relevant Acts were listed.

The Committee was informed that the outcome of the consultation, including the comments made by members of the Committee, would be reported back to Cabinet for consideration in the adoption of the final document.

28. REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.2 - COMMENCEMENT AND IMPLEMENTATION PROCESS FOR SECTIONS 165 AND 167 OF THE EQUALITY ACT 2010

The Committee had before it a report (A.2) which sought its agreement to the commencement and implementation of Sections 165 and 167 of the Equality Act 2010.

The Licensing Manager informed the Committee of the requirements that those Sections would place on the Council in its capacity as the Licensing Authority for Tendring

Hackney Carriage and Private Hire drivers, vehicles and operators and also the legal obligations which it would place on Hackney Carriage and Private Hire drivers and operators of designated wheelchair accessible vehicles.

It was reported that:

- The Government had enacted Sections 165 and 167 of the Equality Act 2010 with effect from 6 April 2017 in respect to Hackney Carriage (Taxi) and Private Hire Drivers, Vehicles and Operators.
- This had required the Council as the Licensing Authority to make a list of Taxi and Private Hire vehicles licensed by Tendring District Council that it considered to be wheelchair accessible (e.g. as a minimum, the vehicle was designed for and was able to carry, a passenger seated in a standard “reference wheelchair” and the Council would also publish a list of those vehicles, (known as designated vehicles, under Section 167 of the EA 2010)).
- It had also required the Council to set a date from when it would be unlawful in the District for drivers of licensed Tendring District Council designated wheelchair accessible Taxi and Private Hire vehicles to refuse to carry passengers in wheelchairs; provide assistance to those passengers and prohibit wheelchair passengers from being charged extra for their journey.
- The date was likely to be six months from the date that the Committee commenced the implementation of the policy.
- It would be a criminal offence if a driver of a designated wheelchair accessible vehicle failed to comply with the duties specified and any driver convicted would be liable to receive a level 3 fine which was currently £1,000.
- Drivers could however apply for a medical exemption to undertake the carriage of a wheelchair accessible passenger and the duties associated with that carriage under Section 165 of the EA 2010. It would be at the discretion of the Council as to who it would accept that medical exemption from, (i.e. the driver’s own General Practitioner, or one that the Local Authority designated such as an occupational health Doctor and any such medical requests or examinations would be undertaken at the driver’s own expense).
- There was no national or central Government set standard for design of wheelchair accessible vehicles in terms of their size and dimensions.
- There was no requirement for Councils to specify that a certain percentage of the Taxi and Private Hire vehicles that they licence must be wheelchair accessible although as at March 2015, 61% of Local Authorities did. In London (since January 2000) and other Metropolitan areas, Taxis must be wheelchair accessible in order to be granted a licence.
- Outside London and other Metropolitan areas the average percentage of wheelchair accessible vehicles was 36% in urban areas and 13% in rural areas (as at March 2015).

- In Tendring, it was estimated that we currently had approximately 14 wheelchair accessible Taxi and Private Hire vehicles that were likely to be designated out of around 285 licensed vehicles.
- The number of wheelchair accessible vehicles in Tendring would only be confirmed once the process of vehicle designation commenced in the District.
- The cost of a wheelchair accessible vehicle was considerably higher than that of an ordinary saloon or MPV type vehicle.

The Licensing Manager informed the Committee that there was an appeal process for vehicle proprietors who disagreed with the Council's decision to designate their vehicle as a wheelchair accessible vehicle and that this must be submitted to the Magistrates Court within 28 days of the designation decision being made.

The Licensing Manager also informed the Committee that the DfT and Government had suggested an implementation period of six months to allow for relevant vehicles to be designated as wheelchair accessible, drivers to be able to apply for medical exemptions and appeal any refusals to exempt at Magistrates Court and also for vehicle proprietors to appeal any designation of their vehicle to Magistrates' Court.

The Licensing Manager confirmed that the Act went live on 6 April 2017 so if the Licensing Authority were able to achieve a six month lead it would mean that Sections 165 and 167 of the Equality Act 2010 would begin to apply in Tendring as from around mid- October 2017.

Members were informed that the Licensing Section had commenced the process of communicating the implementation of Sections 165 and 167 to the Taxi and Private Hire trades and had explained to them what the Council's and their legal responsibilities would be under those sections by way of an article in April's Taxi newsletter.

Members raised questions on various issues which were responded to by Officers.

Following discussion, it was moved by Councillor Callender seconded by Councillor Watson and unanimously **RESOLVED** that the Committee:

- a) Agrees to implement Sections 165 and 167 of the Equality Act 2010 as laid out in the main body of the report and looks to implement within a period of six months from the date of this Committee meeting if it is possible to do so;
- b) Delegates the final setting of this future date to the Head of Customer and Commercial Services and/or the Licensing Manager;
- c) Adopts the suggestion made by the Department for Transport (DfT) and the Government that applications and decisions on medical or physical exemptions for drivers will be fairer and more objective if medical assessments are carried out by an appropriately qualified medical professional who is independent of the driver and that this will be achieved by referring the driver/applicant to the Council's Occupational Health provider/assessor who is independent of the Council and such a request and referral for an exemption will be entirely at the applicant's own expense; and

- d) Designates the criteria for listing and publishing the details of wheelchair accessible vehicles in the Tendring District as per the details outlined in Appendices 1 and 2 of this report and are those vehicles that are able to carry a passenger seated in a “reference wheelchair” or larger.

29. EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED** that, under Schedule 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda item 8 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.

30. EXEMPT MINUTES OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE HELD ON 20 MARCH 2017

The Committee received and noted, for information only, the exempt minutes of the meeting of the Licensing (General Purposes) Sub-Committee held on 20 March 2017.

The meeting was declared closed at 9.40 p.m.

Chairman

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**MINUTES OF THE MEETING OF THE GENERAL PURPOSES SUB-COMMITTEE,
HELD ON MONDAY 5 JUNE 2017 AT 10.00 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors V E Guglielmi (Chairman), Cossens (Vice-Chairman), J Henderson, Watson, White and Winfield
In Attendance:	Linda Trembath (Senior Solicitor - Litigation and Governance), Simon Harvey (Licensing Manager), Michael Cook (Licensing Assistant) and Katie Sullivan (Committee Services Officer)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Massey (with no substitute).

Councillor M Brown was absent.

2. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee, held on 20 March 2017, were approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were none.

4. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 - HACKNEY CARRIAGE/PRIVATE HIRE LICENCES

The Sub-Committee noted the contents of a report (A.1) on the number of Hackney Carriage and Private Hire drivers, vehicles and operators, licensed by the Council as at 23 May 2017, which was submitted for information only.

5. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.2 - APPLICATION FOR THE RENEWAL OF A SEX ESTABLISHMENT LICENCE - ADULT CENTRE, 28 ORWELL ROAD, CLACTON-ON-SEA

The Sub-Committee considered an application (A.2) from Miss Amanda Allen for the renewal of the Sex Establishment Licence held in respect of the above premises.

Miss Allen was not present for this item.

The Council's Licensing Manager (Simon Harvey) informed Members that the Applicant proposed that trading would take place between 10.00am and 8.00pm on Monday to Saturday and he also advised that the premises complied with the current conditions imposed, as set out in Appendix 'A' to item A.2 of the Report of the Corporate Director (Operational Services).

Members were informed that there had been no objections received from Essex Police and the local Ward Councillors. Residents in the neighbourhood considered likely to be affected by the application had been consulted and no objections had been received by the date of the meeting.

The Licensing Manager confirmed that notice of the application had been displayed on the premises in the prescribed manner and a public notice to that effect had been published in the local newspaper, as required by statute.

The Sub-Committee had before it, as set out in Appendix 'B' to the report, those grounds which were material to the determination of such an application, as set out in the Local Government (Miscellaneous Provisions) Act 1982.

It was unanimously **RESOLVED** that the application for the renewal of a Sex Establishment Licence be granted, for one year, subject to the conditions as set out in Appendix 'A' to item A.2 of the Report of the Corporate Director (Operational Services).

6. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.3 - APPLICATION FOR THE GRANT OF PERMISSION TO SHOW UNCLASSIFIED FILMS

The Sub-Committee had before it a report (A.3), which advised it of an application for the grant of permission to show unclassified films at the Harwich Electric Theatre.

The applicant (Mr Offord) and one of his colleagues (Mr Theobald) were in attendance for this item and confirmed that a copy of the report had not been received. The Licensing Manager issued a copy of the report to Mr Offord and Mr Theobald and they were given some time to read it.

The Licensing Manager informed Members that the applicant, Mr Offord, who was the General Manager of the Harwich Festival, which would run from 22 June until 2 July 2017, had requested permission on behalf of the Harwich Festival to show a number of short independently made films at the Harwich Electric Palace Theatre as part of the festival entertainments programme but which had not been classified by the British Board of Film Classification (BBFC). The project to show the films ran under the title of 'Harwich Shorts'.

It was reported that the Harwich Festival was a combined Arts Festival which embraced, music, film, dance, literature, poetry and visual and performing arts. The "Harwich Shorts" project was to be an open screening of independent films made and produced from within the local community.

The Licensing Manager reminded Members that ordinarily films for cinema or other general or limited release/showing were classified by the BBFC. The BBFC would classify a film into a suitable age category for viewing which would depend on the content of the film.

Members were informed that Local Authorities did have the discretion to amend a classification made by the BBFC or grant a classification to an unclassified film if requested to do so. It was rare that this happened and the vast majority of films were classified by the BBFC. Occasionally there were times when films to be shown at an arts festival for example, or for a very limited release/showing would apply to the relevant Local Authority to classify the film, rather than the BBFC. Local Authorities could classify a film by virtue of Section 20 of the Licensing Act 2003, or in accordance with Home Office Circular 98/1982.

It was reported that the films Mr Offord wanted to show were a selection of short films from various independent filmmakers and artists. A list containing a synopsis of the short films had been submitted by Mr Offord and was attached as Appendix E.

It was further reported that Mr Offord had not requested the films to be classified by the British Board of Film Classification (BBFC) as the cost would have made the project impossible. To classify films for theatrical showing with the BBFC would have cost, it was estimated, more than £1,000.

Members were informed that as the compilation of films which Mr Offord wished to screen did not have the benefit of a certificate, the consent of the Council was required before the films could be shown as stated in the Cinemas Act 1985.

Members were informed that should they be minded to grant consent for the films, then they should suggest a suitable classification. To assist Members, the BBFC Guidelines were attached as Appendix F to the report.

It had been recommended that the Sub-Committee should first view the films prior to the meeting in order to establish whether there were any valid reasons not to permit any of them to be shown and to assist them should they wish to impose any terms and conditions if permission was granted to show the films. To assist Members, Licensing Officers had viewed the films and had made a recommendation on the classification for each film which the Sub-Committee could take into account in making its decision(s). The classifications were in accordance with the relevant BBFC Film Classification Guidelines.

A number of Members raised concerns in regards to the content of the film 'Life in Eden' as they felt that this could be misinterpreted by young persons as glorifying knife crime and so this was re-watched by Members in order to establish what action to take, if any in respect of any change to the age classification recommended by Officers for the film.

Mr Offord and Mr Theobald advised the Sub-Committee that 'Life in Eden' had been made by a young person and showed their view of post-apocalyptic life along the lines of 'live by the sword, die by the sword'. Their view was that the showing of such films, particularly when made by a young person, opened up the possibility of having a discussion about matters such as the use of knives and knife crime.

Mr Offord confirmed that there would be four 'one hour' slots at the Harwich Electric Theatre to show the films which would start at midday, on the Saturday and Sunday of the two weekends of the Festival. Mr Offord also confirmed that there would be an age check policy put in place to ensure that underage persons would not be permitted to view the films. He advised that the films had to be shown at midday because this was the only timeslot that the Electric Palace had available to offer them. Mr Offord further advised that they proposed showing the films on disc 1 on the Saturday and the films listed on disc 4 on the Sunday one weekend, and the following weekend they would reverse the order of the discs and that if any film on disk 4 were to be listed as an '18', the whole disc would be treated as rated '18': there would be an 'age check' policy in place. Discs 2 and 3 were no longer listed to be shown as there had been some difficulty in putting the film on the discs and one film by Larain Briggs 'Are we lost?' on the original list for disc 1 was also withdrawn.

Following discussion, it was moved by Councillor V E Guglielmi, seconded by Councillor Cossens and unanimously **RESOLVED** that:

- (a) the Officers recommendation be adopted for disc 1; and
- (b) the Officers recommendation be adopted for disc 4 with the exception of the film 'Life in Eden' which the Sub-Committee agreed should be given an age rating of 18.

7. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor White, seconded by Councillor V E Guglielmi and:

RESOLVED that the public be excluded from the meeting for the items of business to be considered below on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act:

- (a) Exempt Minutes of the Last Meeting of the Sub-Committee held on 20 March 2017;
- (b) Report of Corporate Director (Operational Services) - B.1 - Applications for the Renewal of Hackney Carriage/Private Hire Drivers' Licences;
- (c) Report of Corporate Director (Operational Services) – B.2 – Applications for the Grant of Hackney Carriage/Private Hire Drivers' Licences; and
- (d) Report of Corporate Director (Operational Services) – B.3 – Application for the Review of a Hackney Carriage/Private Hire Driver's Licence.

8. EXEMPT MINUTES OF THE LAST MEETING

The Exempt Minutes of the last meeting of the Sub-Committee, held on 20 March 2017, were approved as a correct record and signed by the Chairman.

9. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - B.1 - APPLICATIONS FOR THE RENEWAL OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

The Sub-Committee considered applications for the renewal of Hackney Carriage/Private Hire Drivers' Licences. The Sub-Committee's resolutions are detailed in the exempt minutes of this meeting.

10. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) – B.2 – APPLICATIONS FOR THE GRANT OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

The Sub-Committee reviewed applications for the grant of Hackney Carriage/Private Hire Drivers' Licences. The Sub-Committee's resolutions are detailed in the exempt minutes of this meeting.

11. **REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) – B.3 – APPLICATION FOR THE REVIEW OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER’S LICENCE**

The Sub-Committee reviewed a named individual’s Hackney Carriage/Private Hire Driver’s Licence. The Sub-Committee’s resolutions are detailed in the exempt minutes of this meeting.

The meeting was declared closed at 1.35 pm

Chairman

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**MINUTES OF THE MEETING OF THE GENERAL PURPOSES SUB-COMMITTEE,
HELD ON MONDAY 11 DECEMBER 2017 AT 10.00 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors V E Guglielmi (Chairman), Cossens (Vice-Chairman), J Henderson, White and Winfield
In Attendance:	Linda Trembath (Senior Solicitor (Litigation and Governance)), Karen Townshend (Licensing Manager), Emma King (Licensing Officer), Katie Sullivan (Committee Services Officer) and Charlotte Tibbles (Licensing Apprentice)

12. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor M J Skeels (with no substitute).

Councillors M Brown and Massey were absent.

The Sub-Committee requested that, due to the fact that Councillor Massey had not attended any of the General Purposes Sub-Committee meetings for some time, the Leader of the Council (Councillor Stock OBE) appoint another Councillor to sit on the Sub-Committee in Councillor Massey's place.

The Council's Licensing Officer (Emma King) introduced the Council's new Licensing Manager (Karen Townshend) to the Sub-Committee.

13. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee, held on 5 June 2017, were approved as a correct record and signed by the Chairman.

14. DECLARATIONS OF INTEREST

There were none.

15. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 - HACKNEY CARRIAGE/PRIVATE HIRE LICENCES

The Sub-Committee noted the contents of a report (A.1) on the number of Hackney Carriage and Private Hire drivers, vehicles and operators, licensed by the Council as at 27 November 2017, which was submitted for information only.

16. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.2 - APPLICATION FOR THE GRANT OF PERMISSION TO SHOW AN UNCLASSIFIED FILM

The Sub-Committee had before it a report (A.2), which advised it of an application for the grant of permission to show an unclassified film at the Harwich Electric Palace Theatre.

The applicant (Mr Chris Brindle) was not in attendance for this item due to other prior booked commitments but he had confirmed to the Licensing section that he gave his consent for the Sub-Committee to consider the application in his absence.

The Licensing Officer informed Members that the applicant, Mr Brindle, who was an independent film maker, had requested permission to show an independently made film and documentary at the Harwich Electric Palace Theatre in 2018 under a project known as 'Jane Austen's Sanditon, Documentary and Film-of-the-Play' to coincide when the Fluidity Films/Goldcrest version was released, but which had not been classified by the British Board of Film Classification (BBFC).

It was reported that Mr Brindle wanted to show a film that was essentially a solution to the problem of "how should Jane Austen's last novel have ended".

The Licensing Officer reminded Members that ordinarily films for cinema or other general or limited release/showing were classified by the BBFC. The BBFC would classify a film into a suitable age category for viewing which would depend on the content of the film.

Members were informed that Local Authorities did have the discretion to amend a classification made by the BBFC or grant a classification to an unclassified film if requested to do so. It was rare that this happened and the vast majority of films were classified by the BBFC. Occasionally there were times when films were to be shown at an arts festival for example, or for a very limited release/showing individuals would apply to the relevant Local Authority to classify the film, rather than the BBFC. Local Authorities could classify a film by virtue of Section 20 of the Licensing Act 2003, or in accordance with Home Office Circular 98/1982.

It was reported that Mr Brindle had not requested the film to be classified by the British Board of Film Classification (BBFC) as the cost would have made the project impossible. To classify films for theatrical showing with the BBFC would have cost, it was estimated, more than £1,000.

The Licensing Officer informed Members that the BBFC did offer what was known as 'Watch and Rate' classifications for charities at a much lower rate than solely commercial organisations, but it was not clear whether this reduced rate would apply on this occasion.

Members were informed that as the film which Mr Brindle wished to screen did not have the benefit of a certificate, the consent of the Council was required before the film could be shown as stated in the Cinemas Act 1985.

Members were further informed that should they be minded to grant consent for the film, then they should suggest a suitable classification. To assist Members, the BBFC Guidelines were attached as Appendix A to the report.

It had been recommended that the Sub-Committee should first view the film prior to the meeting in order to establish whether there were any valid reasons not to permit it to be shown and to assist them should they wish to impose any terms and conditions if permission was granted to show the film.

Following discussion, it was moved by Councillor J Henderson, seconded by Councillor Cossens and **RESOLVED** that approval be given to show the film at the Harwich Electric Theatre with the film classification category U (Universal).

17. EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED** that the public be excluded from the meeting for the items of business to be considered below on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Local Government Act 1972:

- (a) Exempt Minutes of the Last Meeting of the Sub-Committee held on 5 June 2017;
- (b) Report of the Corporate Director (Operational Services) - B.1 - Applications for the Renewal of Hackney Carriage/Private Hire Drivers' Licences; and
- (c) Report of the Corporate Director (Operational Services) - B.2 – Application for the Grant of a Hackney Carriage/Private Hire Driver's Licence.

18. EXEMPT MINUTES OF THE LAST MEETING

The Exempt Minutes of the last meeting of the Sub-Committee, held on 5 June 2017, were approved as a correct record and signed by the Chairman.

19. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) – B.1 – APPLICATIONS FOR THE RENEWAL OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

The Sub-Committee considered applications for the renewal of Hackney Carriage/Private Hire Drivers' Licences. The Sub-Committee's resolutions are detailed in the exempt minutes of this meeting.

20. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) – B.2 – APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

The Sub-Committee reviewed a named individual's application for the grant of a Hackney Carriage Driver's Licence. The Sub-Committee's resolutions are detailed in the exempt minutes of this meeting.

The meeting was declared closed at 11.02 am

Chairman

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**MINUTES OF THE MEETING OF THE GENERAL PURPOSES SUB-COMMITTEE,
HELD ON FRIDAY 23RD FEBRUARY 2018 AT 10.07 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors V E Guglielmi (Chairman), Cossens (Vice-Chairman), M Brown, Watson and Winfield
In Attendance:	Linda Trembath (Senior Solicitor (Litigation and Governance)), Karen Townshend (Licensing Manager), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer)

21. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor M J Skeels (Jnr) (with no substitute) and Councillor J Henderson (with no substitute).

Councillor J White was absent.

22. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee, held on 11 December 2017, were approved as a correct record and signed by the Chairman.

23. DECLARATIONS OF INTEREST

There were none.

24. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 - HACKNEY CARRIAGE/PRIVATE HIRE LICENSES

The Sub-Committee noted the contents of a report (A.1) on the number of Hackney Carriage and Private Hire drivers, vehicles and operators, licensed by the Council as at 9 February 2018, which was submitted for information only.

Councillor Cossens asked questions of the Licensing Officer in respect of whether there was a figure for the minimum number of Hackney Carriage and Private Hire Licences and the Licensing Manager agreed to provide figures at the next meeting of the Committee.

25. EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED** that the public be excluded from the meeting for the items of business to be considered below on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Local Government Act 1972:

- (a) Exempt Minutes of the Last Meeting of the Sub-Committee held on 11 December 2017;
- (b) Report of the Corporate Director (Operational Services) - B.1 - Applications for the temporary suspension/deferral of Hackney Carriage Drivers' and Vehicle Licences; and

- (c) Report of the Corporate Director (Operational Services) - B.2 – Application for the Grant of a Hackney Carriage/Private Hire Driver's Licence.

26. EXEMPT MINUTES OF THE LAST MEETING

The Exempt Minutes of the last meeting of the Sub-Committee, held on 11 December 2017, were approved as a correct record and signed by the Chairman.

27. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - B.1 - APPLICATIONS FOR THE TEMPORARY SUSPENSION/DEFERRAL OF HACKNEY CARRIAGE DRIVERS' AND VEHICLE LICENCES

The Sub-Committee considered applications for the suspension/deferral of Hackney Carriage Driver and Vehicle Licences. The Sub-Committee's resolutions are detailed in the exempt minutes of this meeting.

28. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - B.2 - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

The Sub-Committee reviewed a named individual's application for the grant of a dual Hackney Carriage/Private Hire Driver's Licence. The Sub-Committee's resolutions are detailed in the exempt minutes of this meeting.

The meeting was declared closed at 11.03 am

Chairman

**MINUTES OF THE MEETING OF THE PREMISES/PERSONAL LICENCES
SUB-COMMITTEE 'C', HELD ON MONDAY 15 MAY 2017 AT 10.00 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Cossens (Chairman), J Henderson and M J Skeels
Also Present:	Councillor Watson (Stand-by Member)
In Attendance:	Linda Trembath (Senior Solicitor - Litigation and Governance), Simon Harvey (Licensing Manager), Steve Mahoney (Licensing Assistant) and Katie Sullivan (Committee Services Officer)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

2. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee, held on 20 June 2016, were approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

Councillor M J Skeels declared that he had eaten at the Saffron Restaurant some years ago, however he did not know anyone who worked there.

4. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - SAFFRON RESTAURANT, 51 RAVENSDALE, CLACTON-ON-SEA, ESSEX, CO15 4QH

The Chairman (Councillor Cossens) welcomed everyone to the meeting and gave an overview of the procedure that would be followed for the hearing. It was confirmed that Members and Interested Parties had received the 'Procedures for Hearings – Premises/Personal Licences Sub-Committee procedure' document.

The Council's Licensing Manager (Simon Harvey) then gave a verbal summary of his report and advised that the Sub-Committee had before it, for its consideration, as set out in item A.1 of the Report of the Corporate Director (Operational Services), an application for the Review of the Premises Licence held by Mr Ismail Ali for the Saffron Restaurant, 51 Ravensdale, Clacton-on-Sea, Essex, CO15 4QH. A location plan for the Saffron Restaurant was handed out to those present.

Members were informed by the Licensing Manager as part of his summary that an application for the review of the Premises Licence for the Saffron Restaurant had been submitted by Essex Police following investigations by Officers of the Immigration Service and that this had been received by the Licensing Authority on 31 March 2017. The application for the Review had been submitted on the grounds that the lack of management control at the premises in regards to the employment of persons not entitled to work in the UK had breached the Licensing Objective in respect of the Prevention of Crime and Disorder. As a result of the breach, Essex Police were requesting the Licensing Sub-Committee to revoke the premises licence in question.

It was reported that the review application and its accompanying supporting documents had advised and contained the following:

- An unsigned Section 9 witness statement from an Immigration Officer (Mr Edward O'Dowd-James) which had detailed an investigation made by the Immigration Authority on 16 February 2017 into allegations that the Saffron Restaurant was employing a person who had no right to stay or work in the United Kingdom and also the outcome of that investigation;
- A transcript of a stated and certified case in the Queen's Bench Division (Administrative Court) High Court of Justice which was heard on 14 April 2016 and detailed a successful appeal made by East Lindsey District Council against a District Judges decision of 23 June 2015 not to uphold a revocation of a premises licence determined by a Licensing Sub-Committee of East Lindsey District Council on the grounds of Crime and Disorder because the licence holder had knowingly employed a person who did not have the right to work in the United Kingdom and as a result, this had breached the Prevention of the Crime and Disorder licensing objective required under the Licensing Act 2003;
- A schedule of Income Tax (Pay As You Earn) Regulations 2003;
- A copy of a newspaper article in the Clacton Gazette published on 4 March 2017 which had detailed an investigation by the Immigration Authority which had found that on 16 February 2016 the Saffron Restaurant had four persons working on the premises who did not have the right to work in the United Kingdom and as a result the business had been served with a 'civil penalty referral notice' by the East of England Immigration Enforcement team;
- A schedule of desired outcomes that Essex Police were seeking from the hearing as a result of having applied to the Licensing Authority for a Review of the Premises Licence held by Mr Ismail Ali for the Saffron Restaurant, 51 Ravensdale, Clacton-on-Sea, CO15 4QH and which were the revocation of the Premises Licence or the Suspension of the Premises Licence for a period determined by the Licensing Sub-Committee. Essex Police did not consider that it was suitable to impose conditions onto the Premises Licence in a case where workers had been employed illegally; and
- A copy of the Premises Licence held for the Saffron Restaurant.

It was also reported that notice of the review application had been made and advertised in accordance with Section 51 of the Licensing Act 2003 and the regulations that accompanied it. In particular, a notice detailing the review application had been clearly displayed on the premises concerned and on Tendring District Council's Website for the prescribed 28 day period. Periodic checks had been undertaken by the Licensing Authority to ensure that this was the case. The end of the notice period had been 30 April 2017.

The Licensing Authority had accepted the review application and had been satisfied that it had been properly served. The Licensing Manager informed Members that he was satisfied that the application and the representations that it made were relevant to the licensing objectives and were not vexatious, repetitious or frivolous in nature.

It was confirmed that no representations had been received from any other Responsible Authorities or other persons who could also make statutory representations in regards to review applications.

Members were informed that such representations should be relevant and not be considered by the Licensing Authority as vexatious, repetitious or frivolous and could be made in opposition to, or support of, an application and could be made by any individual, body or business that had grounds to do so. The Statutory Guidance was silent on whether representations could be made against an application for a review, or in support of the respondent to the review (which in this case was the Premises Licence holder Mr Ismail Ali). However, given that the Guidance was silent on this question, but clearly indicated that other persons could make representations in regards to a review and that representations could be made in support of applications, it was therefore reasonable to assume that representations could also be made in support of the Premises Licence Holder Mr Ali in this matter for due consideration by the Licensing Sub-Committee and as part of the Review application hearing process.

The Solicitors acting on behalf of the respondent and Premises Licence holder Mr Ali had submitted ten individual letters of support for him, his character and the Saffron Restaurant as a business as a whole and had also submitted a petition containing 70 individually named persons who were strongly against the revocation of the Premises Licence of the Saffron Restaurant. Those letters and petition were attached as a bundle to the report as Appendix 3.

The Sub-Committee was made aware by the Licensing Manager that the petition did not carry or include the reason for the petition and why persons had been asked to sign it anywhere other than on its first page. Advice had previously been sought on this question of including the reason for the petition to be shown on all pages of the petition. The Sub-Committee were informed that they should only take into consideration and give any weight to the first page which included the statement and the reason as to why persons had been asked to sign the petition and why they had signed it.

The Licensing Manager confirmed that Mr Ali's Solicitors had also submitted a four page response and mitigation to the review application which in summary included advice that Mr Ali was in the process of re-organising the restaurant's administrative procedures to be more in line with Home Office expectations; that he had already begun screening all staff members to ensure that they had the right to work in the UK; that the incident of the 16 February 2017 was a one-off and they believed that as their client was objecting to the civil penalty served by the Immigration Authority and many factors were in dispute about the incident, that Essex Police had acted prematurely by calling for a review of his Premises Licence.

The Sub-Committee was informed that Appendix 4 showed the full detail of the Section 182 Guidance issued to accompany the Licensing Act 2003 in regards to a Review of a Premises Licence that was applied for through a process other than a Closure Order.

The Chairman asked if anyone had any questions that they would like to ask the Licensing Manager following his summary. There were no questions asked.

Stephen Sparrow the County Licensing Officer for Essex Police (who had submitted the application on behalf of Essex Police for the Review of the Premises Licence held by Mr Ismail Ali) then addressed the Sub-Committee and gave an overview of the events and facts of the case and the reasons behind why Essex Police had made such an application. Mr Sparrow referred the Sub-Committee to the stated case of East Lindsey District Council v Abu Hanif in April 2016 which established a legal precedent that could be referred to in other cases, which held that it was not necessary for a prosecution to be brought in order for the crime prevention objective to be engaged and advised that a transcript of this case was in the review application bundle provided by the Police. Mr Sparrow confirmed that a civil penalty, in the sum of £30,000 had been imposed on Mr Ali by the Immigration Service in connection with the illegal workers that had been found to be working at the premises at the time it was raided by the Immigration Services on 16 February 2017 and while three persons had been found who had no right to work in the UK, and therefore it was contended that they had been employed illegally by Mr Ali, it was the Police and Immigration Services view that anything up to four persons may have been illegally employed as the person sought under the Immigration Services warrant was not found on that day although intelligence suggested that he did work there.

Mr Ismail Ali's Solicitor (Mr Sabbir Ahmed of Taj Solicitors) was asked by the Chairman of the Sub-Committee, Councillor Cossens, if he had any questions for the applicant to which he responded by asking Mr Sparrow if he had any further updates in regards to the suspected breach of Mr Ali not undertaking the relevant employment checks. Mr Sparrow replied by confirming that it was not his position to answer the question as it was not within his remit or knowledge to do so and that his role was to bring the review not deal with the immigration offences or any appeal lodged against the civil penalty served on Mr Ali.

Mr Ali's Solicitor addressed the Sub-Committee and gave an overview of his client's position and the events leading up to the 16 February 2017 when he was found by the East of England Immigration Enforcement team to be employing persons who had no right to work or stay in the United Kingdom. Mr Ali's Solicitor confirmed that Mr Ali had checked the employees' documents but had not been aware that they were fraudulent and that Mr Ali had provided all of these original documents to the Home Office following on from the events on 16 February 2017 and therefore did not have any copies to be able to show the Sub-Committee as an example of what he had been supplied by the persons in question, but that his client had no reason to doubt at the time that the documents were genuine.

Stephen Sparrow of Essex Police was then asked by the Chairman of the Sub-Committee, Councillor Cossens, if he had any questions for Mr Ali's Solicitor to which he responded by asking a question in relation to Mr Ali's screening procedures and what checks had been carried out to date. Mr Ali's Solicitor replied by confirming that Mr Ali had his own internal system which was checking original documents from the employee and then making a copy and filing them away.

The Sub-Committee then asked Mr Ali's Solicitor a question in relation to whether Mr Ali had a PAYE register and whether book keeping of the payroll was managed. Mr Ali's Solicitor confirmed that Mr Ali handed everything over to his Accountant. Mr Ali did not have or use a computer and that he still did everything by pen and paper. It was confirmed that Mr Ali was currently looking at the management of the business and

administrative procedures and was looking to make improvements. It was also confirmed that the workers had only just started working for Mr Ali and that one of them had given Mr Ali his National Insurance number.

The Chairman asked if any Members had any further questions or whether the applicant or the representative of the licence holder Mr Ali had any questions that they wished to ask of each other or any other party relevant to the review hearing. As there were no further questions, both the applicant and the representative for the licence holder were invited by the Chairman to make their closing statements.

Mr Ali's Solicitor confirmed that:

- 1) The civil penalty was being appealed, and that it was currently with the Home Office;
- 2) All employees had the 'correct' documents;
- 3) Mr Ali was a victim of fraud; and
- 4) Mr Ali had not breached the Licensing Objectives.

Stephen Sparrow confirmed that:

- 1) One of the illegal workers had been removed from the UK;
- 2) Mr Ali had said that he had checked the papers given to him by the employees but it did not 'ring true';
- 3) Letters of support for Mr Ali had been received but that these should be disregarded as they only confirmed that the food was good at the restaurant and Mr Ali was hard working; and
- 4) It was his view that no checks had ever been carried out.

The Sub-Committee, the Council's Solicitor and the Committee Services Officer withdrew from the meeting in order for the Sub-Committee to consider the application and reach a decision.

The Sub-Committee, Council's Solicitor and Committee Services Officer then returned to the meeting and the Council's Solicitor confirmed that she had not provided any legal advice to the Sub-Committee whilst it was making its decision.

The Chairman of the Sub-Committee then read out the following decision:

"The Sub-Committee has given careful consideration to this application for a review and to the actual representations received from Essex Police on the grounds that the Licensing Objective in respect of the Prevention of Crime and Disorder had been breached for the reasons set out in their application and to the representations made on behalf of Mr Ismail Ali, the Premises Licence Holder and business owner both in writing and today.

In making its decision the Sub-Committee have taken into account:

- 1) Relevant matters set out in the Licensing Authority's own Statement of Licensing policy;
- 2) The relevant parts of the Guidance issued by the Secretary of State;

- 3) The range of powers provided to Licensing Authorities by the Licensing Act 2003 in determining a review; and
- 4) Any legal advice given by the Council's Solicitor.

The Sub-Committee are also aware that it must act to promote the Licensing Objectives as set out in the Licensing Act 2003 and that any decision it takes in determining a review must be necessary for the promotion of these objectives.

The decision of the Sub-Committee is to suspend the Premises Licence for a period of three months.

The Sub-Committee's reasons are as follows:

- 1) Reviews ordinarily follow where premises have been warned about some aspect of the business that affects the premises licence, or where their behaviour affects that licence, and/or advice has been given about improvement but they have failed to improve. However, where the activity causing concern is so serious, involving criminal activity such as the sale and distribution of drugs, or as here, the employment of a person or persons who are disqualified from that work because of their immigration status, then a review can be sought without previous involvement by the applicant, here Essex Police;
- 2) This Sub-Committee's role is to promote the Licensing Objectives - in this case it is the prevention of crime and disorder – and not to punish – that is the role of others including, where appropriate, the criminal courts. However, the Guidance issued under Section 182 of the Licensing Act 2003 does suggest that in certain categories, where the premises have been used to further crime, then revocation should be seriously considered, even for the first incident;
- 3) In this case we are told that, having obtained a warrant on 13 February 2017, Immigration Officers attended at the Saffron Restaurant on the evening of 16 February 2017. The Saffron Restaurant is owned and run by Mr Ismail Ali, the Premises Licence Holder and the Designated Premises Supervisor;
- 4) The Immigration Officers did not, it seems, find the individual they were looking for but found three other individuals, two of whom had, apparently, no right to work in the UK, and one of whom had overstayed his Visa;
- 5) We have been told that a civil penalty, in the sum of £30,000 has been imposed on Mr Ali by the Immigration Service in connection with the illegal workers – three of whom were found, at the premises, but the fourth who was named on the warrant, we are told, was not found;
- 6) We have also been told that the civil penalty is being appealed, and that it is currently with the Home Office;
- 7) We have been referred to the case of East Lindsey District Council and accept that there does not need to be a prosecution, or a conviction for the Licensing Objection of Preventing Crime and Disorder to be engaged;
- 8) We view the matter seriously and wish to address our role in the prevention of crime and disorder, and allow Mr Ali to address serious deficiencies in the management of the business which we have been told he is already addressing and which a three month's suspension should enable him to achieve working with all relevant authorities, and his advisors."

The Chairman confirmed that all relevant persons would receive the decision in writing and that they had the right to appeal the decision to the Magistrates' Court.

The meeting was declared closed at 12.07 pm

Chairman

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**MINUTES OF THE MEETING OF THE PREMISES/PERSONAL LICENCES
SUB-COMMITTEE 'A', HELD ON MONDAY 14 AUGUST 2017 AT 10.05 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors V E Guglielmi (Chairman), Whitmore, Winfield and Watson (Stand-by Member)
Also Present:	None
In Attendance:	Mark Westall (Head of Customer and Commercial Services), Linda Trembath (Senior Solicitor (Litigation and Governance)), Debbie Bunce (Legal Administration & Information Officer), Katie Sullivan (Committee Services Officer), Emma King (Licensing Officer) and Michael Cook (Licensing Assistant)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions on this occasion.

2. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Sub-Committee held on 6 September 2016 were approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

**4. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 -
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - THE MANOR,
RECTORY ROAD, GREAT HOLLAND, ESSEX**

The Chairman (Councillor V E Guglielmi) welcomed everyone to the meeting.

The Council's Licensing Officer (Emma King) then gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in item A.1 of the Report of the Corporate Director (Operational Services), an application for the Variation of the Premises Licence held by Olivia Hearn ("the applicant") for The Manor Public House, Rectory Road, Great Holland.

Section 2.2 of the written report set out the proposed opening hours for the premises whilst Sections 3.1 to 3.6 inclusive detailed the current licensable activities. The proposed licensable activities applied for by the applicant were before Members in Sections 4.1 to 4.6 of the written report. However, it was noted that variation in respect of Late Night Refreshment, at 4.5, was not being sought at this time, as this had not been included in the original advertising and the applicants did not want to delay the application as a whole.

The applicant had stated the steps that she proposed to take to promote the statutory Licensing Objectives within her Operating Schedule and these were detailed in Sections 5.1 to 5.5 inclusive. The applicants had also offered to stop outside events at 10.00 pm.

All responsible authorities had been consulted with as standard procedure and it had been confirmed that Essex Police had spoken with the applicant on 18 July 2017. The applicant had confirmed that the outside mobile bar would only be used seasonally and would be hired out to private parties off site. The applicant had also confirmed that the outdoor alcohol would be served in plastic glasses only. Essex Police therefore had no objections to this application.

The Council's Pollution and Environmental Control team had objected to the application and Andy Rutson-Edwards (Environmental Protection Officer – Pollution & Environmental Control Team) had submitted the following comments regarding the premises licence variation:

"I ask that the variation, if granted restricts all outdoor events referred to in Part 4 of the application to finish no later than 23.00 with the speakers positioned so that the sound is directed inward away from noise sensitive premises.

My previous paragraph refers to the playing of live music, recorded music and anything similar (sections E, F, and H) in the application where it relates to outdoor events these are further restricted by the condition as follows:

Not to continue beyond 23.00. Maximum noise levels (MNL) LAeq(15min) from the events shall not exceed 65dB(A) 1 metre from the nearest noise sensitive property.

For a licence variation, if given for music after 23.00 including outdoor events please take note of the following: Directions, given under the Noise Act 1996 provide that the permitted level for the purposes of that Act is 34 decibels where the underlying noise level does not exceed 24 decibels or 10 decibels above underlying noise levels in any other case. In the event that the representations are received and the Authority concludes that a noise condition is required that starting point for such a condition would be 34 decibels.

Adding these conditions to any variation of license will significantly reduce the likelihood of public and statutory nuisance.

If an applicant wishes to contend that higher or longer hours are appropriate then the Authority would expect the applicant to provide a noise survey to support such a contention.

Alternatively the following condition would achieve the same effect if imposed restricting the end time of outdoor recorded and live music events to 23.00. A noise limiter must be fitted to the musical amplification system set a level determined by, and to the satisfaction of, an authorised officer of the Environmental Service, so as to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Service and access shall only be by persons authorised by the Premises Licence Holder.

The limiter shall not be altered without prior agreement with the Environmental Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Service. No additional

sound generating equipment shall be used on the premises without being routed through the sound limiter device.”

No other representations had been received by any individual, body or business that had grounds to do so.

The Sub-Committee had before it for its information the relevant extract from the Council’s Statement of Licensing Policy in respect of the statutory ‘Prevention of Public Nuisance’ Licensing Objective.

Members also had before them for their assistance the relevant paragraphs from the Home Office’s Section 182 Guidance that accompanied the Licensing Act 2003 in respect of the following –

- (1) Prevention of Public Nuisance;
- (2) Prevention of Crime and Disorder; and
- (3) Hours of Trading.

The Chairman asked if anyone had any questions that they would like to ask the Licensing Officer following her summary of the written report. There were no questions asked.

Mrs Hearn’s husband was also present and he confirmed that he and his wife were business partners, however Mrs Hearn was the Premises Licence holder for The Manor.

Mr and Mrs Hearn addressed the Sub-Committee and put forward their case as to why the application should be approved and confirmed that the opening hours chosen for the proposed usage of the outside area had been requested as it was in line with the opening hours for the current licensed area. They then responded to questions raised by Members.

In response to being asked about car parking space Mr and Mrs Hearn confirmed that the car park would still be used for parking but that they were hoping to buy some additional land in the future and in the future they were considering changing around the car parking area and garden. When outdoor events were arranged, the mobile bar known as “the rocket” would be parked in the car park, and that was why the application included the car park as well as the garden but the rest of the car park would still be used for parking. In response to being asked when they planned for events to take place they confirmed that they would look to hold events on bank holiday weekends, village fete days and on the anniversary for each year since they had opened the pub.

Mr and Mrs Hearn said that they had taken a year to renovate the public house before opening and that the application had initially been made on the basis of the times that had been permitted prior to their ownership. They called last orders at 11.00 pm. They wanted to be a “family friendly” pub and were conscious of noise issues as they lived on the premises and had a two year old child. They understood the concerns of the Council’s Pollution and Environmental Control Team about noise and were happy to agree a 10.00 pm finish time for outdoor events, but if someone particularly wanted something different they could apply for a Temporary Event Notice (TEN).

Mr and Mrs Hearn confirmed that they would manage the noise levels outdoors, including where people brought their own noise equipment, by physically walking around at regular intervals.

Mr Rutson-Edwards then addressed the Sub-Committee and explained why the Council's Pollution and Environmental Control Team had put forward representations on this application and their suggested control measures. He then responded to questions raised by Members which included queries about Noise Limiters.

The Chairman then requested Mr and Mrs Hearn and Mr Rutson-Edwards to leave the meeting to discuss the suggested control measures in more detail. Mr and Mrs Hearn and Mr Rutson-Edwards then withdrew from the meeting.

Following that discussion Mr and Mrs Hearn and Mr Rutson-Edwards then returned to the meeting indicating that they had reached agreement on measures to control the noise at events held outdoors; Members were given the opportunity to ask any further questions.

In response to being asked if the Public House was a Freehouse Mr and Mrs Hearn confirmed that it was; in response to being asked if they had any help and support, they confirmed that they had lots of help and support from their respective families and that Mr Hearn's family had experience in the industry.

The Sub-Committee, the Council's Solicitor, Legal Administration and Information Officer and the Committee Services Officer then withdrew from the meeting in order for the Sub-Committee to consider the application and reach a decision.

The Sub-Committee, the Council's Solicitor, the Legal Administration and Information Officer and the Committee Services Officer then returned to the meeting.

The Chairman of the Sub-Committee then read out the following decision:

The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the applicant, the representations received from Tendring District Council Environmental Services along with the guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.

The decision of the Sub-Committee is to **GRANT** this application in full, subject to the imposition of certain conditions.

In addition to any mandatory conditions and any conditions that are consistent with the operating schedule the following conditions will apply in order to satisfy the relevant Licensing Objective.

That in relation to the application generally the applicant now seeks a finish time for all outdoor events of 10.00 pm, and the licence is granted to allow that with one condition added, namely that for all outdoor events a noise limiter and/or some way of managing the noise so that the levels noted by the Council's Pollution and Environmental Control Team are not exceeded. This condition has been agreed between the parties and is made in respect of the Licensing Objective for the Prevention of Public Nuisance.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have the right of appeal to the Magistrates' Court.

This decision was made today, 14 August 2017 and will be confirmed in writing to all parties.

The meeting was declared closed at 11.15 am

Chairman

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MINUTES OF THE MEETING OF THE PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'C', HELD ON MONDAY, 20TH NOVEMBER, 2017 AT 1.35 PM IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY

Present:	Councillors Cossens (Chairman), J Henderson and M J Skeels Jnr
Also Present:	Councillor Watson (Stand-by Member)
In Attendance:	Mark Westall (Head of Customer and Commercial Services), Linda Trembath (Senior Solicitor (Litigation and Governance)), Emma King (Licensing Officer), Michael Cook (Licensing Assistant) and Debbie Bunce (Legal Administration & Information Officer), Charlotte Tibbles (Licensing Apprentice)
Also in Attendance:	Gordon Ashford (Essex Police), Joanne Stainsbury (Essex Police), Jack Davis (Chief Immigration Officer), Tahrira Ahmed (Licence Holder), Khaled Ahmed, Designated Premises Supervisor, Sayed Hasan – Universal Lawyers - Registered Foreign Lawyer [RFL]

5. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

6. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Sub-Committee, held on 15 May 2017, were approved as a correct record and signed by the Chairman.

7. DECLARATIONS OF INTEREST

There were none.

8. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - NIRALA TANDOORI, 14 BROOK STREET, MANNINGTREE, CO11 1DR

The Chairman (Councillor Cossens) welcomed everyone to the meeting and gave an overview of the procedure that would be followed for the hearing. It was confirmed that Members and Interested Parties had received the 'Procedures for Hearings – Premises/Personal Licences Sub-Committee procedure' document.

The Council's Licensing Officer (Emma King) then gave a verbal summary of the Report of the Corporate Director (Operational Services) (A.1) and advised that the Sub-Committee had before it, for its consideration, an application for the Review of the Premises Licence held by Ms Tahrira Ahmed for the Nirala Tandoori, 14 Brook Street, Manningtree.

Members were informed by the Licensing Officer as part of her summary that an application for the review of the Premises Licence for the Nirala Tandoori had been submitted by Essex Police following investigations by Officers of the East of England Immigration Enforcement Team at the Premises and that this had been received by the Licensing Authority on 11 October 2017. The application for the Review had been submitted on the grounds that the Licensing Objective in respect of the Prevention of

Crime and Disorder had been breached because the Premises Licence Holder Ms Tahrima Ahmed and the Designated Premises Supervisor Mr Khaled Ahmed had been found to be employing persons who had no right to work or stay in the United Kingdom. As a result of that breach, Essex Police were requesting the Sub-Committee to revoke the premises licence in question.

It was reported that the review application and its accompanying supporting documents had advised and contained the following:

- A Section 9 witness statement from a Detective Constable Mr Richard Adams which had detailed an authorised visit made with HM Revenues and Customs on 30 August 2017 to the Nirala Tandoori, where during the visit it was suspected that at least two of the persons present were suspected illegal immigrants. Detective Constable Adams had subsequently made a referral to UK Immigration regarding the visit and the potential illegal immigrants working there;
- A Section 9 witness statement from Immigration Officer John Donaldson which had detailed a visit to the Nirala Tandoori on 14 September 2017, where during the visit he had questioned Mr Nizam Uddin;
- A Section 9 witness statement from Immigration Officer James Denham which had detailed a visit to the Nirala Tandoori on 14 September 2017, where during the visit he had questioned Mr Abdur Rahim;
- A Section 9 witness statement from Chief Immigration Officer Jack Davis which had detailed a visit to the Nirala Tandoori on 14 September 2017, where during the visit it was found that Mr Uddin had no permission to work and he was subsequently escorted from the premises and where it was found that Mr Rahim had no Visa to remain or work in the UK and he was therefore arrested;
- A Section 9 witness statement from Police Licensing Officer Alan Beckett which had detailed a visit to the Nirala Tandoori on 30 September 2017 where the visit from the Immigration Service had been discussed and the DPS had been asked to show passport checks;
- A Section 9 witness statement from Special Constable Jack Howe which had detailed a visit to Nirala Tandoori on 30 September 2017 where evidence of right to work documents had been requested;
- Result of Home Office right to work for Mr Nizam Uddin;
- Result of Home Office right to work for Mr Abdur Rahim;
- A transcript of a stated and certified case in the Queens Bench Division (Administrative Court) High Court of Justice which had been heard on 14 April 2016 and had detailed a successful appeal made by East Lindsey District Council against a District Judge's decision of 23 June 2015 not to uphold a revocation of a premises licence determined by a Licensing Sub-Committee of East Lindsey District Council on grounds of crime and disorder because the licence holder had knowingly employed a person who did not have the right to work in the United Kingdom and as a result, this had breached the Prevention of

the Crime and Disorder licensing objective required under the Licensing Act 2003. This case clarified the position that there did not need to be a prosecution or criminal conviction in relation to a licence holder for a Licensing Authority's crime prevention objective to be engaged although each case would be decided upon its own merits.. The promotion of the prevention of crime and disorder by a Licensing Authority was anticipatory and preventive.

- A schedule of Income Tax (Pay As You Earn) Regulations 2003; and
- A schedule of desired outcomes that Essex Police were seeking from this hearing as a result of having applied to the Licensing Authority for a Review of the Premises Licence held by Ms Tahrira Ahmed for the Nirala Tandoori, 14 Brook Street, Manningtree. This was the revocation of the Premises Licence as Essex Police did not consider that it was suitable to impose conditions onto the Premises Licence in a case where workers had been employed illegally.

A copy of the Premises Licence Review application and all of the documents referred to in the bullet points above were attached to the report as Appendix 2.

It was also reported that notice of the review application had been made and advertised in accordance with Section 51 of the Licensing Act 2003 and the regulations that accompanied it. In particular, a notice detailing the review application had been clearly displayed on the premises concerned and on Tendring District Council's Website for the prescribed 28 day period. Periodic checks had been undertaken by the Licensing Authority to ensure that this was the case. The end of the notice period had been 8 November 2017.

The Licensing Authority had accepted the review application and had been satisfied that it had been properly served. It was satisfied that the application and the representations that it made were relevant to the licensing objectives and were not vexatious, repetitious or frivolous in nature.

It was confirmed that no representations had been received from any other Responsible Authorities or other persons who could also make statutory representations in regards to review applications.

Members were informed that any such representations should be relevant and not be considered by the Licensing Authority as vexatious, repetitious or frivolous and could be made in opposition to, or support of, an application and could be made by any individual, body or business that had grounds to do so. The Statutory Guidance was silent on whether representations could be made against an application for a review, or in support of the respondent to the review (which in this case was the Premises Licence holder (Ms Tahrira Ahmed)). However, given that the Guidance was silent on this question, but clearly indicated that other persons could make representations in regards to a review and that representations could be made in support of applications, it was therefore reasonable to assume that representations could also be made in support of the Premises Licence Holder (Ms Tahrira Ahmed in this matter) for due consideration by the Licensing Sub-Committee as part of the Review application hearing process.

The Sub-Committee was informed that Sections 11.1 to 11.28 of the Guidance [issued by the Secretary of State under Section 182 of the Licensing Act 2003] assisted all

parties in respect to advice on review applications and hearings, including those arising in connection with crime and the relevant extracts of this Guidance were attached as Appendix 3.

The Licensing Officer then informed the Committee that they had received a No Action Notice issued by Immigration Enforcement from Ms Tahrira Ahmed after the report had been sent out to Members which stated that Ms Tahrira Ahmed would not be liable for a civil penalty in respect of suspected breaches of Section 15 of the Immigration, Asylum and Nationality Act 2006. A copy of this was provided to the Committee and the representatives of Essex Police.

The Chairman asked if anyone had any questions that they would like to ask the Licensing Officer following her summary. There were no questions asked.

Joanna Stainsbury, the County Licensing Officer for Essex Police (who had submitted the application on behalf of Essex Police for the review of the Premises Licence held by Ms Tahrira Ahmed) then addressed the Sub-Committee and gave an overview of the events and facts of the case and the reasons behind why Essex Police had made such an application.

It was stated by Ms Stainsbury that from the evidence it could be seen how easy it was for an employer to make checks. Not making the required checks affected other businesses and exploited labour, denied the payment of tax and national insurance and was considered modern day slavery. Employees often worked long hours and did not receive the minimum wage.

She further stated that if there were no records of employees then it was difficult to prove that there were persons working illegally at the premises.

The Chairman then asked questions and queried the dates of the visit by the Police as on page 32 of the Agenda, the Police report stated 17th September 2017 whereas on page 25 it was stated to be 14th September 2017. The Police confirmed that it was in fact 14th September 2017. The Chairman also queried the reference to Mr Rahim's claim for asylum which appeared to have been made on 18 September 2017 and not as soon as he entered the country; the Immigration Officer said that the claim for asylum usually happened once the person had been arrested.

The Chairman then asked if any Members had any further questions or whether the applicant or the licence holder had any questions that they wished to ask of each other or any other party relevant to the review hearing.

Mr Hasan, a Registered Foreign Lawyer at Universal Solicitors (legal representative), for Mr Ahmed had no questions, but he had been provided with a Witness Statement from Mr Ahmed and asked whether this could be considered today. The Committee, noting that the agreement of the other parties to the review would need to be given before evidence being submitted at such a late stage could be considered, agreed that the parties should be supplied with copies in order that consideration could be given as to whether the evidence could be accepted or not and asked for copies to be provided to the Committee and the Police. A short adjournment was agreed in order that the copies could be taken, and the Committee and the Police could read this statement. A room

was made available for the police and the Immigration Officer to consider this evidence privately.

Following the adjournment the meeting reconvened and the Chairman asked the Police whether they were happy to accept the statement and they confirmed that they were.

The Chairman then asked whether Mr Ahmed would be able to read the Statement out and answer questions. He confirmed that he could and proceeded to read out his Statement.

In summary, Mr Ahmed stated that:-

- He positively promoted all licensing objectives as per the Licensing Act 2003 and he said that he did not breach the Licence conditions.
- That he was responsible for recruiting employees for the restaurant.
- This was his only job which provided for himself and his family.
- He confirmed the visit of the Immigration Officers on 14th September 2017, that this was their first visit, and that he was present throughout the visit. He stated that he was present during the full conversation between the Immigration Officer and Mr Uddin and Mr Rahim, and that the two men were at the restaurant to meet a friend, and that he did not know them.
- He was very aware of his responsibilities as a Designated Premises Supervisor and that he had to make sure that employees are allowed to work legally in the United Kingdom and of the need to see original documentation.
- He stated that he carried out right to work checks via the www.gov.uk website and that if the employees provided a British passport then he did not need to carry out further checks and that the system is in place through his accountant that currently all employees are receiving salaries according to their contracted hours.
- He stated that the business had been struggling financially and that if the premises loses its licence he would have to shut the business.

Mr Ahmed explained that he had spoken to the Police and Licensing Officers to explain his situation. He stated that if the Licence was revoked he would have no option but to close the restaurant.

Mr Hasan, Mr Ahmed's legal representative, said that Mr Ahmed denied that Mr Rahim and Mr Uddin had ever worked at, or been employed by him at the restaurant. He said that Mr Ahmed had provided information to Immigration Enforcement and that subsequently they had provided the Premises Licence holder, Ms Tahrira Ahmed, with the No Action Notice. Mr Hasan referred to a previous Premises/Personal Licences Sub-Committee meeting where the Saffron Restaurant had had their licence reviewed because of illegal workers and had received a three month suspension of their licence. He stated that Mr Ahmed had no case to answer as here neither Mr Rahim or Mr Uddin

had ever worked at the Nirala Tandoori Restaurant and that therefore he should be allowed to continue with his business, and the police case should be dismissed.

The Chairman then proceeded to ask questions of Mr Ahmed and queried paragraph 13 of his statement whereby he stated that Mr Uddin and Mr Rahim had come to the restaurant to meet their friend, but that page 49 of the Agenda in the Witness Statement of John Donaldson, Immigration Officer stated that Mr Rahim had been encountered in the kitchen preparing food, dressed in chef's white jacket and an apron. Mr Ahmed was asked to explain the difference between not knowing the man and him being in the kitchen, apparently working. Mr Ahmed stated that when he came into the restaurant, after changing upstairs, everyone was sitting at a table when he arrived and he did not see the Immigration Officer arriving. Mr Ahmed stated that he did not know Mr Rahim and did not know why he was in the kitchen.

Mr Ahmed was then asked about paragraphs 18-21 in his statement regarding the checks he undertook on prospective employees of their right to work in this Country. He was asked whether he had any paperwork to prove that the checks had been undertaken. He stated that he had some in his car, but that they were checks on prospective employees that held British passports and once they had shown him a British passport he did not need to undertake any further checks. The Chairman noted that it might have been useful for the Committee to see that paperwork.

Cllr J Henderson then questioned Mr Ahmed and stated that on the paperwork it said he had been the Designated Premises Supervisor since 2011 and asked when he had started doing "right to work" checks. Mr Ahmed stated that if a British passport was provided then no further checks were needed. In respect of point 12 of Mr Ahmed's Statement, he stated that he did not know anything about Mr Uddin or Mr Rahim and was just meeting them for the first time. Point 16 of Mr Ahmed's statement was in conflict in that he said that he had provided all the information that he knew about these two gentlemen but then had claimed that he did not know them and that they were only visiting someone in the kitchen.

Ms Stainsbury, Essex Police County Licensing Officer, spoke about District Licensing Officer Beckett's visit on 30th September when he asked to see the paperwork for the right to work checks undertaken and Mr Ahmed stated that he had not started it yet. He said that the visit took place on a Saturday which was a busy day at the restaurant. When Mr Ahmed saw Mr Beckett's statement, he telephoned him as he was not happy with his statement. Mr Ahmed claimed that Mr Beckett had told him that he would get a chance to explain at the Sub-Committee meeting. Mr Ahmed said that it was very hard, that so many people arrived looking for jobs but they did not all have paperwork so he could not employ them.

Gordon Ashford, Essex Police then asked Mr Ahmed who was working on the 2 days that he said he was off sick, prior to the visit by the Police on 14th September 2017. Mr Ahmed said that a Mr Abdul Islam should be cooking. Mr Ahmed was asked who did he expect to be cooking on the day the Immigration Officers came. Mr Ashford said that Mr Rahim was seen cooking, dressed in a Chef's white jacket and told the Officers that he was on trial as a chef. Mr Ahmed said that there was no way anyone unknown could work in the kitchen and to his knowledge Mr Rahim had not been working. Mr Ahmed was asked whether his business was struggling and he confirmed that it was. He said that it was difficult to employ people, there were staff shortages and he was working 7

days a week. Mr Ahmed said that he had had a heart bypass operation and he did not need pressure; he said the restaurant was in a small town and he had a number of regular customers and they had had a little bit of success there. Mr Ahmed said that it was only British passport holders he did not need to check. He was then asked whether he knew what the minimum wage was and he replied £7.50. Mr Ashford said that one of those persons was seen in the restaurant in August 2017 and checks were then conducted regarding those persons and which was why Immigration had returned in September 2017.

The Chairman then asked the Police to summarise their case and they confirmed that it was essentially about illegal workers and facilitating illegal working. There were people who worked for board and lodging or below the minimum wage, which could aid struggling businesses, and Mr Ahmed had told the Committee that the business was struggling. He referred to paragraph 11.23 of the Guidance at Appendix 3 whereby financial hardship should not be a consideration to revoking the licence if premises were employing illegal workers. Other Indian restaurants operated successfully without an alcohol licence.

Mr Hasan, Mr Ahmed's legal representative then summarised his case and stated that no immigration status checks needed to be undertaken if British passports were provided. The only check that needed to be undertaken was whether the passport was valid or not. This case was in respect of persons he did not know, that so he did not need to undertake any checks.

The Police asked if Mr Ahmed believed that if someone came for training or a trial that there was no duty to undertake any right to work checks.

Mr Hasan stated again that Mr Ahmed did not know Mr Uddin and Mr Rahim, and that the outcome of the No Action Notice meant that there was no case to answer. He said that he upheld all of the Licensing Objectives. Mr Hasan asked that Mr Ahmed be allowed to continue with the Premises Licence and with no restrictions added.

The Sub-Committee then withdrew from the meeting in order for the Sub-Committee to consider the application and reach a decision. They asked the the Council's Solicitor and the Legal Administration and Information Officer to leave with them. The Sub-Committee, Council's Solicitor and Legal Administration and Information Officer then returned to the meeting and the Council's Solicitor confirmed that she had not provided any specific legal advice to the Sub-Committee whilst it was making its decision.

The Chairman of the Sub-Committee then read out the following decision:

"The Sub-Committee has given careful consideration to this application for a review and to the actual representations received from Essex Police on the grounds that the Licensing Objective in respect of the Prevention of Crime and Disorder had been breached for the reasons set out in their representations. In making their decision, the Sub-Committee have taken into account:-

- (i) relevant matters set out in the Licensing Authority's own Statement of Licensing Policy;
- (ii) the relevant parts of the Guidance issued by the Secretary of State;

-
- (iii) the range of powers provided to Licensing Authorities by the Licensing Act 2003 in determining a Review;
 - (iv) Any legal advice given by the Council's Solicitor.

The Sub-Committee are also aware that it must act to promote the Licensing Objectives as set out in the Licensing Act 2003 and that any decision it took in determining a Review must be necessary for the promotion of these objectives.

The decision of the Sub-Committee is as follows:-

1. In respect of an application for the Review of a Premises Licence submitted by Essex Police in respect of the premises known as Nirala Tandoori, 14 Brook Street, Manningtree the Sub-Committee's decision is to revoke the licence.
2. It has been determined that the Licence must be revoked for the following reasons:- For the prevention of crime and disorder.
3. Reviews of premises' licences follow where there are concerns that some aspect of the business or its behaviour affects that licence. Where the activity causing concern is so serious, involving criminal activity such as the employment, or possible employment of a person or persons who are disqualified from working because of their immigration status, then a review can be sought without previous involvement of the applicant, here Essex Police.
4. The Sub-Committee's role is to promote the four licensing objectives – here the prevention of crime and disorder – and not to punish, that is the role of others. That said, the Guidance issued under Section 182 of the Licensing Act 2003 does suggest that in certain cases, where the premises have been used to further crime, then revocation should be seriously considered, even for the first incident.
5. Mr Khaled Ahmed has been the Designated Premises Supervisor since 4 May 2011, and his daughter, Ms Tahrima Ahmed has been the Premises Licence Holder since 6 January 2017 of the NIRALA Tandoori Restaurant at 14 Brook Street, Manningtree.
6. We are told that on 30 August 2017 officers from the Police and Her Majesty's Revenue and Customs visited the Nirala Tandoori. On that occasion several members of staff were found at the premises, one of whom disappeared before he could be spoken to, whilst others were vague in their answers, or were unable to produce any identification. A referral was made to the Immigration Service.
7. On 14 September 2017 officers from the Immigration Service attended the Nirala Tandoori where they found 4 men in the kitchen, apparently undertaking various tasks, and a fifth man preparing food in a room next to the kitchen.
8. One of the men in the kitchen, who was dressed in a white chef's jacket and

- apron, which he removed upon the entry of the officers, was ABDUR RAHIM. It transpired that Mr Rahim had no right to work in the UK. Subsequently, on 18 September 2017, Mr Rahim made a claim for asylum.
9. A second male, NIZAM UDDIN, was found in the restaurant: he was wearing black trousers and a pink shirt. It is not clear whether he was working or not; what is clear is that Mr Uddin has no right to work in the UK.
 10. In this case we have been told that no civil penalties have been imposed in respect of either Mr Rahim or Mr Uddin by Immigration Enforcement. Mr Jack Davis, a Chief Immigration Officer, has explained that this decision would have been made by a central office in Manchester, and such decisions are made purely on the basis of the evidence in front of that office at the time, including anything the alleged employer might have said or documents produced by them, and whether or not that evidence reaches the standard of proof, which in such cases we are told is the civil standard i.e. the balance of probabilities.
 11. We have been told that the employment of workers who have no right to work in the UK raises a number of issues, including the possibility for example that they are being paid below the minimum wage, are expected to work long hours, and that tax may not be paid, or paid at the correct rate. The Police have also stated that somebody may not be paid simply in money but that board and lodgings may also constitute payment.
 12. Mr Ahmed has presented the Sub-Committee today with a written proof of evidence, which he then proceeded to read to the Sub-Committee. As part of what Mr Ahmed told the Sub-Committee he said that he understood, and complied with, the requirements for checking the rights of people to work in the UK and although he told the Sub-Committee that he had been undertaking checks, including copying passports, he was unable to produce anything to the Sub-Committee today but said it was "in his car". He also said that the only people he employed were British and having seen their passports, no further checks were necessary.
 13. Mr Ahmed also said that he did not know either Mr Rahim or Mr Uddin, and that on 14 September 2017 he had arrived at the restaurant from his home in Enfield, had changed into his working clothes upstairs and when he came downstairs he found people sitting around talking to the Immigration Officers.
 14. We have also heard from Mr Ahmed's solicitor, Mr HASAN who has reiterated that Mr Ahmed does not know Mr Abdur Rahim or Mr Nizam Uddin; that where training or trial employment is being undertaken checks may not be necessary; and that no civil penalties have been imposed upon Mr Ahmed and the Nirala Tandoori Restaurant.
 15. We are concerned that despite a visit to the Nirala Tandoori on 30 August, and a subsequent visit on 14 September 2017 by Immigration Officers, no documentation was produced to the Sub-Committee today to prove that checks, of any employee, had been undertaken.

16. We view this matter seriously and for the reasons given above, and with some regret, have decided to revoke the Premises Licence for the Nirala Tandoori Restaurant. We note that other similar restaurants remain in business without a Premises Licence, and we hope that this will be true for the Nirala Tandoori Restaurant.

Details of the Sub-Committee's decision will be notified to all interested parties in writing.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have a right of appeal to the Magistrates' Court.

The meeting was declared closed at 4.53 pm

Chairman

LICENSING AND REGISTRATION COMMITTEE

11 APRIL 2017

REPORT OF THE CORPORATE DIRECTOR [OPERATIONAL SERVICES]

**A.1 LICENSING ACT 2003 - APPLICATIONS APPROVED UNDER DELEGATED POWERS
[Report prepared by Emma King]**

(i) Premises Licences/Club Premises Certificates

Set out in Appendix A to this report are details of licences that have been approved under Delegated Powers during the period 7 October 2015 to 13 March 2018.

(ii) Personal Licences

A total of 1953 Personal Licences have been approved under Delegated Powers since 7 February 2005, the 'First Appointed Day'.

(iii) Gambling Licences/Permits

Below is a table showing the number of gambling licences and permits that are licensed with this Authority.

Type of Licence	Number of Licences as at (13 March 2018)
Adult Gaming Centres	25
Betting Premises	17
Bingo Premises	9
Family Entertainment Centres	5
Unlicensed Family Entertainment Centres	32
Prize Gaming Permits	2
Club Gaming & Club Machine Permits	26
Licensed Premises Gaming Machine Permits	17
Licensed Premises Machine Notifications	127
Small Society Lottery Permits	108

(iv) Hackney Carriage/Private Hire Licence

Below is a table showing the number of drivers, vehicles and operators that are licensed with this Authority.

Type of Licence	Number of Licences as at (13 March 2018)
Hackney Carriage Driver	313
Private Hire Driver	14
Hackney Carriage Vehicle	252
Private Hire Vehicle	28
Private Hire Operator	26

RECOMMENDED: That Members note the contents of this report.

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Uniform Ref No	Organisation	Address	Grant/Conversion/Conversion and Variation	Date Delegation Exercised
15/00622/PREMTR	MRH Frinton - Frinton Service Station	Frinton Service Station Frinton Road Kirby Cross Frinton On Sea Essex CO13 0PA	Premises Licence Transfer	16/10/2015
15/00648/PREMTR	The Cliff Hotel	22 Marine Parade Dovercourt Harwich Essex CO12 3RE	Premises Licence Transfer	04/11/2015
15/00608/PREMGR	McColls	4 Tudor Parade Jaywick Essex CO15 2PL	Premises Licence Grant	05/11/2015
15/00564/PREMGR	Malinka	130 Old Road Clacton On Sea Essex CO15 3AH	Premises Licence Grant	10/11/2015
15/00635/PREMVA	Morrisons	Waterglade Retail Park Old Road Clacton-on-Sea Essex CO15 3RJ	Premises Licence Variation	25/11/2015
15/00636/PREMVA	Morrisons	Centenary Way Clacton-on-Sea Essex CO16 9SB	Premises Licence Variation	25/11/2015
15/00637/PREMVA	Morrisons	Morrisons Supermarket Iconfield Park Garland Road Parkeston Harwich Essex CO12 4EN	Premises Licence Variation	25/11/2015
15/00679/PREMVA	Toby Carvery Clacton On Sea	Marine Parade West Clacton-on-Sea Essex CO15 1NW	Premises Licence Variation	01/12/2015
15/00692/PREMTR	Spar Foodmarket	19 Victoria Place Brightlingsea Colchester Essex CO7 0BX	Premises Licence Transfer	03/12/2015

15/00731/PREMVA	Martello Beach Holiday Park	Tower Caravan Park Ltd Belsize Avenue Jaywick Clacton-on-Sea Essex CO15 2LF	Premises Licence Variation	05/01/2016
15/00740/PREMVA	Show Bar And Mash And Barrel	Orchards Holiday Village Colne Way Point Clear Bay St Osyth Clacton-on-Sea Essex CO16 8LJ	Premises Licence Variation	05/01/2016
15/00730/PREMVA	The Lakeside Club	Weeley Bridge Holiday Park Clacton Road Weeley Clacton-on-Sea Essex CO16 9DH	Premises Licence Variation	05/01/2016
15/00734/PREMGR	Domino's	Unit 1B Harwich Gateway Retail Park Freshfields Road Harwich Essex CO12 4EN	Premises Licence Grant	13/01/2016
16/00083/PREMTR	The Hanover Inn	The Hanover Inn 65 Church Street Harwich Essex CO12 3DR	Premises Licence Transfer	11/02/2016
16/00002/PREMGR	West Beach To Martello Beach	Below Promenade Marine Parade West Clacton-On-Sea Essex	Premises Licence Grant	11/02/2016
16/00044/PREMVA	Naze Armada	Naze Marine Caravan Park Hall Lane Walton-on-the-Naze Essex CO14 8HL	Premises Licence Variation	17/02/2016
16/00084/PREMTR	Jackson Road Stores	33 Jackson Road Clacton-on-Sea Essex CO15 1JA	Premises Licence Transfer	18/02/2016
16/00039/PREMVA	Clacton Pier	Clacton Pier The Pier Clacton On Sea Essex CO15 1QX	Premises Licence Variation	22/02/2016

16/00042/PREMGR	Akash Indian And Bangladeshi Cuisine	7 Old Pier Street Walton On The Naze Essex CO14 8AW	Premises Licence Grant	25/02/2016
16/00111/PREMTR	Castle Inn	Castle Inn The Street Ramsey Harwich Essex CO12 5HH	Premises Licence Transfer	15/03/2016
16/00090/PREMVA	Fiveways Supermarket And Filling Station	Fiveways Supermarket Samsons Road Brightlingsea Colchester Essex CO7 0RN	Premises Licence Variation	15/03/2016
16/00093/PREMGR	Maybush Inn	Maybush Inn Farm Road Great Oakley Harwich Essex CO12 5AL	Premises Licence Grant	16/03/2016
16/00148/PREMTR	The Stores	9 Broadway Jaywick Clacton-on-Sea Essex CO15 2EB	Premises Licence Transfer	31/03/2016
16/00118/PREMGR	Elements	16B Station Road Clacton On Sea Essex CO15 1SX	Premises Licence Grant	05/04/2016
16/00193/PREMTR	Home Needs Express	160 High Street Harwich Essex CO12 3AT	Premises Licence Transfer	07/04/2016
16/00143/PREMGR	The Fish House	184 High Street Harwich Essex CO12 3AP	Premises Licence Grant	13/04/2016
16/00095/PREMVA	Valley Farm Holiday Park	Valley Farm Holiday Park Valley Road Clacton-on-Sea Essex CO15 6LY	Premises Licence Variation	18/04/2016
16/00154/PREMGR	Primrose Farm	Shop at Primrose Farm Hall Road Great Bromley Essex CO7 7TR	Premises Licence Grant	19/04/2016

16/00167/PREMVA	Armstrongs - The Pavilion	Clacton Pavilion Pier Gap Clacton On Sea Essex CO15 1PS	Premises Licence Variation	20/04/2016
16/00192/PREMVA	Frinton Lawn Tennis Club	36 Holland Road Frinton-on-Sea Essex CO13 9ES	Premises Licence Variation	21/04/2016
16/00223/PREMTR	Mistley Quay Gallery Teashop	Mistley Quay Cafe Mistley Quay Workshops High Street Mistley Manningtree Essex CO11 1HB	Premises Licence Transfer	27/04/2016
16/00246/PREMTR	New Bell Inn	New Bell Inn Outpart Eastward Harwich Essex CO12 3EN	Premises Licence Transfer	04/05/2016
16/00246/PREMTR	New Bell Inn	New Bell Inn Outpart Eastward Harwich Essex CO12 3EN	Premises Licence Transfer	04/05/2016
16/00210/PREMGR	Holland On Sea Superstore And Post Office	2 - 4 Stratford Road Holland On Sea Clacton On Sea Essex CO15 5EA	Premises Licence Grant	25/05/2016
16/00218/PREMGR	QD Stores	72 - 78 Rosemary Road Clacton On Sea Essex CO15 1TZ	Premises Licence Grant	25/05/2016
16/00227/PREMVA	MRH Elmstead - Previously Spar	Colchester Road Elmstead Colchester Essex CO7 7EF	Premises Licence Variation	26/05/2016
16/00308/PREMTR	Spar	Spar Store 1 Spring Road St. Osyth Clacton-on-Sea Essex CO16 8RN	Premises Licence Transfer	06/06/2016

16/00295/PREMGR	Pot Black Snooker Club	First Floor 13 - 19 Pier Avenue Clacton On Sea Essex CO15 1QB	Premises Licence Grant	22/06/2016
16/00253/PREMTR	The Strangers Home	Strangers Home The Street Bradfield Manningtree Essex CO11 2US	Premises Licence Transfer	24/06/2016
16/00251/PREMGR	Seawick Holiday Park	(NEW BUILD) Seawick Holiday Village Beach Road St Osyth Clacton On Sea Essex CO16 8SG	Premises Licence Grant	07/07/2016
16/00419/PREMTR	JJ Supermarket (21-23 Jackson Road)	Former Crab & Pumpkin Public House 21 - 23 Jackson Road Clacton On Sea Essex CO15 1JA	Premises Licence Transfer	08/07/2016
16/00418/PREMTR	Pier One - Previously Jade Chinese Restaurant	35 Connaught Avenue Frinton-on-Sea Essex CO13 9PN	Premises Licence Transfer	14/07/2016
16/00346/PREMVA	Highfield Grange Holiday Park	London Road Clacton-on-Sea Essex CO16 9QY	Premises Licence Variation	18/07/2016
16/00430/PREMTR	Walton Pier	Pier Approach Walton-on-the-Naze Essex CO14 8ES	Premises Licence Transfer	18/07/2016
16/00470/PREMTR	Eldorado	The Eldorado 23 Broadway Jaywick Clacton-on-Sea Essex CO15 2EH	Premises Licence Transfer	05/08/2016
16/00473/PREMTR	The Kings Head	41 Victoria Place Brightlingsea Colchester Essex CO7 0HT	Premises Licence Transfer	05/08/2016

16/00474/PREMTR	Bootleggers	139 Wellesley Road Clacton-on-Sea Essex CO15 3QD	Premises Licence Transfer	25/08/2016
16/00496/PREMGR	Home Bargains	Unit 23 to 26 Clacton Factory Shopping Village Stephenson Road West Clacton On Sea Essex CO15 4TL	Premises Licence Grant	12/09/2016
16/00495/PREMGR	The Bottle Kiln - JD Wetherspoons, Harwich	60 Kingsway Dovercourt Harwich Essex CO12 3JR	Premises Licence Grant	19/09/2016
16/00512/PREMGR	Deanos Wine Bar (Basement Area)	Lower Ground Floor 158 High Street Harwich Essex CO12 3AT	Premises Licence Grant	30/09/2016
16/00523/PREMGR	Burger Base	Basement of Number 2 Marine Parade West Clacton On Sea Essex CO15 1RH	Premises Licence Grant	05/10/2016
16/00589/PREMTR	The Never Say Die	Never Say Die P H 24 Broadway Jaywick Clacton-on-Sea Essex CO15 2EH	Premises Licence Transfer	11/10/2016
16/00607/PREMTR	Fork And Wine - Previously Victus Bistros Limited	8 - 10 High Street Brightlingsea Colchester Essex CO7 0AE	Premises Licence Transfer	14/10/2016
16/00606/PREMTR	Hobson's Deli & Cafe	21 High Street Manningtree Essex CO11 1AG	Premises Licence Transfer	14/10/2016
16/00605/PREMTR	The Haywain Previously Known As Fox And Hounds	Bentley Road Little Bromley Manningtree Essex CO11 2PL	Premises Licence Transfer	14/10/2016

16/00666/PREMTR	R B Stores	24 Kingsway Dovercourt Harwich Essex CO12 3AB	Premises Licence Transfer	16/11/2016
16/00699/PREMTR	Post Office And General Stores	Ardleigh Sub Post Office The Street Ardleigh Colchester Essex CO7 7LE	Premises Licence Transfer	25/11/2016
16/00714/PREMTR	Mac's Plaice	1-3 Church Road Brightlingsea Essex CO7 0JE	Premises Licence Transfer	30/11/2016
16/00712/PREMTR	The Cross Inn	Cross Inn Motel Ardleigh Road Great Bromley Colchester Essex CO7 7TL	Premises Licence Transfer	30/11/2016
16/00655/PREMGR	Rosebank Park Extra Care Unit	Rosebank Park Main Road Harwich Essex CO12 4FY	Premises Licence Grant	02/12/2016
16/00720/PREMTR	Wick Lodge	145 Jaywick Lane Clacton-on-Sea Essex CO16 8BG	Premises Licence Transfer	08/12/2016
16/00723/PREMTR	L.A EXP (Best One)	78 / 80 High Street Clacton On Sea Essex CO15 6PL	Premises Licence Transfer	09/12/2016
16/00681/PREMGR	Piatto Italian	52 - 54 Connaught Avenue Frinton On Sea Essex CO13 9PR	Premises Licence Grant	19/12/2016
17/00003/PREMTR	Nirala Tandoori - Previously The Swan Inn	14 Brook Street Manningtree Essex CO11 1DR	Premises Licence Transfer	06/01/2017
16/00743/PREMVA	Cheers	35 Parkeston Road Dovercourt Harwich Essex CO12 4HF	Premises Licence Variation	13/01/2017

17/00007/PREMTR	Polski Sklep	17 High Street Clacton On Sea Essex CO15 1NU	Premises Licence Transfer	13/01/2017
17/00029/PREMTR	The Freemasons Arms	Freemasons Arms 8 Sydney Street Brightlingsea Colchester Essex CO7 0BG	Premises Licence Transfer	20/01/2017
17/00030/PREMTR	Westwater Chandlery Ltd - Previously Foundry Reach Chandlery	Titchmarsh Marina Coles Lane Walton On The Naze Essex CO14 8SL	Premises Licence Transfer	20/01/2017
16/00742/PREMGR	Chillwines	56 Holland Road Little Clacton Clacton On Sea Essex CO16 9RS	Premises Licence Grant	26/01/2017
17/00048/PREMTR	The Sign Of The Bear	11 Kings Quay Street Harwich Essex CO12 3EU	Premises Licence Transfer	06/02/2017
17/00018/PREMGR	Frinton Golf Club	1 The Esplanade Frinton On Sea Essex CO13 9EP	Premises Licence Grant	15/02/2017
17/00041/PREMGR	Royal Hotel Clacton	Royal Hotel 1 Marine Parade East Clacton On Sea Essex CO15 1PU	Premises Licence Grant	07/03/2017
17/00104/PREMTR	Sun Tong Restaurant	79 - 81 Old Road Clacton-on-Sea Essex CO15 1HN	Premises Licence Transfer	08/03/2017
17/00159/PREMGR	Beaumont House	Arthur Ransome Way Walton On The Naze Essex CO14 8FA	Premises Licence Grant	18/05/2017
17/00177/PREMGR	Craft Nurseries Restaurant	34 Harwich Road Lawford Manningtree Essex CO11 2LS	Premises Licence Grant	18/05/2017

17/00153/PREMGR	Marston's PLC	(Off A133) New Build Brook Retail Park (West) Clacton On Sea Essex	Premises Licence Grant	19/05/2017
17/00190/PREMGR	Victoria Cafe	22 Victoria Place Brightlingsea Essex CO7 0BX	Premises Licence Grant	02/06/2017
17/00388/PREMVA	The Boardwalk Bar - Previously Known As The Cockney Pride	The Pier Clacton-on-Sea Essex CO15 1QX	Premises Licence Variation	06/07/2017
17/00382/PREMTR	The Queens Arms	The Queens Arms 189 Old Road Clacton-on-Sea Essex CO15 3AX	Premises Licence Transfer	06/07/2017
17/00505/PREMTR	Ye Olde Cherry Tree Inn	Ye Olde Cherry Tree Inn Clacton Road Little Oakley Harwich Essex CO12 5JH	Premises Licence Transfer	07/08/2017
17/00377/PREMVA	The Manor - Previously The Ship Inn	The Manor Rectory Road Great Holland Frinton-on-Sea Essex CO13 0JP	Premises Licence Variation	14/08/2017
17/00468/PREMTR	Little Bentley Service Station - Previously Premier	Shell Corner Filling Station Colchester Road Little Bentley Colchester Essex CO7 8RX	Premises Licence Transfer	04/09/2017
17/00512/PREMGR	Lidl, Brook Park West	Brook Park West London Road Clacton On Sea Essex	Premises Licence Grant	11/09/2017
17/00507/PREMTR	The Great Gurkha	126 Old Road Clacton-On-Sea Essex CO15 3AH	Premises Licence Transfer	14/09/2017
17/00506/PREMTR	The Old Forge Cafe - Previously Sea Breeze Cafe	Unit 6 Old Forge Supply Centre Colchester Road Elmstead Colchester Essex CO7 7EA	Premises Licence Transfer	14/09/2017

17/00504/PREMVA	The Ship Inn	The Ship Public House Walton Road Kirby-le-Soken Frinton-on-Sea Essex CO13 0DT	Premises Licence Variation	14/09/2017
17/00508/PREMTR	Walton Food And Drink	53 - 55 High Street Walton-on-the-Naze Essex CO14 8BD	Premises Licence Transfer	14/09/2017
17/00619/PREMTR	The Village Inn	The Village Inn Club Parade St Osyth Clacton On Sea Essex CO16 8SX	Premises Licence Transfer	09/11/2017
17/00632/PREMTR	The Cross Inn	Cross Inn Clacton Road Horsley Cross Manningtree Essex CO11 2NX	Premises Licence Transfer	15/11/2017
17/00634/PREMTR	The Crown	The Crown High Street Thorpe-le-Soken Clacton-on-Sea Essex CO16 0DY	Premises Licence Transfer	15/11/2017
17/00591/PREMGR	Island Buffet	112 Pier Avenue Clacton On Sea Essex CO15 1NJ	Premises Licence Grant	23/11/2017
18/00005/PREMVA	Gala Club	129 Pier Avenue Clacton-on-Sea Essex CO15 1NJ	Premises Licence Variation	02/01/2018
18/00001/PREMTR	Harwich Road Stores	18 Harwich Road Little Clacton Clacton-on-Sea Essex CO16 9ND	Premises Licence Transfer	02/01/2018
18/00004/PREMTR	Raj Spice - Previously Known As Raj Pavilion	33 Tower Street Brightlingsea Colchester Essex CO7 0AL	Premises Licence Transfer	02/01/2018

18/00002/PREMTR	Kassaba Restaurant - Previously The Geisha Hotel	7 - 9 Marine Parade East Clacton-on-Sea Essex CO15 1PS	Premises Licence Transfer	05/01/2018
18/00003/PREMTR	Shell Old Road	Petrol Filling Station 238 Old Road Clacton On Sea Essex CO15 3LX	Premises Licence Transfer	05/01/2018
18/00045/PREMTR	The Hoy	4 Clacton Road St Osyth Clacton On Sea Essex CO16 8PA	Premises Licence Transfer	24/01/2018
18/00064/PREMTR	Three Jays	The Three Jays 1 Marlowe Road Jaywick Clacton-on-Sea Essex CO15 2PJ	Premises Licence Transfer	06/02/2018
18/00089/PREMTR	McDonalds Restaurant Limited	Colchester Road Weeley Clacton-On-Sea Essex CO16 9AD	Premises Licence Transfer	22/02/2018
18/00090/PREMTR	McDonalds Restaurant Limited	24/26 Pier Avenue Clacton-On-Sea Essex CO15 1QN	Premises Licence Transfer	22/02/2018
18/00054/PREMGR	Bell 4 Booze Limited	Unit 56 20 Brunel Road Clacton On Sea Essex CO15 4LU	Premises Licence Grant	06/03/2018
18/00036/PREMGR	Brook Farm	Stones Green Road Great Oakley Harwich Essex CO12 5BN	Premises Licence Grant	07/03/2018
18/00065/PREMGR	Richwill Farm	Richwill Farm Oakley Road Wix Manningtree Essex CO11 2SF	Premises Licence Grant	13/03/2018

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LICENSING AND REGISTRATION COMMITTEE

11 APRIL 2017

REPORT OF THE CORPORATE DIRECTOR [OPERATIONAL SERVICES]

A.2 Hackney Carriage Fares

(Report prepared by Emma King)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To consider a letter from the Tendring District Taxi Association (TDTA) requesting both an increase in the scale of fares, and a change in distance for which the fare is calculated that is currently operative within the District, which was received on 6 December 2017. The letter is attached as Appendix 'A' to the report.

EXECUTIVE SUMMARY

Members last granted a fare increase effective from 29 July 2012.

If Members determine to grant an increase to the table of fares, such increase must be advertised in the local press and any representations received placed before the next available Licensing Committee.

RECOMMENDATION

- a) That Members determine whether or not to grant an increase to the table of fares operative within the District.
- b) That, if Members are minded to grant an increase in full or in part, public notice be given of the intention of the Council to increase and amend the Hackney Carriage Fare Scale operative within the District in accordance with the request made.
- c) That, subject to (b) above, any representations received in response to the said public notice be considered at your next meeting.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The proposed increase to the table of fares supports a key element of this Council's Corporate Plan and the Sustainable Community Strategy for Tendring:

- Building a thriving local tourism industry for Tendring.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The cost of one press advertisement required to notify the public of the intention to increase the Hackney Carriage Fare Scale can be met from within the approved 2018/2019 Revenue budget.

Risk

If the proposed increase were not granted it could lead to fewer taxis being available to transport both the local population and visitors to the District.

LEGAL

If Members are minded to grant the request, public notice must be given in at least one local newspaper of the intention of the Council to increase the Hackney Carriage fare scale in accordance with the provisions of Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

There are no Crime and Disorder implications

EQUALITY AND DIVERSITY

There are no Equality and Diversity implications.

CONSULTATION AND PUBLIC ENGAGEMENT

The proposed fare increase will be advertised, thus allowing public debate.

All comments generated by the advertisement will be considered by Members as part of the decision making process.

AREAS/WARDS AFFECTED

All wards

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Below is the current Fare Tariff which came into effect on 29 July 2012.

1. MILEAGE		
(a)	If the distance does not exceed 322 metres [352 yards] for the whole distance	£2.80
(b)	If the distance exceeds 322 metres [352 yards] for the first 322 metres	£2.80
(c)	For each subsequent 322 metres [352 yards] or uncompleted part thereof in addition to (b) above	.35
2. WAITING TIME		
	For each period of 90 seconds or uncompleted part thereof	.30
3. EXTRA CHARGES		
(a)	For hirings throughout Sundays and throughout all Bank and Public Holidays and for hirings commencing after Midnight and before 6 a.m. Mondays to Saturdays inclusive Note: When the Bank and Public Holiday charge is payable, the Sunday and night charges are not payable	One-half of the above rate of fare
(b)	For each article of luggage conveyed [Luggage means suitcases or trunks but not smaller items such as a briefcase or carrier bag]	.20
(c)	For each person in excess of one	.20
(d)	For each bicycle or non-folding pram	.20
4. MULTI-SEAT VEHICLES		
	When used to carry more than 4 passengers or a greater amount of luggage than can be conveyed in a four-seater	Add one-half of the rates specified in 1 or 3(a) above
	Note: When this charge is payable no further extra charges are applicable.	
5. CHRISTMAS AND NEW YEAR PERIODS		
	For the Christmas Period – 6 p.m. on 24 December until 7a.m. on 27 December For the New Year Period – 6 p.m. on 31 December until 7.am. on 2 January	DoubleTariff 1
6. MULTI-SEAT VEHICLES – CHRISTMAS AND NEW YEAR PERIOD		
	When used to carry more than 4 passengers or a greater amount of luggage than can be carried in a four seater for the days and times set out in Paragraph 5 above	Double Tariff 1 plus 50%
7. DAMAGE AND SOILAGE CHARGE		
	The driver may recover costs under Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976 from the hirer who will be responsible for any damage to (or human discharge left in) the taxi, which has been caused by the action of the hirer or travelling companion(s), and the hirer will be liable to meet the full cost of restoration work required to make good the effects of the aforementioned damage and/or human discharge.	
8. CARRIAGES FOR THE DISABLED		
	(No extra charges for wheelchairs)	Fares as specified in 1,2 and 3 above

A comparison table of cost of the existing tariff and the proposed tariff is attached as Appendix B to this report.

A comparison table of the proposed tariff and other local authorities within the Essex area is attached as Appendix C to this report.

CONCLUSION

Your Officers feel that, owing to the increases in fuel, vehicle maintenance and insurance, and that there has been no request for an increase to the fare tariff since 2012; that there is merit in Members giving consideration to this request.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDIX

Appendix A - Letter from Tendring District Taxi Association - Dated 6 December 2017

Appendix B - Comparison Fare Table Showing Effect of Tariff Changes

Appendix C - Comparison Fare Table – Comparison with Other Authorities in Essex

TENDRING DISTRICT TAXI ASSOCIATION

At a meeting of the Tendring District Taxi Association of the 30th November 2017 and attended by the following Officers:

Chairman: Mr J Hones

Vice Chairman: Mr A Kirkham

Secretary: Mrs J Gibbs

It was proposed an unanimously supported by members of the association that a Fare Increase request should be forwarded to the Taxi Licensing Department of Tendring District Council.

Below is set out the basis of the TDTA request to Tendring District Council Taxi Licensing:

Fare Increase

The taxi association has proposed a taxi meter fare increase because there has not been a fare rise since July 2012 and the Retail Prices Index has increased 13.7% since then.

The new farescale is structured with two objectives: to reduce the amount of loose change (in coins) that drivers need to carry by eliminating the need for 10p and 5p coins; and to make it easier in future years to have a small increase by altering the yardage but keeping the coins the same.

The proposal is for a £3 ring-on for the first 196 yards followed by 20p for each 196 yards thereafter. Roughly speaking, this will increase fares in the first mile by 40p and an extra 5p per mile thereafter. Or about 10% extra in the first mile, and 2.5% extra thereafter.

At one mile it will be £4.60 instead of £4.20, at two miles it will be £6.40 instead of £5.95, and at three miles £8:20 instead of £7.70.

Waiting Time to be 20p for 54 seconds instead of 60 seconds.

The remainder to stay the same.

As an association we look forward to hearing from the Licensing Department of Tendring District Council on this matter, at their earliest convenience.

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A.2 – Appendix B

Comparison Fare Table Showing Effect of Tariff Changes

Distance	Current Tariff £	New Tariff £	Cost £
1 mile	4.40	4.60	↑4.54%
2 miles	5.95	6.40	↑4.54%
3 miles	7.70	8.20	↑6.49%
Each subsequent 196 yards or part thereof	0.19	0.20	↑5.26%
Waiting Time [54 Seconds]	0.18	0.20	↑11.11%

A.2 – Appendix C

Comparison Fare Table – Comparison with Other Authorities in Essex

Distance	Proposed Tariff £	Colchester [as at April 2017]	Rochford [as at August 2016]
1 mile	4.60	4.70	4.40
2 miles	6.40	6.80	6.20
3 miles	8.20	8.30	7.80

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