



**WATFORD
BOROUGH
COUNCIL**

LICENSING COMMITTEE

8 July 2021

7.00 pm

Contact

Jodie Kloss

democraticservices@watford.gov.uk

01923 278376

For information about attending meetings please visit the [council's website](#).

Publication date: Wednesday, 30 June 2021

Committee Membership

Councillor G Saffery (Chair)

Councillor M Devonish (Vice-Chair)

Councillors K Crout, S Feldman, A Grimston, P Hannon, M Hofman, A Khan, B Mauthoor, A Saffery, R Smith, B Stanton, J Stiff, D Watling and R Wenham

Agenda

Part A - Open to the Public

1. Apologies for absence

2. Disclosure of interests

3. Minutes

The [minutes](#) of the meeting held on 8 March 2021 to be submitted for signature.

4. Review of Environmental Health and Licensing Compliance Policy (Pages 3 - 58)

Report of the Business Compliance Officer

5. Urgent amendment to the Environmental Health and Licensing Services Compliance Policy 2016 – 2021 (Pages 59 - 73)

Report of the Business Compliance Officer

6. Review of Town Centre Street Trading Policy (Pages 74 - 87)

Report of the Senior Licensing Officer

7. Gambling Act 2005 - Statement of Principles 2022-2025 (Pages 88 - 140)

Report of the Senior Licensing Officer

8. Licensing Act 2003 - Annual Report (Pages 141 - 149)

Report of the Senior Licensing Officer

PART A

Report to: Licensing Committee
Date of meeting: 8 July 2021
Report of: Business Compliance Officer
Title: Community Protection Compliance Policy 2021-2026

1.0 Summary

- 1.1 Community Protection is responsible for ensuring compliance with legislation relating to areas such as anti-social behaviour, environmental protection, housing, food safety, licensing and health and safety at work. The council approves, and from time to time reviews policies on how the section should approach compliance and how legislation should be enforced in a proportionate and consistent manner.
- 1.2 The current Environmental Health and Licensing Compliance Policy must be reviewed and implemented by September 2021.
- 1.3 This report sets out the framework of that review and includes a revised Compliance Policy for members’ consideration prior to public consultation.

2.0 Risks

	Nature of Risk	Consequence	Suggested Control Measures	Response (Treat, tolerate, terminate, transfer)	Risk Rating (the combination of severity and likelihood)
2.1	Not reviewing policy beyond July.	Existing policy contains outdated information	Consult on adoption of new policy.	Treat	12

Retaining existing policy without changes.	Risk that any future compliance action can be challenged and may be difficult to justify or explain. Confusion among residents, visitors and businesses as to what is expected in terms of compliance in Watford.	Consult on adoption of new policy.	Treat	12
Failure to undertake sufficient public consultation.	Negative perception of council and regulatory functions, and challenge through the courts.	Ensure that any proposed policy is subject to thorough public consultation and considered again by the committee before any proposed changes are adopted.	Treat	2

3.0 Recommendations

- 3.1 That the Community Protection Compliance Policy 2021-2026, set out at appendix 1, be approved for public consultation.

For further information on this report please contact:

Jamie Mackenzie, Business Compliance Officer

Telephone extension: 8520

email: jamie.mackenzie@watford.gov.uk

Report approved by: Justine Hoy, Head of Community Protection

4.0 Background

- 4.1 The council is the primary enforcement body for a range of legislation which applies to:

- anti-social behaviour
- environmental protection and pollution
- statutory nuisances such as noise, vibration and light
- infectious diseases
- filthy and verminous premises
- littering, fly-tipping and other environmental crimes
- health and safety at work
- gambling
- alcohol, entertainment and late-night refreshment
- taxis and private hire vehicles
- street trading
- houses in multiple occupation
- charity collections
- food hygiene
- housing standards
- dog fouling and dangerous dogs
- drainage
- animal welfare
- pest control
- abandoned vehicles
- smoke-free legislation.

4.2 When exercising those functions the council has the option to use a wide variety of powers including, but not limited to:

- Inspections
- Closures of commercial and private premises
- Issuing legally binding notices
- Interviewing people under caution
- Issuing fixed penalty notices
- Issuing Community Protection Warnings and Notices
- Imposing other financial penalties
- Withdrawing, amending or refusing permissions
- Issuing formal cautions
- Taking civil legal action or instituting criminal proceedings (prosecutions).

4.3 This council, and many other councils, delegate these powers to council officers with the exception of review powers under the Licensing and Gambling Acts. The Compliance

Policy sets out the expectations of how the various powers are to be exercised by officers on the council's behalf.

4.4 When undertaking work to ensure compliance with regulations or legislation the council has responsibilities under the Regulators' Code to ensure that any efforts are risk based and proportionate. This responsibility includes having regard to the Code when determining any general policy or principles about the exercise of specified regulatory functions. Paragraph 6.2(d) of the Code says regulators should publish a policy showing their approach to compliance. The full Code is at Appendix 2.

4.5 Publication of the Code and Policy make it clear to everyone involved the operational parameters within which legal powers ought to be exercised. It acts as a safeguard against abuse or over-zealous use of those powers. In addition, Regulators across Hertfordshire have signed up to a voluntary charter, the Better Business for All Charter, which sets out what businesses can expect in relation to compliance services (Appendix 3).

5.0 Existing Enforcement Policy, New Compliance Policy and Rationale for Change

5.1 The first Environmental Health and Licensing Enforcement Policy was created in 2011. The existing Environmental Health and Licensing Compliance Policy was adopted on 19 September 2016 (Appendix 4).

5.2 Whilst the majority of the current policy is retained in terms of the approach that officers are required to take when dealing with compliance issues, there are a number of changes to the existing policy which are proposed in the new policy and these are outlined in section 6.1. The proposed new policy is attached as Appendix 1.

5.3 It should be noted that the council always retains the right to depart from the policy should circumstances require it. Such circumstances may be when the offence is so serious, for example loss of life, or the offender is likely to flee or any other time if justifiable, reasonable and proportionate.

5.4 The aim of this policy remains to ensure that the council can show a robust and clear procedure that allows good businesses to grow, does not unnecessarily or disproportionately penalise any person who breaches regulations, and allows officers to take a risk based approach to ensuring compliance. Such a policy safeguards the council as well as those who the council regulates.

6.0 Key changes to the existing policy

6.1 The main changes to the existing policy are as follows:

- Updating information on the government departments responsible for regulatory issues. For example, in January 2018 the Office for Product Safety replaced Regulatory Delivery as part of the Department for Business, Energy and Industrial Strategy.
- Updating of corporate objectives.
- Change to legislation listed in the policy. There have been some legislative changes since the adoption of the previous policy in 2016.
- The inclusion of further detail concerning the council's procedural safeguards that are in place when investigating and prosecuting offences.
- Section 6.10 of the existing policy detailed the specific approach officers will take when dealing with licensing offences, notably, taxi or private hire licensing offences. Following application of the current approach, particularly in regard to driver licence suspensions, the policy has been redrafted to take account of new safeguarding requirements, comment from the courts on the policy, and in line with new guidelines issued by the Department for Transport in July 2020.

7.0 Public Consultation

7.1 It is proposed that this updated policy be put out for public consultation between 12 July 2021 and 23 August 2021. A further report will be brought back to the committee on 30 September with the outcome of the public consultation and to consider the formal adoption of the policy after having regard to any comments received.

8.0 **Implications**

8.1 **Financial**

8.1.1 The Shared Director of Finance comments that any financial implications can be met from existing budgets

8.2 **Legal Issues** (Monitoring Officer)

8.2.1 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report and the proposed policy.

8.3 **Equality Impact Assessment**

8.3.1 An impact assessment on the proposed consultation has been undertaken and can be found at appendix 5

Appendices

Appendix 1 – Proposed Community Protection Compliance Policy 2021-2026

Appendix 2 – Regulators Code

Appendix 3 – Better Business for All Charter, Hertfordshire

Appendix 4 – Existing Environmental Health and Licensing Compliance Policy

Appendix 5 – Equality Impact Assessment for Consultation period

Background Papers

None



WATFORD BOROUGH COUNCIL

Community Protection

Compliance Policy 2021 – 2026

1. Introduction

- 1.1 This document provides detailed information on the approach, expectations and aims of officers working in the Community Protection service at Watford Borough Council when dealing with compliance issues.
- 1.2 Officers will work with members of the public and business to encourage compliance with legislation and regulations. The document details the reasoning behind this approach, the methods available to assist officers, the public and businesses, and the expected outcomes of this approach.
- 1.3 This document clearly explains what the public and businesses can expect from compliance teams and how they can engage in the compliance process.
- 1.4 Watford Borough Council is committed to continuously improving its approach to regulation in line with guidance issued by:

Office for Product Safety and Standards (part of the Department for Business, Energy and Industrial Strategy (BEIS)),
<https://www.gov.uk/government/organisations/office-for-product-safety-and-standards>

Hertfordshire Better Business for All partnership program (BBfA)
<http://www.hertfordshirelep.com/Better-Regulation.aspx>

and by following the Regulators Code,
<https://www.gov.uk/government/publications/regulators-code>

- 1.5 In particular, this policy sets out our approach on how we encourage and ensure compliance with a range of legislation and how we do this in the public interest. Compliance issues may arise when we deal with:
 - abandoned vehicles
 - alcohol, entertainment and late-night refreshment
 - animal welfare
 - anti-social behaviour
 - charity collections
 - dog fouling
 - drainage
 - environmental protection and pollution
 - filthy and verminous premises
 - food hygiene
 - gambling
 - health and safety at work
 - houses in multiple occupation
 - housing standards

Appendix 1

- infectious diseases
- littering, fly-tipping and other environmental crimes
- pest control
- smoke-free legislation
- statutory nuisances such as noise, odours, vibration and light
- street trading
- taxis and private hire vehicles

This list is not comprehensive but gives an indication of the range of issues dealt with by the officers working in Community Protection.

1.6 By following this compliance policy the council aims to help the growth of Watford and to support the corporate aims of working in a bold and progressive way to:



Manage the borough's housing needs



Enable a thriving community



Enable a sustainable town and council



Celebrate and support our community

In day-to-day business we recognise the importance of three key areas in making us an effective organisation that is in touch with our residents and delivers in a way that they expect. These are:

- effective two way engagement and communication
- sound management and high performance
- improving the town's environment.

1.7 In developing this policy we have had regard to:

- the Human Rights Act 1998
- the statutory Regulators' Code issued under the Regulatory and Effective Sanctions Act 2008 and
- the Code for Crown Prosecutors
- the Equalities Act 2010

1.8 All decisions will be fair, independent and objective. They will not be influenced by age, ethnicity, national origin, gender, religious or political belief, disabilities or sexual orientation. Due regard will be taken when dealing with juveniles or other vulnerable people. Decisions will not be affected by improper or undue pressure from any source, including members.

1.9 We are committed to accountable and proportionate practices with clear policies supported by effective procedures. We will ensure officers are competent, apply

compliance measures consistently and proportionately through training, suitable qualifications, and experience. Officers will consolidate their knowledge and experience through attendance on training courses, sharing best practice and keeping up to date with national guidance covering compliance.

- 1.10 We will have regard to evolving best practice in compliance and enforcement and will take account of any relevant specialist guidance, for example the Office for Product Safety and Standards publication on ethical business regulation which can be found here:

<https://www.gov.uk/government/publications/ethical-business-regulation>

2 Approval, review and exercise of powers

- 2.1 We consulted businesses and residents on this policy between 12 July and 23 August 2021.
- 2.2 Enforcement powers are delegated to the Group Head of Community and Environmental Services and the Head of Community Protection who in turn authorise officers on the basis of competency. Team Managers are authorised to issue a Simple Caution and, in the case of certain housing offences, the application for a Rent Repayment Order and/or issuing of a financial penalty as an alternative to prosecution. In cases of doubt as to a particular course of action other than authorising a prosecution the Group Head of Community and Environmental Services shall make the final decision. The Group Head of Democracy and Governance, may authorise a prosecution.
- 2.3 We will review compliance policies and procedures on a regular basis and in the light of changes in legislation, case-law or best practice.

3 Policy objectives

- 3.1 Our approach is intended to:
- protect individuals, the community and the environment from harm
 - change the behaviour of individuals and businesses who breach legislation
 - eliminate any financial gain or benefit from non-compliance
 - protect those affected by non-compliance
 - be responsive and consider what is appropriate in the particular circumstances
 - be proportionate having regard to the nature of the offence and the harm caused and the individuals circumstances
 - deter future non-compliance

4 Key principles

- 4.1 Wherever possible our officers will adopt an approach of informal resolution. This will involve:
- clearly identifying the nature of any actual or potential legislative breach;
 - giving the party responsible for the breach the opportunity to remedy it.

We recognise that this approach is not always possible. There may be some circumstances where the impact of an offence is so serious that a single breach requires urgent formal action. For example, these types of issues can include (but are not limited to) actions leading to discrimination or offences such as dog-fouling, littering, or plying for hire where it may be necessary, reasonable and proportionate to take stronger action following a single incident in order to prevent further offences

4.2 Although each case shall be considered on its own facts and on its own merits, there are general principles set out in this policy that apply to the way in which we approach every case.

4.3 **Standards**

4.3.1 We will always make clear when there is a legal requirement to be followed, and under which legislation it is required. We will always make clear the difference between legal requirements and recommended best practice.

4.3.2 In doing this we will have regard to the relevant legislation, codes of practice and guidance when determining the approach to take.

4.3.3 We will document in writing what we have had regard to throughout the course of any investigation or compliance procedure.

4.3.4 All investigations will follow best professional practice and legal requirements. Where necessary as part of the investigation process (for example, where formal legal action is possible), the party responsible for the breach may be formally interviewed under the Police and Criminal Evidence Act 1984, be given the opportunity to establish a statutory defence, and have the opportunity to give an explanation or make any additional comments about the allegations. Evidence will be gathered and used in accordance with the Criminal Procedure and Investigations Act 1996 and not kept for longer than required under the Act's code of practice.

4.4 **Openness**

4.4.1 We recognise the need to maintain public confidence in our ability to protect and to regulate. This is achieved by promoting consistency, proportionality and accountability. We will also aim to work in order of priority and direct our work accordingly, using national risk assessment schemes, local intelligence and the priorities of the council and its partners. We will clearly explain to those affected by breaches of legislation the action we take or why we are unable to take action. We will also make clear the difference between statutory requirements or advice, or guidance about what is desirable or good practice but not compulsory

4.4.2 Where action is necessary to comply with legislative requirements, it will be clearly explained, as far as reasonably practicable in writing and verbally, why the action is necessary and when it must be carried out by. We will discuss what is needed before taking formal action, apart from when urgent action is required to protect public health,

public safety or the environment, or evidence to support enforcement action would be otherwise lost.

4.4.3 In line with the Publicising Sentencing Outcomes government guidance we will publicise the results of prosecutions and simple cautions, although we will not publicise an individual's personal details when a simple caution has been accepted. If we receive information that may lead to formal legal action we will notify the source of that complaint as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk.

4.4.4 All parties concerned will be kept informed of progress during our investigations and any enforcement action. Confidentiality will be maintained and personal information only released in accordance with legal requirements or in accordance with the Data Protection Act 2018 and GDPR.

4.5 **Helpfulness**

4.5.1 We believe that prevention is better than cure. We will offer information and advice to those whom we regulate and seek to secure compliance without bureaucracy and excessive cost. We will encourage individuals and businesses to put community, public health, public safety and the environment first. We will ensure that, wherever practicable, our compliance services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

4.5.2 When a breach has been identified that does not present an immediate risk to health, safety or the environment, we may arrange follow-up visits to allow the business owner or individual time to comply with their legal obligations. Where immediate action is not needed, we will consider agreeing an action plan to assist the business or individual to work towards compliance, and a time scale for the successful implementation and completion of this action plan.

4.6 **Complaints**

4.6.1 Written explanation of any rights of appeal against formal legal action will be given at the time action is taken. We cannot advise on the merits or details of any appeal. Please see section 9 below about how to complain about the service we provide.

4.7 **Proportionality**

4.7.1 We will balance action taken against risks and costs. Actions to achieve compliance will be proportionate to any risks to public health and safety, and the seriousness of any breach. Therefore, an informal warning is unlikely to be a suitable disposal for a significant infringement leading to serious injury just as a prosecution is generally unsuitable for a minor administrative or technical oversight. Proportionate action also involves judging the extent of the efforts made by individuals or businesses in order to comply with the law.

4.8 Consistency

- 4.8.1 Our officers will endeavour to take a similar approach in similar circumstances to achieve similar ends; consistency does not mean taking exactly the same approach concerning each breach. We will endeavour to be consistent in the advice we give, whether over time to the same business, or to different businesses.
- 4.8.2 We will participate in county-wide and regional compliance arrangements to encourage consistency amongst other regulators and to share best practice. Where an investigation reveals information that could lead to further investigation by other agencies, we will cooperate and coordinate with the relevant agency to maximise the effectiveness of our advice, assistance or formal legal action.
- 4.8.3 We participate in the Primary Authority scheme as part of the Regulatory Enforcement and Sanctions Act 2008, and follow any inspection plans issued by Primary Authorities as part of those arrangements. We will give notice of proposed legal action to relevant Primary Authorities before action is taken against organisations registered under the scheme, apart from specific urgent cases where this is not required.

5 Compliance techniques

- 5.1 We use a range of techniques to encourage and secure compliance with legal obligations, including:
- informal advisory visits and meetings
 - mediation
 - education, awareness-raising and advice
 - formal training
 - risk-based inspections
 - proactive and reactive visits
 - direct observation
 - test baiting of vermin
 - test purchasing
 - sampling
 - auditing
- 5.2 We are committed to working proactively and positively to encourage risks to be managed and compliance achieved and we will consult service users on the best approach to doing this.

6 Bringing legal action

- 6.1 We will take account of different factors when considering the appropriate approach to achieve compliance, including:
- any actual or potential harm or loss to an individual
 - the risk that non-compliance poses to public health, public safety or the environment

Appendix 1

- the attitude of individuals or businesses to compliance, such as failing to follow previous advice or comply with statutory notices
- evidence of pre-meditation
- obstruction of officers
- national and local priorities for enforcement, including where the offence is widespread throughout the Borough but is not itself serious
- statutory guidance and codes of practise
- legal advice
- any commercial benefit accrued because of the non-compliance.

6.1.1 The following actions are available to us in the event of any contravention:

6.2 ***No further action, taking informal action or giving advice***

6.2.1 This may apply where an investigation reveals no offence has occurred or where the offending party makes a ready admission of the breach, takes immediate steps to remedy it presenting no risks to public safety, public health or the environment. No further action will be appropriate where the evidence is inadequate or where formal enforcement is inappropriate because the contravener is elderly, frail, has poor mental or serious ill health, and to pursue the case would be detrimental to their wellbeing. All persons involved will be advised as to why no further action is being taken

6.2.2 We may give verbal or written advice where we have a high degree of confidence the breach will be properly remedied or not repeated. We will clearly identify any contraventions of the law and give advice on how to correct them, including a reasonable deadline (agreed where possible) for when this should be completed. This will take into account the seriousness of the contravention and the implications for non-compliance.

6.3 ***Issuing warnings***

6.3.1 We may give verbal or written warnings. The fact that a verbal warning has been given may be recorded in a case file for future reference. Written warnings are normally final, and failure to comply or repeated breaches of the same or a similar contravention are likely to result in an escalation in the approach to achieving compliance.

6.4 ***Offering a Simple Caution***

6.4.1 Cautions will be considered in line the Home Office guidance in circular 16/2008. Simple Cautions are issued with the consent of the person responsible for a breach and where a prosecution would otherwise be justified. Although an admission of guilt, a caution is not a sentence or a criminal conviction.

6.4.2 Before offering a simple caution, we must be satisfied that:

- there is sufficient evidence to prove the case before a court
- there has been a free and voluntary admission of guilt
- it must be in the public interest to use a simple caution to dispose of the offence
- the individual or business owner is over the age of 18

6.4.3 We will also take into account whether the person responsible for a breach has received a simple caution within the previous two years in accordance with Section 17(4) of the Criminal Justice and Courts Act 2015

6.4.4 The refusal of a person responsible for a breach to be cautioned, despite admitting their guilt, will normally result in a prosecution, although a prosecution cannot be brought once a simple caution has been accepted for that offence. A failure to accept a caution may be material consideration when deciding whether to institute a prosecution.

6.5 *Bringing a prosecution*

6.5.1 Where circumstances warrant it, we will prosecute without giving any opportunity for the remedy of the situation and without any prior warning. Prosecutions will be considered where:

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with legal duties
- there is a risk to community health and safety or of environmental damage as a consequence of the breach
- the breach was as a result of a deliberate, reckless or negligent act
- the approach of the individual or business through repeated breaches, persistent poor standards or ignoring formal advice and warnings warrants it

6.5.2 Prosecutions will always be considered where:

- there has been a blatant disregard for the law
- there is a refusal to achieve minimum legal requirements
- the offence involves a risk to public health, safety or wellbeing, harm to the environment or where an unacceptable business advantage is gained
- the individual or business has failed to correct potential risks after being given a reasonable opportunity to do so.
- the offence involves failure to comply with a statutory notice
- evidence suggests the offence was premeditated
- there is a history of similar offences
- an officer was intentionally obstructed or deceived in the course of their duties
- consideration of factors set out in paragraph 6.1 result in prosecution being the correct and proportionate response.

6.5.3 The decision to prosecute will take account of the evidential and public interest tests in the Code for Crown Prosecutors issued under the Prosecution of Offences Act 1985 by the Director of Public Prosecutions. These include:

- the seriousness of the offence. A prosecution is more likely to be required where an offence is more serious;
- the level of culpability by the person responsible for a breach, such as their level of involvement; whether the offence was premeditated or planned; or if they have previous convictions or cautions;

Appendix 1

- the age and state of mental or physical health of the person responsible for a breach
- the likelihood of the offence being continued, repeated or escalated;
- any remedial action taken by the person responsible for a breach, (although an offer to pay compensation to a victim or take similar action will never by itself preclude a prosecution);
- whether a prosecution is a proportionate response to the likely outcome.

6.5.4 We will not prosecute unless we are satisfied there is credible, admissible and reliable evidence that the offence has been committed by the individual or business and there is a realistic prospect of conviction. We will continuously review our enforcement approach when new evidence is received and periodically during the course of formal enforcement action.

6.5.5 The courts often have discretion in the penalties they can impose, and many offences benefit from a statutory defence. We will not be generally deterred from bringing a prosecution when it is right to do so solely because the courts are likely to issue a nominal penalty following a conviction, or solely because the individual or business appears to have established a statutory defence as it is for the individual or business to demonstrate to the court why they should benefit from that defence.

6.5.6 We will always seek to recover our costs in investigating and prosecuting offences.

6.5.7 People should be able to rely on decisions taken by us. Normally, if we tell a defendant that there will not be a prosecution, or that the prosecution has been stopped, the case will not start again. Occasionally there are reasons why we will overturn a decision not to prosecute or to deal with the case by way of an out-of-court disposal or when it will restart the prosecution, particularly if the case is serious.

6.5.8 These reasons include:

- cases where a new look at the original decision shows that it was wrong and, in order to maintain confidence in the criminal justice system, a prosecution should be brought despite the earlier decision;
- cases which are stopped so that more evidence (which is likely to become available in the fairly near future) can be collected and prepared. In these cases, we will tell the defendant that the prosecution may well start again;
- cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.

6.6 Alternatives to Prosecution

6.6.1 Fixed penalty notices (FPN) are available as an alternative to prosecution for some offences. A recipient of an FPN does not accept criminal liability by paying the associated fine, which brings an end to the matter. Where the law allows FPNs to be issued, we may choose to administer those on a first occasion without issuing a warning. However, a

failure to pay an FPN will result in an escalation of enforcement action including prosecution for the original offence to preserve the integrity of the regulatory regime.

6.6.2 For certain housing offences as set out in law, such as failure to comply with an improvement or overcrowding notice or operating an unlicensed House in Multiple Occupation (HMO), a financial penalty may be imposed as an alternative to prosecution. In such cases, a notice of intention to impose a financial penalty will be given setting out the amount of the proposed penalty, reasons for imposing it and information about the right to make written representation before a decision is made to issue a final penalty notice. Where a final penalty notice is issued, there will be a right of appeal to a First Tier Tribunal.

6.7 Community Protection Warnings and Community Protection Notices

6.7.1 The council has the power to issue a Community Protection Notice (CPN) requiring an individual (aged 16 or over) or a business engaged in anti-social behaviour activities to stop what they are doing if that activity has a negative impact on any individual or the environment or the community. If necessary, the individual or business must repair any damage they may have caused and undertake steps to prevent such further negative impact.

6.7.2 Community Protection Notices will be issued where there is evidence of ongoing issues in accordance with section 43, Anti-Social Behaviour Act 2014, contained in Part 4 of the Act.

6.7.3 In cases where a Community Protection Notice is considered an appropriate measure, in the first instance a Community Protection Warning (CPW) will be issued. Breach of a CPW does not carry any financial penalty but may result in further compliance action being taken.

6.7.4 A CPW is issued for 6 months. Should anti-social behaviour persist within this time, a CPN will be issued. Breach of a CPN carries a penalty on conviction of up to £2500 for individuals or £20000 for businesses.

6.7.5 A Fixed Penalty Notice (see 6.6) can be issued for a breach of a Community Protection Notice. The current FPN fee is for £200.

6.8 Other Remedies

6.8.1 We will also use other powers where appropriate in order to protect the community. This will include working with our partners, for example, the police, applying for orders under the Anti-Social Behaviour Crime and Policing Act 2014 and using other legislation where necessary and proportionate.

6.9 Issuing statutory notices

- 6.9.1 We may serve notices under various legislation requiring specific actions to be taken or certain activities to cease. Notices may require activities to cease immediately where there is an imminent or immediate threat to health, safety, environmental damage or nuisance. In other circumstances notices will be issued with a reasonable time for compliance, agreed wherever possible with the recipient of the notice, taking into account the seriousness of the contravention, setting out the remedial actions need to comply with the notice, the implications of non-compliance and the appeal period for that notice. Some legislation prescribes the action to be taken which might include the service of a notice. However we will generally issue notices if previous warnings or advice have been ignored.
- 6.9.2 All notices will be expressed in plain language, make clear the consequences of failing to comply, and include details of any applicable appeals procedure. All notices will be signed and served by appropriately authorised officers.
- 6.9.3 Failure to comply with certain notices will enable the council to do the work instead, commonly referred to as “works in default “. We may issue these notices when all other attempts to secure compliance have been exhausted, and will give warning of our intention to issue a notice except where this is impractical in order to protect public health and safety or the environment. We will then charge the recipient of the notice for any costs incurred in carrying out the work, and this may lead to a charge being registered against the land usually as a local land charge. This will allow the council to recoup the costs from any future sale of the property or exercise a right of sale as if it were a mortgagee. Costs will include all costs as well as the cost of the work, for example, officer time spent dealing with the matter. The council may still prosecute for not complying with the original statutory notice as well as carrying out the works.

6.10 Licensing decisions

- 6.10.1 Many of the licences and permissions we issue contain powers to revoke, refuse, vary or review them in the event of non-compliance with obligations in those authorisations, or following a conviction for certain offences.
- 6.10.2 The maximum term for a HMO licence is 5 years, however shorter term licenses can be issued if there are concerns about the management of the property that can be resolved within a shorter licensing period. For example where the property is breaching planning legislation or there are concerns about the financial status of the landlord. We will issue shorter term licenses where it is appropriate to do so.
- 6.10.3 As a general rule and in line with this compliance policy we will take decisions regarding the revoking of, or refusal of licences when all other approaches to assist compliance, short of cautions or prosecutions, have been exhausted. This may include suspending licences in the event of a breach, or refusing a licence when activities have been carried on without the requisite licence being in place. Whether we take such a decision before, after or as an alternative to a prosecution or caution will depend on the legal powers

available to us and the risks presented by the situation. How we exercise our professional discretion in such cases and will generally be guided by:

- whether the actions of the individual or business are so serious they ought to face trial in court
- the impact that a licensing decision will have in correcting any breach
- the impact that a licensing decision may have on the individual or business and the impact on their ability to continue operating their licensable activity (this is not relevant to matters related to hackney carriage or private hire licences).
- the council's Hackney Carriage and Private Hire Licensing Policy 2021-2026

6.10.4 Decisions regarding varying, revoking or refusing a licence and instigating prosecutions serve different purposes – licensing decisions about hackney carriage drivers, for example, concern their fitness and propriety to hold a licence, whilst a prosecution serves the objectives outlined in section 6.5 above. Similarly, reviews under the Licensing Act 2003 and Gambling Act 2005 are designed to be more corrective than punitive in nature, which should be a matter reserved for the courts.

6.10.5 In relation to licensed hackney carriage and private hire drivers, proprietors and operators, alongside the compliance principles contained in this policy, we will use the following approach when investigating offences:

- If it is safe to do so we will notify licence holders of complaints received against them whether proven or not so that they can be discussed. This approach will ensure transparency with licence holders in how the licensing team approach the matter of complaints. As with all regulated businesses, licence holders can be subject to malicious and false complaints and it is right that they are aware of how these matters are concluded;
- Our investigation into intelligence reports and/or complaints will look for evidence to either prove or disprove alleged offences – this will usually include a discussion with the licence holder. On occasion, for the protection of the identity of a complainant in cases involving sensitive matters such as allegations of a sexual nature, it may not be right to discuss the details of the complaint with the licence holder directly in the first instance;
- We will not take account of a licence holder's previous licensing history during the investigation of a specific complaint. Each complaint must be investigated on the basis of the evidence available;
- If there is no evidence, or insufficient evidence, to prove the specific complaint beyond reasonable doubt, a decision on further action may still be taken where the nature and severity of the alleged offence warrants it. Supporting evidence by way of previous reports will be considered if they exist and indicate the same or similar behaviour;
- If an offence is proven to the necessary standard of proof for the proposed action (civil or criminal burden of proof), the offence shall be considered and action taken in accordance with the principles in this compliance policy and/or the policy considerations contained within the Hackney Carriage and Private Hire Licensing Policy 2021-2026;
- All proven complaints will be considered in future enforcement or licensing decisions.

Appendix 1

6.10.6 For all proven offences licence holders will at least be informed of the offence and we will explain how to prevent further offences. Generally, where an offence has resulted in a complaint licence holders can expect to receive at least a formal written warning.

6.10.7 Licence holders who receive repeated written warnings or show a history of similar offences, proven or unproven, will be invited to attend a Case Review. This is a meeting with the Head of Community Protection to discuss a licence holder's conduct, to encourage behaviour change, to understand barriers to this and to clearly explain the consequences of continued non-compliance. A Case Review may result in the following actions although this is not an exhaustive list of options available:

- no further action
- further investigation
- written advice
- formal warning
- simple caution
- referral for prosecution
- suspension of licence
- recommendation to the Group Head of Service for revocation of licence

6.10.8 Where deemed appropriate we may suspend or revoke a licence. Where a suspension of the licence is deemed a proportionate response to the offence, the length of time of suspension will be determined by the overriding requirement to protect the public. The licence holder's previous history will be taken into account when making this decision along with other factors such as the attitude of the licence holder, the impact of the offence, etc.

Where relevant, a decision will also be guided by the council's Hackney Carriage and Private Hire Licensing Policy 2021-2026.

6.10.9 Except in cases where it appears that in the interests of public safety it is necessary to require it, no suspension or revocation of a licence will take immediate effect. In these circumstances the decision will not take effect until the appeal period of 21 days has expired. During this time, the licence holder has the right to appeal against the suspension or revocation notice by applying to the Magistrates' Court.

6.10.10 The power to suspend or revoke a licence is delegated to the Group Head of Community and Environmental Services, the Head of Community Protection and officers within the licensing team.

6.10.11 Any driver, proprietor or operator who re-offends after suspension or a successful prosecution, or commits a first offence which gives sufficient cause for concern, will be referred to the Group Head of Community and Environmental Services or the Head of Community Protection. This referral may take place without the licence holder first attending a Case Review. This referral will allow for immediate consideration of the continued fitness and propriety of the licence holder.

Appendix 1

6.10.12 In the most serious cases it may be necessary to revoke or suspend a licence immediately and without initial correspondence with the licence holder.

6.10.13 In cases where there is no immediate risk and no need to revoke or suspend a licence immediately in the interests of public safety, a licence holder who is referred in this way will be given an opportunity to make written representations against any recommendation to revoke or suspend before a final decision is made.

6.10.14 In cases where it is appropriate, for example where an investigation or prosecution has been undertaken by another authority and guilt established, an officer may refer a licence holder directly to the Group Head of Community and Environmental Services or the Head of Community Protection.

6.10.15 Appeals against revocation or the refusal to renew a licence can be made to the appropriate Court within 21 days of being notified of our decision.

6.11 Repayment of Monies

6.11.1 We believe that people should not profit from their criminal behaviour. When people have been convicted of offences and it can be shown that they have made money from their criminal lifestyle, we may seek Confiscation Orders under the Proceeds of Crime Act 2002.

6.11.2 Where a landlord has committed certain housing offences (whether or not they have been convicted), a First Tier Tribunal has the power to make a Rent Payment Order (RRO) to require a landlord to repay back to the Council an amount of universal credit, including housing benefit, in respect of rent under the tenancy. Where the law allows, such as failure to comply with an improvement notice or prohibition order or operating an unlicensed HMO, we will first issue a notice of intention to apply for a RRO to the landlord, setting out the amount we are seeking to recover and giving a right to make written representation before a decision is made to apply for an RRO. Once we have considered any representations, will then either make an application for a RRO to the First Tier Tribunal or not.

7 Other policies or legislation

7.1 We are required to have enforcement policies setting out how we enforce food safety legislation, and the Health and Safety at Work etc. Act 1974. In doing so, we must have regard to the Food Standards Agency's Food Law Code of Practice and the Health & Safety Executive's Enforcement Management Model.

7.2 Our statutory policy under the Licensing Act 2003 sets out our approach to compliance and enforcement under that Act.

7.3 Our statutory policy under the Gambling Act 2005 sets out our approach to compliance and enforcement under that Act.

Appendix 1

- 7.4 Our Hackney Carriage and Private Hire Licensing Policy 2021-2026 sets out our approach to compliance and enforcement of holders of driver, vehicle and operator licences.
- 7.5 We have published minimum standards for tackling anti-social behaviour in conjunction with our partners.
- 7.6 This policy should be read in conjunction with those documents, and will take precedence in the event of any conflict.

8 Other enforcement partners

- 8.1 Some investigations will reveal offences that are solely or jointly enforced by other agencies. These can include other local authorities, the police, fire service, trading standards, Gambling Commission, HM Revenues & Customs, Immigration and Customs Enforcement, Health & Safety Executive or the Environment Agency.
- 8.2 Where two offences arise out of the same set of facts but are enforced by two agencies, we will agree on a case-by-case basis the most appropriate action as each agency may decide a different approach and/or disposal is justified.
- 8.3 We will share information with other enforcement agencies where legislation permits, in accordance with agreed protocols and in accordance with the Data Protection Act 2018 and GDPR.

9 Customer standards and Complaints (including ombudsman)

For details of our customer standards about how you can expect us to treat you, please visit https://www.watford.gov.uk/info/20274/customer_services/1172/contact/4 or ask one of our officers for a copy.

Comments on this policy to:

EH Manager (Business)
Environmental Health
Watford Borough Council
Town Hall
Watford
Herts
WD17 3EX
Envhealth@watford.gov.uk

DRAFT



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Regulators' Code

April 2014

Foreword



In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline such as the Focus on Enforcement review of appeals, the proposed Growth Duty for non-economic regulators and the Accountability for Regulator Impact measure.

This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate. The Regulators' Code provides a flexible, principles based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities.

Our expectation is that by clarifying the provisions contained in the previous Regulators' Compliance Code, in a shorter and accessible format, regulators and those they regulate will have a clear understanding of the services that can be expected and will feel able to challenge if these are not being fulfilled.

Regulators within scope of the Regulators' Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

I believe the Regulators' Code will support a positive shift in how regulation is delivered by setting clear expectations and promising open dialogue. Ultimately this will give businesses greater confidence to invest and grow.

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive style with a horizontal line underneath the name.

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

Regulators' Code

This Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities¹ and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities², for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.

1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.

1.4 Regulators should ensure that their officers understand the statutory principles of good regulation³ and of this Code, and how the regulator delivers its activities in accordance with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

¹ The term 'regulatory activities' refers to the whole range of regulatory options and interventions available to regulators.

² The terms 'business or businesses' is used throughout this document to refer to businesses and other regulated entities.

³ The statutory principles of good regulation can be viewed in Part 2 (21) on page 12: http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf.

- 2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

- 2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.
- 2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- 2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- 2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate⁴.

3. Regulators should base their regulatory activities on risk

- 3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- 3.3 Regulators designing a risk assessment framework⁵, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.
- 3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- 3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

⁴ The Government will discuss with national regulators a common approach to surveys to support benchmarking of their performance.

⁵ The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to individual businesses or other regulated entities.

4. Regulators should share information about compliance and risk

- 4.1 Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate.
- 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.

5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

- 5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 5.2 Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
- 5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
- 5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.
- 5.5 In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.
- 5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

6. Regulators should ensure that their approach to their regulatory activities is transparent

- 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
- 6.2 Regulators' published service standards should include clear information on:
 - a) how they communicate with those they regulate and how they can be contacted;
 - b) their approach to providing information, guidance and advice;
 - c) their approach to checks on compliance⁶, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;

⁶ Including inspections, audit, monitoring and sampling visits, and test purchases.

- d) their enforcement policy, explaining how they respond to non-compliance;
 - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and
 - f) how to comment or complain about the service provided and routes to appeal.
- 6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point⁷ on the regulator's website that is clearly signposted, and it should be kept up to date.
- 6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

⁷ This requirement may be satisfied by providing a single web page that includes links to information published elsewhere.

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the Code or are not followed.

© Crown copyright 2014

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email psi@nationalarchives.gsi.gov.uk.

This publication is also available on our website at:
<https://www.gov.uk/government/publications/regulators-code>

Any enquiries regarding this publication should be sent to:

Better Regulation Delivery Office
Department for Business, Innovation and Skills
Lower Ground Floor
Victoria Square House
Victoria Square
Birmingham B2 4AJ

Tel: 0121 345 1200

If you require this publication in an alternative format, email brdo.enquiries@bis.gsi.gov.uk or call 0121 345 1200.

URN: BRDO/14/705

Hertfordshire Charter

Better Business for All Partnership Charter

This is a voluntary undertaking between Hertfordshire Regulatory Services and all local businesses, irrespective of size or resources.

Aim

To support a relationship between businesses and regulators built upon trust, understanding and a desire to improve together in terms of compliance with regulation and support of business growth.

Purpose

Hertfordshire Regulatory Services are committed to working with businesses to help them meet their statutory requirements and to prosper. This Charter sets out the actions and responsibilities of Hertfordshire Regulatory Services and businesses within Hertfordshire.

Regulatory Partners will:

- Support and promote the local economy by supporting local businesses
- Make it easy to seek advice
- Make information and advice easy to understand
- Explain the reason for their visit to businesses
- Carry out regulatory activity in a fair, helpful, transparent, proportionate and consistent way
- Be accountable

- Minimise the cost of compliance for businesses by ensuring that any action taken is proportionate to risk
- Coordinate services to minimise unnecessary overlaps and duplication
- Wherever possible reduce regulatory burden on businesses
- Consult with businesses through groups representing local businesses, when developing policies, plans and service standards
- Promote Better Business for All to businesses and consumers

The Federation of Small Businesses (FSB), Chambers' of Commerce (CoC) and Hertfordshire Local Enterprise Partnership (LEP) will encourage local businesses to:

- Seek advice from Hertfordshire Regulatory Services on matters of compliance
- Encourage other businesses to contact Hertfordshire Regulatory Services for advice
- Work with Hertfordshire Regulatory Services to achieve a satisfactory outcome and put problems right quickly
- Take part in publicity about positive experiences with regulators
- Be fair, helpful and transparent in dealing with Hertfordshire Regulatory Services staff
- Provide feedback to Hertfordshire Regulatory Services on improvements to the local regulatory system





WATFORD BOROUGH COUNCIL

Environmental Health and Licensing Services

COMPLIANCE POLICY 2016 – 2021

1. Introduction

- 1.1 This document provides detailed information on the approach, expectations and aims of officers from the environmental health and licensing services at Watford Borough Council when dealing with compliance issues.
- 1.2 Officers will work with members of the public and business to encourage compliance with legislation and regulations. The document details the reasoning behind this approach, the methods available to assist officers and customers, and the expected outcomes of this approach.
- 1.3 This document clearly explains what customers can expect from compliance teams and how customers can engage in the compliance process.
- 1.4 Watford Borough Council are committed to continuously improving our approach to regulation in line with guidance issued by:

Regulatory Delivery Office (part of the Government Department for Business, Innovation and Skills),

<https://www.gov.uk/government/organisations/regulatory-delivery>

Hertfordshire Better Business For All partnership program (BBfA)

<http://www.hertfordshirelep.com/Better-Regulation.aspx>

and by following the Regulators Code,

<https://www.gov.uk/government/publications/regulators-code>

- 1.5 In particular, the document sets out our approach on how we encourage compliance with a range of legislation in the public interest, including but not limited to:
 - abandoned vehicles
 - alcohol, entertainment and late-night refreshment
 - animal welfare
 - anti-social behaviour
 - charity collections
 - dog fouling
 - drainage
 - environmental protection and pollution
 - filthy and verminous premises
 - food hygiene
 - gambling
 - health and safety at work
 - houses in multiple occupation
 - housing standards
 - infectious diseases
 - littering, fly-tipping and other environmental crimes

Appendix 4

- pest control
- smoke-free legislation
- statutory nuisances such as noise, odours, vibration and light
- street trading
- taxis and private hire vehicles

1.6 By following this compliance policy the Council aims to facilitate the growth of Watford and to support the corporate aims of working in a bold and progressive way to:

- identify ways to manage the borough's housing needs
- champion smart growth and economic prosperity
- provide for our vulnerable and disadvantaged communities
- deliver a digital Watford to empower our community
- secure our own financial future

In day-to-day business we recognise the importance of three key areas in making us an effective organisation, in touch with our residents and delivering in a way that they expect. These are:

- effective two way engagement and communication
- sound management and high performance
- improving the town's environment.

1.7 In developing this policy we have had regard to:

- the Human Rights Act 1988
- the statutory Regulators' Code issued under the Regulatory and Effective Sanctions Act 2008 and
- the Code for Crown Prosecutors (see section 6)
- the Equalities Act 2010

1.8 All decisions will be fair, independent and objective. They will not be influenced by age, ethnicity, national origin, gender, religious or political belief, disabilities or sexual orientation. Due regard will be taken when dealing with juveniles or other vulnerable people. Decisions will not be affected by improper or undue pressure from any source, including councillors.

1.9 We are committed to accountable and proportionate practices with clear policies supported by effective procedures. We will ensure officers are competent, apply compliance measures consistently and proportionately through training, suitable qualifications, and experience. Officers will consolidate their knowledge and experience through attendance on training course, sharing best practice and keeping up to date with national guidance covering compliance.

Appendix 4

- 1.10 We will have regard to evolving best practice in compliance and enforcement will take account of any relevant specialist guidance, for example the Better Regulation Delivery Office publication on ethical business regulation which can be found here:

<https://www.gov.uk/government/publications/ethical-business-regulation>

2 Approval, review and exercise of powers

- 2.1 We are consulting businesses and residents on this policy between 15 July and 19 August 2016 .
- 2.2 All enforcement powers are delegated to the Head of Service who in turn authorises officers on the basis of competency. The Section Head and Team Managers are authorised to issue a simple caution and, in the case of certain housing offences, the application for a Rent Repayment Order and/or issuing of a financial penalty as an alternative to prosecution. They, in consultation with the Legal Services Head of Service, may authorise a prosecution. In cases of doubt as to a particular course of action the Head of Service for Environmental Health and Licensing service shall make the final decision.
- 2.3 We will review our policies and procedures on a regular basis and in the light of changes in legislation, case-law or best practice.

3 Policy objectives

- 3.1 Our approach is intended to:
- protect individuals, the community and the environment from harm
 - change the behaviour of individuals and businesses who breach legislation
 - eliminate any financial gain or benefit from non-compliance
 - protect those affected by non-compliance
 - be responsive and consider what is appropriate in the particular circumstances
 - be proportionate to the nature of the offence and the harm caused
 - deter future non-compliance.

4 Key principles

- 4.1 Wherever possible our officers will adopt an approach of informal resolution. This will involve clearly identifying the nature of any actual or potential legislative breach and giving the party responsible for the breach the opportunity to remedy it. We recognise that this is not always possible in some one-off circumstances in which it may be difficult to identify repeated breaches. These may include for example (but not be limited to) offences such as dog-fouling, littering, or plying for hire where it is necessary, reasonable and proportionate.

Appendix 4

- 4.2 Although each case shall be considered on its own facts and on its own merits, there are general principles set out in section 7 that apply to the way in which we approach every case.

4.3 **Standards**

We will always make clear when there is a legal requirement to be followed, and under which legislation it is required. We will always make clear the difference between legal requirements and recommended best practice.

- 4.3.1 All investigations will follow best professional practice and legal requirements. Where necessary as part of the investigation process (for example, where formal legal action is possible), the party responsible for the breach may be formally interviewed under the Police and Criminal Evidence Act 1984, be given the opportunity to establish a statutory defence, and have the opportunity to give an explanation or make any additional comments about the allegations. Evidence will be gathered and used in accordance with the Criminal Procedure and Investigations Act 1996 and not kept for longer than required under the Act's code of practice.

4.4 **Openness**

We recognise the need to maintain public confidence in our ability to protect and to regulate. This is achieved by promoting consistency, proportionality and accountability. We will also aim to work in order of priority and direct our work accordingly, using national risk assessment schemes, local intelligence and the priorities of the Council and its partners. We will clearly explain to those affected by breaches of legislation the action we take or why we are unable to take action. We will also make clear the difference between statutory requirements or advice, or guidance about what is desirable or good practice but not compulsory

- 4.4.1 Where action is necessary to comply with legislative requirements, it will be clearly explained as far as reasonably practicable in writing and verbally why the action is necessary and when it must be carried out by. We will discuss what is needed before taking formal action, apart from when urgent action is required to protect public health, public safety or the environment, or evidence to support enforcement action would be otherwise lost.
- 4.4.2 We will publicise the results of prosecutions and simple cautions when it helpful to do so, although we will not publicise an individual's personal details when a simple caution has been accepted. If we receive information that may lead to formal legal action we will notify the source of that complaint as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk.

- 4.4.3 All parties concerned will be kept informed of progress during our investigations and any enforcement action. Confidentiality will be maintained and personal information only released in accordance with legal requirements or in accordance with the Data Protection Act 1998.

4.5 ***Helpfulness***

We believe that prevention is better than cure. We will offer information and advice to those whom we regulate and seek to secure compliance without bureaucracy and excessive cost. We will encourage individuals and businesses to put community, public health, public safety and the environment first. We will ensure that, wherever practicable, our compliance services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

- 4.5.1 When a breach has been identified that does not present an immediate risk to health, safety or the environment, we may arrange follow-up visits to allow the business owner or individual time to comply with their legal obligations. Where immediate action is not needed, we will consider agreeing an action plan to assist the business or individual to work towards compliance, and a time scale for the successful implementation and completion of this action plan .

4.6 ***Complaints***

Written explanation of any rights of appeal against formal legal action will be given at the time action is taken. We cannot advise on the merits or details of any appeal. Please see section 9 below about how to complain about the service we provide.

4.7 ***Proportionality***

We will balance action taken against risks and costs. Actions to achieve compliance will be proportionate to any risks to public health and safety, and the seriousness of any breach. Therefore, an informal warning is unlikely to be a suitable disposal for a significant infringement leading to serious injury just as a prosecution is generally unsuitable for a minor administrative or technical oversight. Proportionate action also involves judging the extent to which individuals or businesses have gone to in order to comply with the law.

4.8 ***Consistency***

Our officers will endeavour to take a similar approach in similar circumstances to achieve similar ends; consistency does not mean taking exactly the same approach concerning

each breach. We will endeavour to be consistent in the advice we give, whether over time to the same business, or to different businesses.

- 4.8.1 We will participate in county-wide and regional compliance arrangements to encourage consistency amongst other regulators and to share best practice. Where an investigation reveals information that could lead to further investigation by other agencies, we will cooperate and coordinate with the relevant agency to maximise the effectiveness of our advice, assistance or formal legal action..
- 4.8.2 We participate in the Primary Authority scheme as part of the Regulatory Enforcement and Sanctions Act 2008, and follow any inspection plans issued by Primary Authorities as part of those arrangements. We will give notice of proposed legal action to relevant Primary Authorities before action is taken against organisations registered under the scheme, apart from specific urgent cases where this is not required.

5 Compliance techniques

We use a range of techniques to encourage and secure compliance with legal obligations, including:

- informal advisory visits and meetings
- mediation
- education, awareness-raising and advice
- formal training
- risk-based inspections
- proactive and reactive visits
- direct observation
- test baiting of vermin
- test purchasing
- sampling
- auditing.

We are committed to working proactively and positively to encourage risks to be managed and compliance achieved and we will consult service users on the best approach to doing this.

6 Bringing legal action

We will take account of different factors when considering the appropriate approach to achieve compliance, including:

- any actual or potential harm or loss to an individual
- the risk that non-compliance poses to public health, public safety or the environment

- the attitude of individuals or businesses to compliance, such as failing to follow previous advice or comply with statutory notices
- evidence of pre-meditation
- obstruction of officers
- national and local priorities for enforcement, including where the offence is widespread throughout the Borough but is not itself serious
- statutory guidance and codes of practise
- legal advice
- any commercial benefit accrued because of the non-compliance.

6.1 The following actions are available to us in the event of any contravention:

6.2 *No further action, taking informal action or giving advice*

This may apply where an investigation reveals no offence has occurred or where the offending party makes a ready admission of the breach, takes immediate steps to remedy it presenting no risks to public safety, public health or the environment. No further action will be appropriate where the evidence is inadequate or where formal enforcement is inappropriate because the contravener is elderly, frail, has poor mental or serious ill health, and to pursue the case would be detrimental to their wellbeing. All persons involved will be advised as to why no further action is being taken

6.2.1 We may give verbal or written advice where we have a high degree of confidence the breach will be properly remedied or not repeated. We will clearly identify any contraventions of the law and give advice on how to correct them, including a reasonable deadline (agreed where possible) for when this should be completed. This will take into account the seriousness of the contravention and the implications for non-compliance.

6.3 *Issuing warnings*

We may give verbal or written warnings. The fact that a verbal warning has been given may be recorded in a case file for future reference. Written warnings are normally final, and failure to comply or repeated breaches of the same or a similar contravention are likely to result in an escalation in the approach to achieving compliance.

6.4 *Offering a simple caution*

Cautions will be considered in line with the Home Office guidance in circular 16/2008 with the consent of the person responsible for a breach and where a prosecution would otherwise be justified. Although an admission of guilt, a caution is not a sentence or a criminal conviction.

6.4.1 Before offering a simple caution, we must be satisfied that:

- there is sufficient evidence to prove the case before a court

Appendix 4

- there has been a free and voluntary admission of guilt
- it must be in the public interest to use a simple caution to dispose of the offence
- the individual or business owner is over the age of 18.

6.4.2 We will also take into account whether the person responsible for a breach has received a simple caution within the previous two years.

6.4.3 The refusal of a person responsible for a breach to be cautioned, despite admitting their guilt, does not preclude a summons being issued for prosecution although a prosecution cannot be brought once a simple caution has been accepted for that offence. A failure to accept a caution may be material consideration when deciding whether to institute a prosecution.

6.5 *Bringing a prosecution*

Where circumstances warrant it, we will prosecute without giving any opportunity for the remedy of the situation and without any prior warning. Prosecutions will be considered where:

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with legal duties
- there is a risk to community health and safety or of environmental damage as a consequence of the breach
- the breach was as a result of a deliberate, reckless or negligent act
- the approach of the individual or business through repeated breaches, persistent poor standards or ignoring formal advice and warnings warrants it .

6.5.1 Prosecutions will always be considered where:

- there has been a blatant disregard for the law
- there is a refusal to achieve minimum legal requirements
- the offence involves a risk to public health, safety or wellbeing, harm to the environment or where an unacceptable business advantage is gained
- the individual or business has failed to correct potential risks after being given a reasonable opportunity to do so.
- the offence involves failure to comply with a statutory notice
- evidence suggests the offence was premeditated
- there is a history of similar offences
- an officer was intentionally obstructed or deceived in the course of their duties
- any of the factors set out in paragraph 6 apply.

6.5.2 The decision to prosecute will take account of the evidential and public interest tests in the Code for Crown Prosecutors issued under the Prosecution of Offences Act 1985 by the Director of Public Prosecutions. These include:

Appendix 4

- the seriousness of the offence. A prosecution is more likely to be required where an offence is more serious
- the level of culpability by the person responsible for a breach, such as their level of involvement; whether the offence was premeditated or planned; or if they have previous convictions or cautions;
- the age and state of mental or physical health of the person responsible for a breach
- the likelihood of the offence being continued, repeated or escalated;
- any remedial action taken by the person responsible for a breach, (although an offer to pay compensation to a victim or take similar action will never by itself preclude a prosecution)
- whether a prosecution is a proportionate response to the likely outcome.

6.5.3 We will not prosecute unless we are satisfied there is credible, admissible and reliable evidence that the offence has been committed by the individual or business and there is a realistic prospect of conviction.

6.5.4 Prosecutions will only be commenced if it is in the public interest to do so. Factors which may be taken into account in deciding whether a prosecution is in the public interest are those in paragraph set out in paragraph 6.5.2.

6.5.5 The courts often have a large discretion in the penalties they can impose, and many offences benefit from a statutory defence. We will not be generally deterred from bringing a prosecution when it is right to do so solely because the courts are likely to issue a nominal penalty following a conviction, or solely because the individual or business appears to have established a statutory defence as it is for the individual or business to demonstrate to the court why they should benefit from that defence.

6.5.6 We will always seek to recover our costs in investigating and prosecuting offences.

6.5.7 People should be able to rely on decisions taken by us. Normally, if we tell a defendant that there will not be a prosecution, or that the prosecution has been stopped, the case will not start again. Occasionally there are reasons why we will overturn a decision not to prosecute or to deal with the case by way of an out-of-court disposal or when it will restart the prosecution, particularly if the case is serious.

6.5.8 These reasons include:

- cases where a new look at the original decision shows that it was wrong and, in order to maintain confidence in the criminal justice system, a prosecution should be brought despite the earlier decision;
- cases which are stopped so that more evidence (which is likely to become available in the fairly near future) can be collected and prepared. In these cases, we will tell the defendant that the prosecution may well start again;
- cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.

6.6 *Civil law remedies*

Where individuals or businesses have been found guilty on more than two occasions, or where it is considered to be more appropriate to restrain further breaches of the law, we will consider applying for an injunction.

- 6.6.1 We will also use our powers where appropriate to apply for orders under the Anti-Social Behaviour Act 2014 and similar legislation with our statutory partners in order to protect the community.

The following actions are only available to us in relation to certain specific contraventions:

6.7 *Seizure of goods or equipment*

Goods, equipment and documents may be seized under certain legislation relating to unsafe food, or sound equipment that, through its use, creates a statutory noise nuisance. We may also use powers under the Police and Criminal Evidence Act 1984 relating to the voluntary surrender of items in the course of an investigation.

6.8 *Issuing statutory notices*

We may serve notices under various legislation requiring specific actions to be taken or certain activities to cease. Notices may require activities to cease immediately where there is an imminent or immediate threat to health, safety, environmental damage or nuisance. In other circumstances notices will be issued with a reasonable time for compliance, agreed wherever possible with the recipient of the notice, taking into account the seriousness of the contravention, setting out the remedial actions need to comply with the notice, the implications of non-compliance and the appeal period for that notice. Notices will generally be issued if previous warnings or advice has been ignored.

- 6.8.1 All notices will be expressed in plain language, make clear the consequences of failing to comply, and include details of any applicable appeals procedure. All notices will be signed and served by appropriately authorised officers.
- 6.8.2 Failure to comply with certain notices will enable the Council to do the work instead, commonly referred to as “works in default “. We may issue these notices when all other attempts to secure compliance have been exhausted, and will give warning of our intention to issue a notice except where this is impractical in order to protect public health and safety or the environment. We will then charge the recipient of the notice for any costs incurred in carrying out the work, and this may lead to a charge being applied against the future sale of the property. The Council may still prosecute for not complying with the original statutory notice as well as carrying out the works.

6.9 Alternatives to Prosecution

- 6.9.1 Fixed penalty notices (FPN) are available as an alternative to prosecution for some offences. A recipient of an FPN does not accept criminal liability by paying the associated fine, which brings an end to the matter. Where the law allows FPNs to be issued, we may choose to administer those on a first occasion without issuing a warning. However, a failure to pay an FPN will result in an escalation of enforcement action including prosecution for the original offence to preserve the integrity of the regulatory regime.
- 6.9.2 Failure to pay a FPN will be a material consideration in considering whether to institute a criminal prosecution.
- 6.9.3 For certain housing offences as set out in law, such as failure to comply with an improvement or overcrowding notice or operating an unlicensed House in Multiple Occupation (HMO), a financial penalty may be imposed as an alternative to prosecution. In such cases, a notice of intention to impose a financial penalty will be given setting out the amount of the proposed penalty, reasons for imposing it and information about the right to make written representation before a decision is made to issue a final penalty notice. Where a final penalty notice is issued, there will be a right of appeal to a First Tier Tribunal.

6.10 Licensing decisions

Many of the licences and permissions we issue contain powers to revoke, refuse, vary or review them in the event of non-compliance with obligations in those authorisations, or following a conviction for certain offences.

- 6.10.1 As a general rule and in line with this compliance policy we will take licensing decisions when all other approaches to assist compliance, short of cautions or prosecutions, have been exhausted. This may include suspending licences in the event of a breach, or refusing a licence when activities have been carried on without the requisite licence being in place. Whether we take a licensing decision before, after or as an alternative to a prosecution or caution will depend on the legal powers available to us and the risks presented by the situation. How we exercise our professional discretion in such cases will generally be guided by:
- whether the actions of the individual or business are so serious they ought to face trial in court
 - the impact that a licensing decision will have in correcting any breach
 - the impact that a licensing decision may have on the individual or business and the impact on their ability to continue operating their licensable activity
 - the Council's Guidelines for the grant, suspension and revocation of Hackney Carriage Driver, Private Hire Driver and Operator Licences.
- 6.10.2 Licensing decisions and prosecutions serve different purposes – licensing decisions about hackney carriage drivers, for example, concern their fitness and propriety to hold a

licence, whilst a prosecution serves the objectives outlined in section 6.5 above. Similarly, reviews under the Licensing Act 2003 and Gambling Act 2005 are designed to be more corrective than punitive in nature, which should be a matter reserved for the courts.

6.10.3 Alongside the general compliance principles contained in this policy we have additional specific approaches agreed in relation to licensed hackney carriage and private hire drivers, proprietors and operators:

- Our investigation into intelligence reports and/or complaints will look for evidence to either prove or disprove alleged offences – this will usually include a discussion with the licence holder. On occasion, for the protection of the identity of a complainant in cases involving sensitive matters such as allegations of a sexual nature, it may not be right to discuss the details of the complaint with the licence holder directly in the first instance;
- We will not take account of a licence holder's previous history during the investigation process;
- If there is no evidence, or insufficient evidence, to prove the complaint a decision on further action shall be taken based on the nature and severity of the alleged offence and whether or not supporting evidence by way of previous reports, how many such reports and the source of the reports are available documenting the same or similar behaviour
- We will notify licence holders of complaints received against them whether proven or not so that they can be discussed if it is safe to do so;
- If an offence is proven, the offence shall be considered and action taken in accordance with the principles in this enforcement policy and/or the policy considerations contained within the Guidelines for the grant, suspension and revocation of hackney carriage and private hire drivers and operators licences;
- All proven complaints will be considered in future enforcement or licensing decisions.

6.10.4 For all proven offences licence holders will at least be informed of the offence and we will explain how to prevent further offences. Generally, where an offence is as a result of a complaint licence holders can expect to receive at least a formal written warning.

6.10.5 Licence holders who receive repeated written warnings or show a history of similar offences, proven or unproven, will be invited to attend a Case Review. This is a meeting with the Section Head for Environmental Health and Licensing Services to discuss a licence holder's conduct, to encourage behaviour change, to understand barriers to this and to clearly explain the consequences of continued non-compliance. A case review may result in the following actions although this is not an exhaustive list of options available:

- no further action
- further investigation
- written advice
- formal warning
- simple caution
- referral for prosecution
- suspension of licence
- recommendation to the Head of Service for revocation of licence

Appendix 4

6.10.6 Where deemed appropriate we may suspend or revoke a licence. Where a suspension of the licence is deemed a proportionate response to the offence, the suspension will be for a maximum of two days. The licence holder's previous history will be taken into account when making this decision along with other factors such as the attitude of the licence holder, the impact of the offence etc.

Action may also be taken in accordance with the council's Guidelines for the grant, suspension and revocation of hackney carriage and private hire drivers and operators licences.

6.10.7 Except in cases where it appears that in the interests of public safety require it, no suspension or revocation of a licence will take effect until at least 21 days after the suspension notice has been served. During this time, the licence holder has the right to appeal against the suspension or revocation notice by applying to the magistrates' court.

6.10.8 Any driver, proprietor or operator who re-offends after suspension or a successful prosecution, or commits a first offence which gives sufficient cause for concern, will be referred to the Head of Service or Section Head for Environmental Health and Licensing Services. This referral may take place without the licence holder first attending a case review. This referral will allow for immediate consideration of the continued fitness and propriety of the licence holder. Any licence holder who is referred in this way will be given an opportunity to make written representations against any recommendation to revoke before a final decision is made.

6.10.9 In cases where it is appropriate, for example where an investigation or prosecution has been undertaken by another authority and guilt established, an officer may refer a licence holder directly to the Head of Service or Section Head for Environmental Health and Licensing Services.

6.10.10 Appeals against revocation or the refusal to renew a licence are made to the magistrates' court within 21 days of being notified of our decision.

6.11 ***Repayment of Monies***

We believe that people should not profit from their criminal behaviour. When people have been convicted of offences and it can be shown that they have made money from their criminal lifestyle, we may seek Confiscation Orders under the Proceeds of Crime Act 2002.

6.12 Where a landlord has committed certain housing offences (whether or not they have been convicted), a First Tier Tribunal has the power to make a Rent Payment Order (RRO) to require a landlord to repay back to the Council an amount of universal credit, including housing benefit, in respect of rent under the tenancy. Where the law allows, such as

failure to comply with an improvement notice or prohibition order or operating an unlicensed HMO, we will first issue a notice of intention to apply for a RRO to the landlord, setting out the amount we are seeking to recover and giving a right to make written representation before a decision is made to apply for an RRO. Once we have considered any representations, then an application for a RRO can be made to the First Tier Tribunal.

7 Other policies

We are required to have enforcement policies setting out how we enforce food safety legislation, and the Health and Safety at Work etc Act 1974. Our statutory policy under the Licensing Act 2003 lays out our approach to enforcement action when licences under that legislation are reviewed. Our statutory policy under the Gambling Act 2005 sets out our approach to compliance and enforcement within gambling premises.

- 7.1 We have published minimum standards for tackling anti-social behaviour in conjunction with our partners.
- 7.2 This policy should be read in conjunction with those documents, and will take precedence in the event of any conflict.

8 Other enforcement partners

Some investigations will reveal offences that are solely or jointly enforced by other agencies. These can include other local authorities, the police, fire service, trading standards, Gambling Commission, HM Revenues & Customs, UK Border Agency, Health & Safety Executive or the Environment Agency.

- 8.1 Where two offences arise out of the same set of facts but are enforced by two agencies, we will agree on a case-by-case basis the most appropriate action as each agency may decide a different approach and/or disposal is justified.
- 8.2 We will share information with our enforcement agencies where legislation permits, in accordance with agreed protocols and in accordance with the Data Protection Act 1988.

9 Customer standards and Complaints (inc ombudsman)

For details of our customer standards about how you can expect us to treat you, please visit https://www.watford.gov.uk/info/20016/the_council/119/customer_standards or ask one of our officers for a copy.

Appendix 4

Comments are invited on this policy to:

EH Manager (Business)
Environmental Health
Watford Borough Council
Town Hall
Watford
Herts
WD17 3EX
Envhealth@watford.gov.uk



Equality Impact Analysis

Title of policy, function or service	Community Protection Compliance Policy 2021-2026
Lead officer	Jamie Mackenzie
Person completing the EIA	Jamie Mackenzie
Type of policy, function or service:	Existing (reviewed) <input checked="" type="checkbox"/> X New/Proposed <input type="checkbox"/>
Version & Date	Version 1.0 08 June 2021

1. Background

Watford Borough Council (the council) is the regulatory authority for environmental purposes health and licensing matters. As a regulator, the council is required to publish a policy on how it will approach regulation of businesses.

In 2011 the council developed an Environmental Health and Licensing Compliance Policy to ensure that decisions and processes related to compliance were clearly explained for all residents, visitors and businesses. This policy (the Policy), now named the Community Protection Compliance Policy 2021-2026, ensures that decisions are fair and consistent, and that the right standards are applied to ensure we achieve the highest levels of compliance with national and local regulations.

The Policy is regularly reviewed and the current policy is now due for review. Prior to any changes to the existing policy taking effect, a public consultation is carried out.

2. Focus of the Equality Impact Analysis

This Equality Impact Assessment has been created to ensure that the public consultation on this proposed changes is fair, transparent and does not discriminate against any person or group.

3. Engagement and consultation

A full public consultation on the draft policy is planned between 12 July 2021 and 23 August 2021

This will include:

- placing the information about the consultation, and the various methods of responding to the consultation, on the Watford Borough Council website
- notification through the council Communications team to various publication including the local newspaper
- directly notifying a number of local and national organisations and authorities, including business forums and membership organisations, licensing authorities, national charities, disability advocacy groups and trade publications
- an audio reading of the proposed policy and consultation documents to be made available through collaboration with the Watford Talking Newspaper
- creating an online questionnaire to allow for ease of response to the consultation for

some respondents

4. What we know about Watford

Watford has a quite significantly younger population than Hertfordshire as a whole.

Those who report ill health and who are limited in mobility is marginally lower than the UK average

In context, the 2011 census reports that 5500 people reported day to day activities being limited a lot by health and disability issues. Almost 7000 residents reported day to day activities being limited a bit. It seems reasonable that 2021 figures could be somewhere around 6,500 - 7000.

5. How will the council ensure equality is promoted during the consultation period?

Watford Borough Council is committed to championing equality and embracing diversity across the full range of our services, whether we deliver the service ourselves or through partnership, and in our role as an employer.

To assist in gathering responses from people with a broad range of protected characteristics officers of the Community Protection service will actively seek to notify and engage as many residents, businesses and groups as possible.

There are a number of people with protected characteristics who could be impacted by the proposed policy and it is essential that all views are represented in the final policy presented to Licensing Committee in September 2021.

Under the Equality Act 2010, three areas need to be considered when analysing the equality impact of the Corporate Plan:

1. **eliminate** discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
2. **advance** equality of opportunity between people who share a relevant protected characteristic and people who do not share it
3. **foster** good relations between people who share a relevant protected characteristic and people who do not

A. Positive impacts

- By ensuring this consultation is comprehensive the council is ensuring that opportunities for all those with protected characteristics are advanced in terms of influencing the development of a policy that directly impacts a person's ability to access a business, run a business, use local services and enjoy a high quality of life as a resident or visitor to the Borough.
- We know that many people who run their own business do so as sole-traders or with very small teams and that access to resources to assist in compliance may be difficult to come by or to understand. Against this, the council must balance the need to ensure public safety and access to a fair and equitable environment for all. This will mean taking enforcement action against businesses that are non-compliant and those which, following advice, persist in being non-compliant.
- We know that many people who access services in Watford, rent homes, visit food premises, buy goods or services and use transport systems such as hackney carriages and private hire vehicle services have a range of needs and that these customers must be protected from illegal practice, anti-social behaviour and other activities that are detrimental to quality of life and/or harmful to health.
- Through consultation on this policy we can make sure that the policy is fair and that any additional safeguards against dangerous practice can be added prior to consideration by the Licensing Committee. This will support business by setting clear guidelines, and by helping to promote the high standards on offer in Watford. This should have a positive impact on all those with protected characteristics and particularly those with additional vulnerabilities.
- The borough's existing business owners and residents can be confident that they are fully engaged in decisions that impact them directly. They can make suggestions for changes to the proposed policy before adoption. This will have a positive impact on the reputation of the town and help enhance good community relations.

B. Negative impacts

There should be no negative impact to ensuring a comprehensive consultation is conducted.

A separate equality impact analysis will be completed following the consultation and prior to the policy appearing before the Licensing Committee and any decision on adoption being made.

6. Overall conclusion

Overall we can be confident that the consultation period is sufficient to ensure that responses can be received from all stakeholders and interested parties, including those who may need longer to read, process and respond to the information.

All responses will be considered and the information used to inform the final policy to be considered by the Licensing Committee.

Summary of potential positive and negative impacts on protected characteristics

Protected Characteristic	Positive	Negative	None	Reasons for decision
Age	X			The length of time of the consultation and the work to ensure ease of access to submitting a response will ensure that those who may need longer to respond, or who may not have access to technology in order to respond quickly by electronic means will have the chance to give their views. We will contact charities representing the views of older people directly.
Disability	X			We will contact a number of local and national charities to seek feedback on the proposed policy.
Ethnicity	X	X		Depending on business sector, the impact on ethnicity could be both positive and negative. As many taxi and private hire drivers come from an ethnic minority background elements of the policy may disproportionately impact upon them. We will engage will trade leaders, associations, media and by way of online surveys in order to gather the views of the trade as comprehensively as possible. Changes to the way that licence suspensions are dealt with for taxi and private hire licence holders could add additional restrictions to current and future licence holders although it should be noted that these restrictions will only be relevant in the case of offences being committed by licence holders.
Sex			X	There is no specific positive or negative impact on sex discrimination as all responses will be given equal weight.
Sexual orientation			X	There is no specific positive or negative impact on sexual orientation as all

Protected Characteristic	Positive	Negative	None	Reasons for decision
				responses will be given equal weight.
Religion			X	There is no specific positive or negative impact on religion as all responses will be given equal weight.
Pregnancy/maternity			X	There is no specific positive or negative impact on pregnancy/maternity as all responses will be given equal weight.
Gender orientation			X	There is no specific positive or negative impact on gender orientation as all responses will be given equal weight.

Summary of potential positive impacts and ways in which they can be ensured

Positive Impact	Protected characteristics	Ways to ensure the positive impact
General increase in compliance with regulations Increased business for local service providers through improved reputation and ability to build a compliant business Better access to local goods and services Reduced instances of anti-social behaviour in the Borough	All All All All	Ensure policy consultation has good promotion and an easy way to feedback on concerns.

Summary of potential negative impacts and ways in which they can be removed or mitigated

Negative Impact	Protected characteristics	Ways to mitigate the negative impact
Perception that regulation in Watford is heavy handed	All	Ensure consultation is promoted in a way that explains the clear reasons for the policy

This EIA has been approved by:

Justine Hoy, Head of Community Protection Date 28/6/2021

Part A

Report to: **Licensing Committee**

Date of meeting: **Thursday, 8 July 2021**

Report author: **Business Compliance Officer**

Title: **Urgent amendment to the Environmental Health and Licensing Services Compliance Policy 2016 – 2021**

1.0 Summary

1.1 The Community Protection section is responsible for ensuring compliance with legislation relating to areas such as anti-social behaviour, environmental protection, housing, food safety, licensing and health and safety at work. The Council approves, and from time to time reviews, policies on how the section should approach compliance and how legislation should be enforced in a proportionate and consistent manner. The current compliance policy is under review and a new draft policy is proposed for consultation between 12 July and 23 August 2021 and is on this committee agenda.

1.2 This report sets out an urgent amendment to the current policy ahead of the consultation and full review. This amendment is necessary for reasons of public safety related to the licensing of hackney carriage and private hire drivers and vehicles.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Licence holders have committed offences and the licensing team are	Serious risk to public safety where a driver has been convicted of an offence since the grant of the licence.	Amend current EH&L Services Compliance Policy to allow for suspension of licences whilst checks are	Treat	12

unaware of these issues.		undertaken where necessary.		
Licence holders have failed to provide documentation required by condition of any licence, for example an up to date medical check, vehicle MOT or Insurance, registration with the ICO	Serious risk to public safety.	Amend current EH&L Services Compliance Policy to allow for suspension of licences whilst checks are undertaken where necessary.	Treat	12

3.0 Recommendations

- 3.1 That paragraph 6.10.6 be amended with immediate effect, until the Compliance Policy revision is agreed, to read:

6.10.6 Where deemed appropriate we may suspend or revoke a licence. Where a suspension of the licence is deemed a proportionate response to the offence, the suspension will be for a maximum of two days. The only exception to this time period is where a licence holder has failed to provide a document or check required to maintain their licence. In such cases the licence will be suspended until its expiry or a satisfactory document or check is provided or undertaken, at which point the suspension will be lifted immediately.

In all instances, except where a document or check is not provided/completed, the licence holder's previous history will be taken into account when making this decision along with other factors such as the attitude of the licence holder, the impact of the offence etc.

Action may also be taken in accordance with the council's Guidelines for the grant, suspension and revocation of hackney carriage and private hire drivers and operators licences.

Further information:

Jamie Mackenzie
jamie.mackenzie@watford.gov.uk

Report approved by: Justine Hoy, Head of Community Protection

4.0 Detailed proposal

4.1 Background

Since the start of the pandemic there has been an increase in the numbers of drivers and vehicle proprietors that have failed to provide up to date documents or checks when the previous check has expired.

For driver licences these documents are:

- Medicals
- Criminal record checks

For vehicle licences these documents are:

- Insurance
- MOT
- Proof of being registered with the ICO as a Data Controller (where CCTV is fitted to the vehicle)

4.2 Whilst measures have been put in place to assist those parts of the trade that have been unable to work during the pandemic, meaning that they can reapply for expired licences and are not chased for documents or checks; the requirements upon the holders of driver and vehicle licences who continue to work are still essential to ensure safety. For all situations described above, the team have been in contact with licence holders and have reminded them about their obligations, unfortunately though not all have responded in accordance with their legal obligations. This has resulted in a section of the licensed trade currently having valid licences in their possession without this authority being able to fulfil its responsibility to ensure that those drivers and vehicles are safe.

4.3 As members will be aware, the primary function of the hackney carriage and private hire regime is ensuring public safety. The level of assurance cannot be maintained when interim checks, for either drivers or vehicles, are not kept up-to-date.

4.4 Under the current Compliance Policy suspensions can only be issued for a maximum period of two days:

6.10.6 Where deemed appropriate we may suspend or revoke a licence. Where a suspension of the licence is deemed a proportionate response to the offence, the suspension will be for a maximum of two days. The licence holder's previous history will be taken into account when making this decision along with other factors such as the attitude of the licence holder, the impact of the offence etc.

Action may also be taken in accordance with the council's Guidelines for the grant, suspension and revocation of hackney carriage and private hire drivers and operators licences.

- 4.5 This stops the use of suspensions to address failure to produce the required documents. If a licence were suspended for two days, and in that time the required documents or checks were not supplied, the suspension would end and the licence would be valid again.
- 4.6 Once a licence has been suspended it cannot then be revoked for the same reason meaning that there would be no further action the authority could take to gain compliance.
- 4.7 Therefore under the current compliance policy the only available option is to revoke the licences in these circumstances. This would seem a draconian measure for a check that could simply and quickly be provided and would leave the authority open to such revocations being successfully appealed.
- 4.8 The immediate amendment of the Compliance Policy would allow the Licensing Team to quickly deal with those instances when, despite the team's best efforts, a licence holder cannot be contacted, or despite contact, they have failed to provide the required document or undertake a check. Where a licence was suspended the team would be able to lift the suspension as soon as a satisfactory document or check was supplied/undertaken.
- 4.9 This change would give the authority and the public increased assurance that:
- All licensed drivers have up-to-date medicals and criminal record checks; and
 - All licensed vehicles are roadworthy and insured.
- 4.10 Members are reminded that we still have exceptional options in place for drivers should they wish to effectively "suspend" their vehicle licences as the covid situation continues.

5.0 **Implications**

5.1 **Financial**

- 5.1.1 The Shared Director of Finance comments that any financial implications can be met from existing budgets

5.2 **Legal Issues** (Monitoring Officer)

5.2.1 The Group Head of Democracy and Governance comments that the legal implications are contained within the report.

5.3 **Equalities, Human Rights and Data Protection**

5.3.1 As this is a change to an existing policy leading to a change in service delivery, an equalities impact analysis has been undertaken. The analysis is attached as Appendix 1 to this report. The main conclusions of that analysis are:

The change to the policy is likely to disproportionately impact upon persons with the protected characteristic of race and sex.

The change may have negative impact if large numbers of drivers have licenses suspended for non-compliance with the requirement to undergo a DBS check.

The change is necessary and proportionate to ensure continued public confidence in the safety of licensed drivers in Watford. This should have a positive impact on the trade and therefore a positive impact on persons with the protected characteristic of race and sex.

Human Rights

Suspension or revocation of a licence is an interference with a person property. However, the Right to property is a qualified right and the removal of that property in circumstances where the removal is justified, necessary and proportionate is permitted. Providing the correct measures are taken in each case of suspension or revocation there should be no interference with a person's Human Rights.

Data Protection Impact Assessment

Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

5.4 **Staffing**

5.4.1 None

5.5 **Accommodation**

5.5.1 None

5.6 **Community Safety/Crime and Disorder**

5.6.1 This policy directly supports the aims of the council in reducing crime and disorder.

5.7 **Sustainability**

5.7.1 None

Appendices

Appendix 1 - Equality Impact Assessment

Background papers

No papers were used in the preparation of this report.

Equality Impact Analysis

Title of policy, function or service	Environmental Health and Licensing Services Compliance Policy 2016-2021
Lead officer	Jamie Mackenzie
Person completing the EIA	Jamie Mackenzie
Type of policy, function or service:	Existing (reviewed) <input checked="" type="checkbox"/> <input type="checkbox"/> New/Proposed <input type="checkbox"/>
Version & Date	Version 1.0 15.06.2021

1. Background

Watford Borough Council (The Council) is the licensing authority for hackney carriage and private hire vehicles. Licences are granted following application to the authority.

A requirement for applications for a driver licence is that the applicant undergoes an enhanced Disclosure and Barring Service check. This has been policy in Watford for a number of years in order to support high standards for the trade and build confidence with customers.

This approach is further supported by the Department for Transport Standards published in July 2020 which recommended checks being done as regularly as every 6 months. This recommendation was adopted by the council in March 2021 as part of the new Hackney Carriage and Private Hire Licensing Policy 2021-2026.

During the pandemic it was not possible to conduct DBS checks for existing licence holders. Accordingly, to continue to issue licences to existing licence holders - those who had a known history as fit and proper licence holders - local police intelligence checks were conducted to ensure drivers were safe to be licensed. These local checks have also been part of licensing checks for a number of years and serve to check that drivers have been honest in declaring information on their applications. Making a false declaration is a criminal offence. In practice these local checks are more thorough than the DBS check.

As lockdown eases there is now the need to return to conducting enhanced DBS checks as per standard procedure and the requirements of the new Hackney Carriage and Private Hire Licensing Policy 2021-2026.

In order to do this, drivers granted a licence between March 2020 and June 2021 must also submit documents for an enhanced DBS check. Drivers are given a reasonable and proportionate amount of time to prepare for this process.

Where a driver fails to attend an appointment or does not engage in the process, it may be necessary to suspend that driver licence pending completion of checks. To make suspension possible an urgent amendment must be made to the existing Environmental Health and Licensing Compliance Policy 2016-2021 (The Policy).

2. Focus of the Equality Impact Analysis

This Equality Impact Analysis is focussed on any potential impact upon existing licence holders of an urgent amendment to The Policy.

3. Engagement and consultation

It has not been possible to consult on this amendment due to the nature and urgency of the change. The Policy is being reviewed and this proposed amendment is a temporary change

between the date of the committee meeting on 8 July 2021 and the committee meeting in September 2021 where a decision on the new compliance policy will be considered by the Licensing Committee. The same change, on a permanent basis, is part of the proposed new policy and will be consulted on between 12 July 2021 and 23 August 2021.

4. What we know about Watford hackney carriage and private hire driver licence holders.

The general population of Watford comprises approximately 19% residents of Asian or mixed Asian ethnic background (as shown in the Census 2011). Of these, 7% were Pakistani (we know anecdotally that the vast majority – around 90% - are likely to be from a Kashmiri background). As a proportion of this total population, there is high number of licence holders, whether vehicle, driver or operator from this ethnic background (as high as 98% in terms of hackney carriage ownership and around 70% in terms of private hire vehicle ownership). Almost all vehicle owners are also driver licence holders, either DUAL (hackney carriage and private hire) or private hire only.

Whilst applications for a hackney carriage or private hire driver, vehicle or operator licence are open to everyone, it can be clearly shown that the majority of licence holders in Watford are Asian male and it is, therefore, very likely that any change to a taxi or private hire policy would disproportionately impact this demographic of the local population.

5. How will the council ensure equality is promoted through the introduction of this policy?

Watford BC is committed to championing equality and embracing diversity across the full range of our services, whether we deliver the service ourselves or through partnership. This also extends to our role as an employer.

The Council must ensure that this change to the policy is applied proportionately and in accordance with Natural Justice, Human Rights and the existing, long standing and well-tested safeguards in place when considering the suspension or revocation of a licence.

Under the Equality Act 2010, three areas need to be considered when analysing the equality impact of the Corporate Plan:

1. **eliminate** discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
2. **advance** equality of opportunity between people who share a relevant protected characteristic and people who do not share it
3. **foster** good relations between people who share a relevant protected characteristic and people who do not

A. Positive impacts

- By conducting these checks the council can maintain the high standards of the local licence trade. This will have a positive impact on the reputation of the trade and help enhance good community relations.
- We know that many people who use hackney carriages and private hire vehicles do so because they are unable to drive or do not own a car. This applies to those under the age of 17 but we also know people with disabilities are less likely to drive and own a car than people without a disability. This is also true as people get older and may not be able to drive due to age related infirmities or lower incomes.
- We know that many people use taxis or private hire vehicles to travel for safety reasons and that for many vulnerable people, a taxi or private hire vehicle is not only the safest way to travel, it is also the most comfortable. We know that many people prefer the safety of travelling in a private car over and above travelling on other public transport. Any improvement in safety should therefore positively impact on any person who travels with these concerns in mind.
- The enhancement of the trade and the setting of good, fair regulations should encourage investment in to the trade and to Watford, further enhancing the reputation of the town and the trade and ensuring that residents and visitors feel safe using local services.

B. Negative impacts

- There is likely to be a negative impact on licence holders who cannot engage easily with this process. The application requires documents to be submitted via email and the check is done using an online video meeting link. Although great improvements have been made to the digitalisation of services since March 2020, it is likely that this procedure will be an additional burden to licence holders who are already under pressure due to the impact of the pandemic.

6. Overall conclusion

The change to the policy is likely to disproportionately impact upon persons with the protected characteristic of race and sex.

The change may have a negative impact if large numbers of drivers have licenses suspended for non-compliance with the requirement to undergo a DBS check. The council will seek to mitigate this by engaging actively with the trade and pushing messages out through the communication channels it has with drivers.

The change is necessary and proportionate to ensure continued public confidence in the safety of licensed drivers in Watford. This should have a positive impact on the trade and therefore a positive impact on persons with the protected characteristic of race and sex.

Any decision must weigh any impact, particularly the impact on the large proportion of proprietors from an Asian ethnic background, against the desired outcomes of the protection of public safety.

Confirmation of standards will inevitably lead to a positive impact on the trade overall, which will have some positive impact on those passengers with protected characteristics who are more likely to use taxi and private hire services.

Overall, this EIA concludes that, whilst negative impacts have been identified, the positive impacts identified mean that the Policy, overall, is positive for the Watford community and for visitors to the town. This is because the Policy seeks to maintain and support the quality of the taxi and private hire offer in Watford. The council recognises that the negative impacts will be difficult for some drivers in terms of age and ethnicity but will work with licence holders to mitigate these impacts as far as possible.

Summary of potential positive and negative impacts on protected characteristics

Protected Characteristic	Positive	Negative	None	Reasons for decision
Age	X	X		<p>The policy aims to make sure using a taxi or private hire service is a safe experience and, as those who use taxis tend to be younger and older, there will be positive impacts for these groups.</p> <p>There may be negative age related impacts in terms of implementing the policy linked to the digital and online aspect of applications and checks for licence holders.</p>
Disability	X	X		<p>The policy aims to make sure using a taxi or private hire service is a safe experience. It is known that disabled people are more likely to use these services and this policy amendment will ensure safety standards are maintained.</p> <p>Disabled licence holders may be negatively impacted by the process involved in applying for a check</p>
Ethnicity	X	X		<p>The amendment aims to maintain the overall standard of the taxi and private hire provision in Watford which should reflect well on the trade and those involved with the trade.</p> <p>The change may have negative impact if large numbers of drivers have licences suspended for non-compliance with the requirement to undergo a DBS check.</p> <p>The change is necessary and proportionate to ensure continued public confidence in the safety of licensed drivers in Watford.</p>
Sex	X	X		<p>The overwhelming majority of proprietors are male and so the same impact as above would apply here also.</p> <p>A safe, service is likely to positively impact female customers</p>

Protected Characteristic	Positive	Negative	None	Reasons for decision
Sexual orientation	X			There is a general positive impact on sexual orientation discrimination through the maintenance and safeguarding of public safety.
Religion	X			There is a general positive impact on religious discrimination through the maintenance and safeguarding of public safety.
Pregnancy/maternity	X			There is a general positive impact on discrimination against people who are pregnant or on maternity leave through the maintenance and safeguarding of public safety.
Gender orientation	X			There is a general positive impact on gender orientation discrimination through the maintenance and safeguarding of public safety.

Summary of potential positive impacts and ways in which they can be ensured

Positive Impact	Protected characteristics	Ways to ensure the positive impact
Maintenance of public confidence in the safety of the taxi and private hire service in Watford.	All	Introduction of the amendment

Summary of potential negative impacts and ways in which they can be removed or mitigated

Negative Impact	Protected characteristics	Ways to mitigate the negative impact
The change may have negative impact if large numbers of drivers have licenses suspended for non-compliance with the requirement to undergo a DBS check for reasons of ability to access the process	Ethnicity/sex/disability	Provide sufficient assistance to trade to ensure there is adequate opportunity to comply with the requirements.

This EIA has been approved by:
K Robson Date ...30 June 2021.....

Agenda Item 6

Part A

Report to: Licensing Committee

Date of meeting: Thursday, 8 July 2021

Report author: Senior Licensing Officer (AY)

Title: Review of Town Centre Street Trading Policy

1.0 Summary

1.1 Since 2015 the council has had a policy on allowing commercial street trading within the town centre. The current policy is due to expire on 31 December 2021.

1.2 This report sets out officers' recommendations on the renewal of this policy and the details of any consultation process that is to be undertaken as part of the renewal process.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Not implementing a new policy	The Parade would revert to a Prohibited Street and no commercial street trading would be permitted at any event	Ensure policy is properly implemented by 31 st December 2021	Treat	2
Legal challenge from failure to properly consult	Negative perception of council and its licensing functions, and challenge through the courts	Carry out consultation in accordance with the Government's published principles of consultation	Treat	2

3.0 Recommendations

3.1 That the Committee agrees to the approach of implementing a specific commercial street trading policy for the town centre.

- 3.2 That officers go out and consult upon the draft policy attached to this report with any amendments proposed by the Committee, and consult on this policy in the manner laid out in the report. Consultation on the policy would start after the July Committee and run until mid- to late August. The results of the consultation and the final policy and equalities impact assessment would be considered by the committee in September 2021.

Further information:

Austen Young

austen.young@watford.gov.uk

Report approved by: Justine Hoy, Head of Community Protection

4.0 Detailed proposal

- 4.1 The council has powers under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading within the Borough. Streets may, with the agreement of the highways authority, be designated as;

- (1) prohibited streets, where no street trading activities may take place
- (2) licence streets, to allow street trading in those locations
- (3) consent streets, for more irregular and ad-hoc trading

In undesignated streets trading may take place without restriction

- 4.2 Street trading means offering for sale or selling any goods (including living things) but not the offer or sale of services. Therefore offering or selling balloons, food jewellery or DVDs would be within this definition, but not offering or selling entertainment subscription services or car breakdown membership subscriptions.

- 4.3 There are a number of exemptions from street trading controls prescribed by the legislation. These include:

- (1) sales of newspapers and periodicals
- (2) sales by holders of pedlar's certificates
- (3) sales for charitable purposes where a charity collection permit has been issued
- (4) the operation of refreshment facilities, such as the sale of food and drink at tables and chairs in outside dining areas, licensed under a pavement licence issued either under the Highways Act 1980 or the Business & Planning Act 2020
- (5) sales by a roundsman
- (6) trading as part of a charter market

- 4.4 Generally speaking, the council’s current policy is that all streets outside of the town centre are designated as ‘consent streets’, where prior permission is needed to trade from a public highway or within 10 metres of a public highway. Major roads within the Borough such as the A405, A41, A411 and part of the A412 are generally designated as prohibited streets where trading is not allowed.
- 4.5 Within the town centre, the High Street and roads leading from the High Street are designated as prohibited streets as is Albert Road South. St Mary’s Square and The Parade are designated as consent streets. In the case of The Parade, this has been restricted since 1984 to non-commercial trading. In the case of St Mary’s Square any commercial trading was limited to street markets organised by the council but only for a one-year trial in 2006 – 2007.
- 4.6 To avoid confusion it should be made clear that this policy does not impact or regulate operations of the charter market, which operates separately.
- 4.7 Under the current town centre street trading policy, a maximum of 10 street trading consents can be issued at any one time to coincide with events and activities associated with council-run events or similar events approved by the Group Head of Community & Environmental Services. Consents will generally not be issued for more than one day at a time, but a flexible approach will be adopted depending on the duration and the nature of the event. The existing policy is attached at appendix 1.
- 4.8 Officers would advise that a new policy is approved to allow flexibility to consider street trading approval for town centre events and to continue the position of the council since such a policy was first approved in 2014. Officers would advise that this aim is consistent with the council’s Cultural Strategy 2018-2025, which does highlight the events space in the town centre as being a cultural and community hub encouraging a more diverse footfall into the town centre. The council still has the aim of growing cultural and community activities.
- 4.9 Officers are not proposing significant changes to the policy and are not aware of any significant issues during the period of the policy. It is noted that the council and other organisations have been severely restricted in their ability to run a normal events programme over the past 15 months due to the Covid-19 pandemic.
- 4.10 With the lack of evidence to indicate that widespread amendments are needed, officers only propose the following changes:

Section of policy	Change	Reason
1 (3) Approval of events	Confirm approval of similar events to be made by the	Change in job title only

	Group Head of Community & Environmental Services	
3 (3) Application process	Remove reference to specify the number of passport-style photographs and photographs of equipment to be submitted as part of the application	Reduces burden on applicants and reflects that applications may be submitted electronically in which case duplicate documents are not required
Standard Conditions	Change condition 13 regarding notifying damage to the highway to the council	Updated contact details

4.11 The full proposed draft policy is attached at appendix 2. It is proposed to review the policy before the end of 2025 in line with the review of the council’s Cultural Strategy. However, this does not prevent the policy from being reviewed before that date should it be appropriate to do so and in line with any renewal plans for the area.

5.0 Consultation

5.1 The Local Government (Miscellaneous Provisions) Act 1982 (as amended) does not require the council to pass a specific street trading policy, and therefore does not specify a consultation process. However, the council does recognise the importance of consulting with specific groups on such a policy, which is consistent with our previous approach

5.2 The council needs to take into consideration the Government’s Consultation Principles. These principles state that:

- A. Consultations should be clear and concise
- B. Consultations should have a purpose
- C. Consultations should be informative
- D. Recognise that consultations are only part of a process of engagement
- E. Consultations should last for a proportionate amount of time
- F. Consultations should be targeted
- G. Consultations should take account of the groups being consulted
- H. Consultations should be agreed before publication
- I. Consultation should facilitate scrutiny
- J. Government responses to consultations should be published in a timely fashion
- K. Consultation exercises should not generally be launched during local or national election periods

5.3 In order to address the principle of targeting consultations, officers would propose consulting the following people and organisations directly:

- (1) Town centre residents and businesses in the policy area (The Parade between its junctions with Rickmansworth Road and Bentine Lane
- (2) Watford Borough Council's Events Team
- (3) Watford Borough Council's Community & Environmental Services (as contract managers for Watford Market)
- (4) Watford Borough Council's Transport & Infrastructure Team
- (5) Watford BID
- (6) Hertfordshire Constabulary
- (7) Hertfordshire County Council (as Highways Authority)
- (8) All consent holders issued a consent under the current policy

5.4 This review will be available for public consultation. It is proposed to provide details of this consultation on our website and by display of a public notice at the Town Hall. The consultation is proposed to run for 6 weeks from 14 July until 25 August.

5.5 We will bring the results of the consultation on the policy back before the Licensing Committee on 30 September.

6.0 Implications

6.1 Financial

6.2 The Shared Director of Finance comments that any financial implications arising from the consultation process will be met from existing budgets.

6.3 Legal Issues (Monitoring Officer)

6.4 The Group Head of Democracy and Governance comments that the legal implications are set out in the body of the report.

6.5 Equalities, Human Rights and Data Protection

6.6 The council's Equality Impact Analysis drawn up in 2018 upon the adoption of the current policy will be reviewed.

6.7 Crime and Disorder

6.8 The council is required to consider the effect on crime and disorder when adopting any new or revised policy. It is proposed to seek the views of the Police on the adoption of this policy.

Appendices

Appendix 1 – Existing policy (Town Centre Street Trading Policy 2019-2021)

Appendix 2 – Proposed draft policy (Town Centre Street Trading Policy 2022-2025)

Background papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Watford Borough Council Cultural Strategy 2018-2025

Local Government (Miscellaneous Provisions) Act 1982

Consultation Principles 2018



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 Schedule 4

TOWN CENTRE STREET TRADING POLICY

1. Duration and scope

- (1) This policy applies to The Parade, Watford between its junctions with Rickmansworth Road and Bentine Lane.
- (2) It applies from 1st January 2019 to 31st December 2021, unless the Council's Licensing Committee resolves to revoke, vary or extend it before that time.
- (3) No more than ten street trading consents will be granted at any one time to coincide with events and activities associated with the Big Events programme (or similar events approved by the Head of Community and Environmental Services).
- (4) In general consents will not be issued for more than one day at a time. However a flexible approach will be adopted depending on the duration and the nature of the event. Consents may be time-limited to coincide with the operating times of the events or activities in The Parade.
- (5) This policy does not apply to events held under the Market Charter.

2. Locations

- (1) Applicants should liaise with event organisers and the council's Licensing Officers to agree a provisionally suitable location, prior to submitting an application. A maximum of ten locations that are suitable for street trading will be approved on an event-by-event basis by Licensing Officers in consultation with event organisers, the council's Events Team and where necessary the Watford and Three Rivers Safety Advisory Group.

3. Application process

- (1) Applications must be submitted no later than 10 working days before the date of the event.
- (2) Applications will be considered in the strict date order in which they are received. If more than one application is received on the same day the one which most closely meets the criteria in this policy will be considered first.
- (3) Applications must be accompanied by:
 - (a) passport-size photographs of the applicant(s);
 - (b) copies of food registration and food hygiene training where appropriate;

- (c) copies of public liability insurance showing at least £5 million cover;
 - (d) three colour photographs showing different elevations of the stall, barrow or vehicle;
 - (e) the fee for each day to be traded.
- (4) For council run events, applications will be determined by the council's Licensing Officers in consultation with the Events Team. For non-council events, applications will be determined by the council's Licensing Officers in consultation with the event organisers. This will be done to ensure the proposed goods to be sold complement the event in question.
- (5) A successful applicant may re-apply for a consent, subject to the first come-first served criteria above.
- (6) Unsuccessful applicants will be given reasons as to why their application has not been accepted and may submit applications for future dates.

4. Selection criteria

- (1) The Council wishes to enhance the quality of goods and stalls that are available in The Parade. Accordingly goods that are offered for sale must complement the event, be age and audience appropriate, and have approval of the council's Events Team (for council events) or the council's Licensing Officers (for non-council events). Consents will be issued to allow goods to be sold exclusively from one stall at a time, and not for stalls to compete against each other
- (2) Preference will be given to:
- (a) applicants that promote healthy eating
 - (b) applicants that will have a low environmental impact, e.g. low-running generators, little or no waste generation, use of recyclable packages/cartons, low emission engines and efficient waste management policies
 - (c) stalls that are of good quality, e.g. well-maintained, no obvious damage or repairs, clean and presentable and in keeping with the amenity of The Parade
 - (d) food business with a Food Hygiene Rating of 5, then of 4, then of 3. Consents will not be issued to food businesses with a Food Hygiene Rating of 2 or less
- (3) Preference will be given to goods which complement the event or activity that will be taking place in The Parade for the duration of the street trading consent and to:
- (a) arts/crafts
 - (b) seasonal items
 - (c) jewellery
 - (d) candles
 - (e) paintings (include portraits/face painting)
 - (f) balloons
 - (g) confectionary/Nuts/Doughnuts
 - (h) ice cream
 - (i) hot potato vendors
 - (j) crepes/waffles
 - (k) popcorn
 - (l) fruit juice, smoothies, soft drinks

NB: This list is not exhaustive and may be modified from time to time by the council's Licensing Officers

- (4) Consents will not be granted for:
 - (a) age-restricted products (excluding alcohol – however, sales of alcohol must also be authorised under the Licensing Act 2003)
 - (b) gas and electrical appliances
 - (c) general household goods
 - (d) pets and livestock
 - (e) explosive, corrosive or flammable products
 - (f) goods that do not carry where appropriate the relevant CE safety marking
 - (g) motor vehicles
 - (i) other goods deemed as unsuitable by council's Licensing Officers
- (5) The Provision of Service Regulations 2009 (SI 2009 No 2999) has been taken into account in drafting this policy to ensure the requirements are not discriminatory and that it is proportionate, clear and unambiguous, objective, publicly available, transparent and accessible.
- (6) Consents cannot be issued to a person under the age of 17 years. An application may be refused if the applicant is unsuitable to hold the consent by reason of providing unsatisfactory references if requested, having been convicted of a criminal offence or for any other reason

5. Conditions to be attached to each consent

1. This consent allows the consent-holder to trade at the location shown in the plan attached to the consent, with the proviso that authorised officers of the council may require the location to be changed for operational reasons relating to events or activities in The Parade.
2. The consent-holder is not permitted to place any stall, barrow or vehicle at the location more than 60 minutes before the time specified in the consent, nor remain on site for more than 60 minutes after the time stated in the consent, unless agreed otherwise with authorised officers of the council.
3. The consent-holder may employ agents if required, providing the consent-holder exercises proper control over the stall or vehicle at all times and the names of those agents are notified to the council in writing.
4. The consent-holder must ensure that they, their staff and agents are familiar with:
 - (a) the event plan for the event coinciding with the duration of this street trading consent ;
 - (b) the identity of the relevant event manager, event safety officer and/or person in charge;
 - (c) the emergency arrangements for the event in question, including means of communication and action to be taken should the event need to be cancelled.
5. The consent-holder must ensure that this consent is displayed on the stall, barrow or vehicle at all times.
6. The consent holder(s) shall not cause any nuisance or annoyance to any other user of the highway or the occupier(s) of nearby premises.

7. No recorded or amplified music or radio shall be played by the consent holder(s) or any agent at the stall.
8. The consent-holder or their agent must ensure that they implement a Litter Management Strategy.
9.
 - (1) No water, rubbish or waste material shall be discharged or deposited on the highway or any adjacent property or into any surface water inspection chamber or gulley;
 - (2) At the end of the period for trading the consent-holder must ensure a radius of 50 metres from the stall, barrow or vehicle is swept clear of litter;
 - (3) No waste must be disposed of in litter bins located on The Parade, The High Street or the surrounding area and must be treated as trade waste by the consent-holder.
10. No leaflets, flyers or printed matter may be distributed on The Parade, High Street or the surrounding area unless the consent-holder has also obtained the appropriate consent from the council.
11. The following are not permitted to be sold:
 - (a) age-restricted products (excluding alcohol – however, sales of alcohol must also be authorised under the Licensing Act 2003)
 - (b) gas and electrical appliances
 - (c) general household goods
 - (d) pets and livestock
 - (e) explosive, corrosive or flammable products
 - (f) good that do not carry where appropriate the relevant CE safety marking
 - (g) motor vehicles
 - (i) other goods deemed as unsuitable by Council officers.
12. If this consent is granted for street trading from a trailer vehicle:
 - (1) the towing vehicle may not be parked on any footway or part of a footway;
 - (2) this consent does not give permission for the holder to park any towing vehicle where waiting is normally prohibited;
 - (3) towing vehicles must be immediately removed from the designated trading location once the trailer vehicle is in position;
 - (4) any trailer vehicles must be secured against unexpected movement, for example by use of wheel-chocks if necessary;
 - (5) tow-bars and other apparatus must be secured against slips, trips or falls;
 - (6) access to The Parade is prohibited unless consent-holder obtains a dispensation from the Parking Service on 01923 278890 for the towing vehicle
13. Any damage to the highway at the location for trading must be notified to the Council's Transport and Infrastructure Section on 01923 278081 together with photographic evidence. Unreported damage to the highway that is subsequently found may result in a claim against the consent-holder for making good the damage.



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 Schedule 4

TOWN CENTRE STREET TRADING POLICY

1. Duration and scope

- (1) This policy applies to The Parade, Watford between its junctions with Rickmansworth Road and Bentine Lane.
- (2) It applies from 1st January 2022 to 31st December 2025, unless the council's Licensing Committee resolves to revoke, vary or extend it before that time.
- (3) No more than ten street trading consents will be granted at any one time to coincide with events and activities associated with the Big Events programme (or similar events approved by the Group Head of Community and Environmental Services).
- (4) In general consents will not be issued for more than one day at a time. However a flexible approach will be adopted depending on the duration and the nature of the event. Consents may be time-limited to coincide with the operating times of the events or activities in The Parade.
- (5) This policy does not apply to events held under the Market Charter.

2. Locations

- (1) Applicants should liaise with event organisers and the council's Licensing Officers to agree a provisionally suitable location, prior to submitting an application. A maximum of ten locations that are suitable for street trading will be approved on an event-by-event basis by Licensing Officers in consultation with event organisers, the council's Events Team and where necessary the Watford and Three Rivers Safety Advisory Group.

3. Application process

- (1) Applications must be submitted no later than 10 working days before the date of the event.
- (2) Applications will be considered in the strict date order in which they are received. If more than one application is received on the same day the one which most closely meets the criteria in this policy will be considered first.
- (3) Applications must be accompanied by:
 - (a) passport-style photograph of the applicant(s);
 - (b) copies of food registration and food hygiene training where appropriate;

- (c) copies of public liability insurance showing at least £5 million cover;
 - (d) colour photographs showing different elevations of the stall, barrow or vehicle;
 - (e) the fee for each day to be traded.
- (4) For council run events, applications will be determined by the council's Licensing Officers in consultation with the Events Team. For non-council events, applications will be determined by the council's Licensing Officers in consultation with the event organisers. This will be done to ensure the proposed goods to be sold complement the event in question.
- (5) A successful applicant may re-apply for a consent, subject to the first come-first served criteria above.
- (6) Unsuccessful applicants will be given reasons as to why their application has not been accepted and may submit applications for future dates.

4. Selection criteria

- (1) The council wishes to enhance the quality of goods and stalls that are available in The Parade. Accordingly goods that are offered for sale must complement the event, be age and audience appropriate, and have approval of the council's Events Team (for council events) or the council's Licensing Officers (for non-council events). Consents will be issued to allow **particular types of** goods to be sold exclusively from one stall at a time, and not for stalls to compete against each other
- (2) Preference will be given to:
- (a) applicants that promote healthy eating
 - (b) applicants that will have a low environmental impact, e.g. low-running generators, little or no waste generation, use of recyclable packages/cartons, low emission engines and efficient waste management policies
 - (c) stalls that are of good quality, e.g. well-maintained, no obvious damage or repairs, clean and presentable and in keeping with the amenity of The Parade
 - (d) food business with a Food Hygiene Rating of 5, then of 4, then of 3. Consents will not be issued to food businesses with a Food Hygiene Rating of 2 or less
- (3) Preference will be given to goods which complement the event or activity that will be taking place in The Parade for the duration of the street trading consent and to:
- (a) arts/crafts
 - (b) seasonal items
 - (c) jewellery
 - (d) candles
 - (e) paintings (include portraits/face painting)
 - (f) balloons
 - (g) confectionary/Nuts/Doughnuts
 - (h) ice cream
 - (i) hot potato vendors
 - (j) crepes/waffles
 - (k) popcorn
 - (l) fruit juice, smoothies, soft drinks

NB: This list is not exhaustive and may be modified from time to time by the council's Licensing Officers

- (4) Consents will not be granted for:
- (a) age-restricted products (excluding alcohol – however, sales of alcohol must also be authorised under the Licensing Act 2003)
 - (b) gas and electrical appliances
 - (c) general household goods
 - (d) pets and livestock
 - (e) explosive, corrosive or flammable products
 - (f) goods that do not carry where appropriate the relevant CE safety marking
 - (g) motor vehicles
 - (i) other goods deemed as unsuitable by council's Licensing Officers
- (5) The Provision of Service Regulations 2009 (SI 2009 No 2999) has been taken into account in drafting this policy to ensure the requirements are not discriminatory and that it is proportionate, clear and unambiguous, objective, publicly available, transparent and accessible.
- (6) Consents cannot be issued to a person under the age of 17 years. An application may be refused if the applicant is unsuitable to hold the consent by reason of providing unsatisfactory references if requested, having been convicted of a criminal offence or for any other reason.

5. Conditions to be attached to each consent

1. This consent allows the consent-holder to trade at the location shown in the plan attached to the consent, with the proviso that authorised officers of the council may require the location to be changed for operational reasons relating to events or activities in The Parade.
2. The consent-holder is not permitted to place any stall, barrow or vehicle at the location more than 60 minutes before the time specified in the consent, nor remain on site for more than 60 minutes after the time stated in the consent, unless agreed otherwise with authorised officers of the council.
3. The consent-holder may employ agents if required, providing the consent-holder exercises proper control over the stall, **barrow** or vehicle at all times and the names of those agents are notified to the council in writing.
4. The consent-holder must ensure that they, their staff and agents are familiar with:
 - (a) the event plan for the event coinciding with the duration of this street trading consent ;
 - (b) the identity of the relevant event manager, event safety officer and/or person in charge;
 - (c) the emergency arrangements for the event in question, including means of communication and action to be taken should the event need to be cancelled.
5. The consent-holder must ensure that this consent is displayed on the stall, barrow or vehicle at all times.
6. The consent holder(s) shall not cause any nuisance or annoyance to any other user of the highway or the occupier(s) of nearby premises.

7. No recorded or amplified music or radio shall be played by the consent holder(s) or any agent at the stall.
8. The consent-holder or their agent must ensure that they implement a Litter Management Strategy.
9.
 - (1) No water, rubbish or waste material shall be discharged or deposited on the highway or any adjacent property or into any surface water inspection chamber or gully;
 - (2) At the end of the period for trading the consent-holder must ensure a radius of 50 metres from the stall, barrow or vehicle is swept clear of litter;
 - (3) No waste must be placed in litter bins located on The Parade, The High Street or the surrounding area and waste must be treated as trade waste by the consent-holder.
10. No leaflets, flyers or printed matter may be distributed on The Parade, High Street or the surrounding area unless the consent-holder has obtained the appropriate consent from the council.
11. The following are not permitted to be sold:
 - (a) age-restricted products (excluding alcohol – however, sales of alcohol must also be authorised under the Licensing Act 2003)
 - (b) gas and electrical appliances
 - (c) general household goods
 - (d) pets and livestock
 - (e) explosive, corrosive or flammable products
 - (f) goods that do not carry where appropriate the relevant CE safety marking
 - (g) motor vehicles
 - (i) other goods deemed as unsuitable by council officers.
12. If this consent is granted for street trading from a trailer:
 - (1) the towing vehicle may not be parked on any footway or part of a footway;
 - (2) this consent does not give permission for the holder to park any towing vehicle where waiting is normally prohibited;
 - (3) towing vehicles must be immediately removed from the designated trading location once the trailer is in position;
 - (4) any trailer must be secured against unexpected movement, for example by use of wheel-chocks;
 - (5) tow-bars and other apparatus must be secured against slips, trips or falls;
 - (6) access to The Parade is prohibited unless a consent-holder obtains a dispensation from the Parking Service on 01923 278890 for the towing vehicle
13. Any damage to the highway at the location for trading must be notified to the council's Transport and Infrastructure Section by calling 01923 226400 or by email to TID@watford.gov.uk, together with photographic evidence. Unreported damage to the highway that is subsequently found may result in a claim against the consent-holder for making good the damage.

Agenda Item 7

Part A

Report to: Licensing Committee

Date of meeting: Thursday, 8 July 2021

Report author: Senior Licensing Officer (AY)

Title: Gambling Act 2005 - Statement of Principles 2022-2025

1.0 Summary

- 1.1 The council is the local licensing authority under the Gambling Act 2005 and is required to review, consult upon and publish a policy document every three years. The current policy expires on 6th January 2022.
- 1.2 The council is required to review its policy in accordance with the statutory guidance and legislation.
- 1.3 This report sets out the proposals from officers regarding the review of the policy and the consultation on the new policy.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Legal challenge from failure to properly adopt the policy or follow legislation and guidance	Failure to meet requirements under the Gambling Act 2005 and policy not being able to be implemented.	Ensure that the policy is reviewed and adopted before 6 January 2022.	Treat	2
Legal challenge from failure to properly consult	Negative perception of council and its licensing functions, and challenge through the courts.	Carry out consultation in accordance with legal requirements under the Gambling Act 2005 and in	Treat	2

		accordance with the Government's published principles of consultation.		
Policy is unreasonable, irrational, discriminatory etc.	Legal challenge through the Courts	Ensure that the results of the public consultation are taken into account in the final policy.	Treat	2
Further legislation or reported cases arising during course of consultation and adopting policy	Policy may be outdated as soon as it is published	Monitor situation and, if necessary, take amendments to subsequent committee meetings	Treat	2

3.0 Recommendations

3.1 That officers consult upon the draft policy attached to this report subject to any amendments proposed by the Committee. Consultation on the draft policy would start after the July Committee, running for 6 weeks from 14 July until 25 August 2021. The results of the consultation and the final policy and equalities impact assessment would be considered by the committee in September 2021.

3.2 That the Licensing Committee recommends that the Council resolves under section 166 of the Gambling Act 2005 that it will continue with the policy to not issue any casino premises licence.

Further information:

Austen Young
austen.young@watford.gov.uk

Report approved by: Justine Hoy, Head of Community Protection

4.0 Detailed proposal

4.1 Background

4.2 Under the Gambling Act 2005 the council is responsible for preparing a 'statement of principles' setting out how it exercises its various responsibilities in terms of issuing premises licences, liaising with the Gambling Commission (a national co-

regulator), carrying out its enforcement functions and issuing permits for small-scale gambling such as machines in alcohol-licensed premises and registering small society lotteries.

4.3 The existing statement of principles was adopted at a meeting of Full Council on 16th October 2018 and is due to expire on 6th January 2022. The council is required to update its statement of principles before the current one expires. This report sets out the approach that officers intend to take upon reviewing policy and consulting upon a draft policy.

4.4 In preparing the statement the licensing authority must have regard to the three licensing objectives of the Gambling Act, namely:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.5 To give context for Watford, the following table sets out the total number of issued licences, as of 01/06/2021

Type of licence	Issued
Adult Gaming Centre	1
Betting Shop	17
Bingo	1
Club Gaming Permit	0
Club Machine Permit	6
Gaming Machines (up to 2 machines)	27
Gaming Machines (more than 2 machines)	15
Small Society Lotteries	69
Track Betting	0
Total Number of Issued Authorisations	136

4.6 Officers would advise that there is no evidence to indicate that widespread changes to the policy are needed and therefore only minor amendments are proposed. The number of applications received since the last policy review are low and the number of complaints regarding gambling are also low.

4.7 The following applications have been received since the last policy review:

Type of licence	Applications received
Adult Gaming Centre	0
Betting Shop	6 (all transfers)
Bingo	0
Club Gaming Permit	0
Club Machine Permit	3
Gaming Machines (up to 2 machines)	2
Gaming Machines (more than 2 machines)	1
Small Society Lotteries	4
Track Betting	0
Total Number of applications	16

All six applications relating to betting shops were to transfer existing licences. No new premises licence applications have been received.

4.8 None of these applications received objections or needed to be considered by a licensing sub-committee. It should be noted that the licensing authority has no discretion to refuse notifications of premises offering up to 2 machines and must register the notification if notification is given correctly.

4.9 Since the last policy review, 5 complaints have been received regarding gambling, with all complaints regarding poker competitions or illegally sited gaming machines where no permission for the activity was in place. No complaints have been received regarding premises licensed under the Gambling Act 2005.

4.10 Currently, Watford is not one of the areas of the country where casino licences can be issued. However, the council is advised to pass a resolution that it will continue not to issue any casino licences in order to protect this position should the regulations regarding casino licences change. This resolution is currently contained at paragraph 12.1 of the existing statement of principles.

5.0 Draft policy

5.1 Officers have prepared a draft policy for consultation, and this policy is attached at appendix 1.

5.2 The guidance issued by the Gambling Commission was recently revised (as of May 2021) and so the policy has been revised to take into account changes in this guidance. Other minor changes have also been proposed to provide more information for applicants and licence holders, and to bring some consistency with other licensing policies.

5.3 Officers would consider that the most significant proposed changes to the policy are as summarised below:

Section	Change	Reason
1.3 Parties consulted on policy	Updated wording	To be consistent with guidance and legislation
2.4 Private gaming	Updated wording	To be consistent with wording in guidance
3.9 Operating licences	Added that applicants for track premises licences don't require an operating licence	To reflect the legal position and add clarity
3.17 Protection of children	Removed section on proposed changes to access to premises by children to casinos	Gambling Commission guidance on this matter has been issued
3.23 & 5.2 Consultation with Public Health	Added that Public Health will be consulted on the policy document	To add clarity and confirm our approach
Section 4	Various amendments to information about the Borough	To update the information
4.12 Local area profile	Confirm that no local area profile is being developed	To confirm that no local area profile is in place
5.4 Child protection	Added that Hertfordshire Safeguarding Partnership are designated as a competent body to advise on the protection of children from harm	To explicitly state that Hertfordshire Safeguarding Children Partnership is our designated body
6.6 Representations	Removed reference to submitting representations in duplicate and in black ink	Updated to remove burden from people making representations and with consideration that people may submit objections by email
9.4 Access to licensed premises	Update wording	To be consistent with legal position and the guidance
9.8 Provisional statements	Added that a subsequent licence may be refused if the premises is not constructed as per a provisional statement	To reflect the legal position and be consistent with the guidance

Section	Change	Reason
11.1 Conditions for FEC licences	Added that the list of suggested conditions is not mandatory nor exhaustive	To add clarity that these are not the only matters that we will consider, and to bring consistency with other areas of our policy
14.9 Primary activity	Updated wording	To reflect the legal position and be consistent with the guidance
15.12 Display on betting rules	Updated wording	To adopt the approach suggested in the guidance and to add clarity on our expectations
17.2 Grounds for accepting reviews	Updated wording	To be consistent with the guidance
17.3 Expectations of responsible authorities	Added new section adding that responsible authorities would be expected in most cases to warn premises before submitting a review	To bring consistency with other licensing policies (specifically issued under the Licensing Act 2003) and in order to be consistent with the approach of Hertfordshire Better Business for All
17.4 Licensing authority compliance	Added new section confirming that any enforcement action, including reviews, will be conducted in accordance with our compliance policy	To add clarity over our approach
17.7 Evidentiary basis	Added new section advising evidential basis must be laid before licensing sub-committee	To bring consistency with other licensing policies (specifically issued under the Licensing Act 2003) and in order to be consistent with the principles of natural justice
18.8 Family entertainment centre permits	Removed reference to submitting duplicates of application documents	Remove burden from applicants
19.1 Gaming machine notifications	Added wording that confirms that the notification process is as prescribed under the Gambling Act 2005	To add clarity and confirm the legal position

Section	Change	Reason
19.2 Removal of automatic authorisation	Added wording to highlight when this right can be withdrawn	To reflect the legal position and be consistent with the guidance
20.3 Prize gaming permits	Added wording to confirm that the licensing authority may wish to have regard to the licensing objectives when considering applications	To be consistent with the guidance and be clear to decision makers on their options
20.4 Conditions on permits	Removed reference to conditions that are automatically attached to such permits	This was a duplication of mandatory conditions, and could be outdated should these conditions change

- 5.4 As can be seen from the table above, most changes are with regards to bringing about consistency between our policy and other licensing policies that the council operates, with specific reference made to policy under the Licensing Act 2003 since there are similarities between the two licensing regimes, and the Gambling Commission's guidance.
- 5.5 Although there have not been any reviews brought under the Gambling Act 2005, this section is proposed to be expanded in order to be consistent with our approach for licence reviews under the Licensing Act 2003 and to promote the principles of natural justice. This approach would assist in decision making should we be called to review a licence.
- 5.6 The full proposed statement of principles, with all amendments highlighted, is attached at appendix 1. This shows all amendments detailed above as well as those made as part of general good housekeeping and updates to dates, document names, and organisational changes.
- 5.7 **No casino resolution**
- 5.8 The licensing authority is able to pass a resolution that it will not consider granting any casino licences under the Gambling Act 2005. This resolution has been in place in Watford since 2007, when the Act came into force. Officers have not been provided with any evidence or arguments that suggest that this resolution requires revision and therefore have not proposed a change to this approach. The draft statement of principles includes details of a new resolution to this effect at paragraph 12.1.
- 5.9 It is for the licensing authority to determine whether or not to continue with a no casino resolution. It has been held previously that the borough does already have a diverse night-time economy, focussed around the town centre, and that the grant

of a casino licence would not be consistent with the council's ambitions for the town centre or borough as a whole. The redevelopment of the Atria shopping centre has seen the provision of more family friendly entertainment facilities, as well as restaurants, and venues such as an escape room, a bowling alley, and a cinema.

5.10 It should be noted that the resolution not to grant a casino licence would extend to the whole borough and cannot apply to specific premises or geographical areas.

5.11 For clarity, although it will be for full council, as the licensing authority, to pass such a resolution, we would ask the Committee to recommend to council whether or not to pass such a resolution.

6.0 Consultation

6.1 We will be required to undertake a consultation on the new proposed statement of principles.

6.2 The Gambling Act is clear that the following bodies must be consulted:

- The Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act

6.3 Officers would propose consulting the following bodies and organisations directly:

- All responsible authorities under the Gambling Act 2005 (Police, Gambling Commission, Herts Fire & Rescue Service, Development Management, Environmental Health, Hertfordshire Safeguarding Children Partnership, HM Revenues & Customs)
- All premises licence, permit, and gaming machine notice holders issued under the Act (as representatives of gambling businesses)
- All agents (e.g. solicitors) for applications submitted under the Gambling Act 2005 since the current policy came into effect (as representatives of gambling businesses)
- Residents' associations (as representatives of persons likely to be affected by the exercise of our functions)
- Watford Business Improvement District
- Watford Community Safety Partnership

6.4 Consultation would run for 6 weeks from 14 July until 25 August.

- 6.5 The consultation would be a public consultation, and so for clarity not only the parties above would be consulted, but they would be contacted directly in accordance with the Government's Consultation Principle of consultations being targeted.
- 6.6 The legislation and regulations require us to advertise the consultation on our website and in one or more places where the document can be inspected by the public at reasonable times. We would propose that a copy of the proposed policy be kept at the Town Hall for this purpose. A notice shall be displayed in one or more of the following places; a local newspaper, circular, or similar circulating in the Borough; a public notice board in or near the principal office the authority; a public notice board on public libraries in the Borough. We would propose to display notices at the Town Hall for this purpose.
- 6.7 We will bring the results of the consultation on the statement of principles back before the Licensing Committee on 30 September for consideration. Licensing Committee would then make a recommendation that the final wording for the statement of principles to be approved by council at the October meeting.

7.0 Implications

7.1 Financial

- 7.2 The Shared Director of Finance comments that costs arising from the consultation process will be met from existing budgets.

7.3 Legal Issues (Monitoring Officer)

- 7.4 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report and the proposed policy.

7.5 Equalities, Human Rights and Data Protection

- 7.6 A new equalities impact assessment will need to be completed as a result of the proposed changes to policy. Due to the application process being set out in legislation, including how applications are to be determined, it is not expected that there will be a negative impact on any particular group as a result of this policy.

7.7 Crime and Disorder

- 7.8 The council is required to consider the effect on crime and disorder when adopting any new or revised policy. One of the licensing objectives preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime and this has been taken into consideration when reviewing the policy.

Appendices

Appendix 1 – draft statement of principles

Background papers

Gambling Act 2005

Gambling Commission Guidance to Licensing Authorities (published April 2021, updated May 2021)



GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

JANUARY 2022

Comments are invited on this document to:

Community Protection
Watford Borough Council
Town Hall
Watford
Hertfordshire
WD17 3EX

Tel: 01923 278476
Fax: 01923 230765
Email: licensing@watford.gov.uk

STATEMENT OF PRINCIPLES Gambling Act 2005

(Published 6th January 2022)

1. Preface

- 1.1 Under the Gambling Act 2005, a new regime for regulating gambling and betting was introduced throughout the United Kingdom from 1 September 2007. Apart from spread betting, gambling and betting (including the National Lottery) are regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.
- 1.2 Watford Borough Council, along with other local licensing authorities, has a duty under the Act to license premises where gambling takes place, and to license certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.
- 1.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
 - the chief officer of Police for the authority's area
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
 - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 1.4 Our consultation took place between XX XXXX 2021 and XX XXXX 2021, and we followed the guidance on Consultation principles issued by the Cabinet Office (last updated March 2018), which is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>.
- 1.5 In drawing up the policy, we consulted:
 - local residents and their representatives
 - holders of various licences for premises in the Borough who will be affected by it
 - Hertfordshire Constabulary
 - Hertfordshire Fire & Rescue Service
 - Hertfordshire Safeguarding Children Partnership
 - Hertfordshire Director of Public Health
 - Watford Business Improvement District
 - the Gambling Commission
 - the local planning authority
 - Environmental Health
 - HM Revenue and Customs
- 1.6 We placed details on our website and a public advertisement, and issued a press release which was published in the Watford Observer on XX XXXX 2021.

PART A

2. Introduction

- 2.1 This Statement of Principles was approved at a meeting of the council's Licensing Committee on XX XXXX 2021 and adopted at a meeting of full council on XX XXXX 2021. It is effective from 6th January 2022 and expires on 6th January 2025.
- 2.2 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each case will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

Authorised activities

- 2.3 'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery:
- 'gaming' means playing a game of chance for a prize
 - 'betting' means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
 - a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
- 2.4 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.; Private gaming can potentially take place on commercial premises in very specific circumstances, and where the public have access, but organisers are advised to seek advice before organising events of this nature.
- 2.5 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the council's licensing team where appropriate.

Licensing Objectives

- 2.6 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - ensuring that gambling is conducted in a fair and open way
 - protecting children and other vulnerable persons from being harmed or exploited by gambling. The Gambling Commission states: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

Statement of Principles

2.7 This Statement of Principles is intended to meet the council's obligations under section 349 of the Act. In carrying out its' functions in relation to premises licences and temporary use notices, the council will generally aim to permit the use of premises for gambling as long as it is considered to be:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any Guidance issued by the Gambling Commission. All references to the guidance refer to the Gambling Commission's Guidance to Licensing Authorities (published April 2012¹ and updated May 2021)
- reasonably consistent with the licensing objectives
- in accordance with this Statement of Principles.

Types of Licences and Permissions

2.8 Under the Act, the Gambling Commission is responsible for issuing operating licences and personal licences. The council in its' capacity as a licensing authority will:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences
- issue provisional statements
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- Issue club machine permits to commercial clubs
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- register small society lotteries below prescribed thresholds
- issue prize gaming permits
- receive and endorse temporary use notices
- receive occasional use notices
- provide information to the Gambling Commission regarding details of licences issued
- maintain registers of the permits and licences that are issued under these functions
- exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

The Gambling Commission

- 2.9 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides **support and** advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.
- 2.10 The Commission has issued guidance under section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.
- 2.11 The Commission will also issue Codes of Practice under section 24 about the way in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities.
- 2.12 The Gambling Commission can be contacted at:

Gambling Commission
Fourth Floor
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Website: www.gamblingcommission.gov.uk

3. General Statement of Principles

- 3.1 The council recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.
- 3.2 In carrying out its licensing functions the council will have regard to any guidance issued by the Gambling Commission from time to time.
- 3.3 The council will not seek to use the Act to resolve matters more readily dealt with under other legislation.
- 3.4 To ensure the licensing objectives are met the council will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.
- 3.5 Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the council may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under-age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm from gambling, especially where it receives representations to that effect.
- 3.6 Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 3.7 However, the overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own individual merits. When applying these principles the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case. As with the Gambling Commission, the licensing authority will regulate gambling in the public interest.

Preventing gambling from being a source of crime and disorder

- 3.8 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.
- 3.9 Anyone applying to the council for a premises licence will have to hold an operating licence from the Commission before a licence can be issued, **with the only exception being applications for track premises licences**. Therefore, the council will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the council will bring those concerns to the attention of the Commission.
- 3.10 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the council will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime.

- 3.11 There are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The council does not intend to (and indeed, cannot) use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using other powers.
- 3.12 Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance *and it can be shown that gambling is the source of that disorder*. A disturbance might be serious enough to constitute disorder if Police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 3.13 When making decisions in this regard the council will give due weight to any comments made by the Police.

Ensuring gambling is conducted in a fair and open way

- 3.14 The Gambling Commission does not generally expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.
- 3.15 Because betting track operators do not need an operating licence from the Commission the council may, in certain circumstances, require conditions on a licence relating to the suitability of the environment in which betting takes place.

Protecting children and other vulnerable people from gambling

- 3.16 Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 3.17 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 3.18 When considering whether to grant a premises licence or permit the council will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

- 3.19 In seeking to protect vulnerable people the council will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 3.20 Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:
- betting shops cannot admit anyone under 18
 - bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
 - Adult Entertainment Centres cannot admit those under 18
 - Family Entertainment Centres and premises with an alcohol premises licence such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over 18
 - clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
 - tracks will be required to have policies to ensure that under 18s do not participate in gambling, **except** on category D machines.
- 3.21 The council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.
- 3.22 In January 2018 Public Health England, the Local Government Association and the Gambling Commission wrote to Directors of Public Health in England outlining the links between Public Health and gambling; specifically that problem gambling can have an impact on physical, mental and emotional health and wellbeing. The letter suggests that local Public Health teams have a critical role to play in developing licensing authorities' Statement of Principles as they have a good understanding of health issues within a local authority area.
- 3.23 **Although** Local Public Health Departments are not Responsible Authorities the licensing authority will seek advice from the local Public Health team in order to assess applications **and this statement of principles**. This approach will be taken to assist the licensing authority in exercising its own functions as a responsible authority, **and reflects the comments made in the guidance**.

4. The Borough of Watford

- 4.1 Watford Borough Council is situated in the county of Hertfordshire, which contains ten district councils in total. The council area has a population of now 96,600 (mid-year estimate 2016) making it one of the smallest in the county in terms of population and one of the most densely populated in the country.
- 4.2 Watford Borough was granted a Royal Charter in 1922. Traditionally a market town, it has developed into an attractive sub-regional shopping centre and important centre for cultural and recreational facilities. Watford has a catchment area population of approximately 500,000 within a travel time of 20 minutes from the town centre (CACI Ltd 2001).
- 4.3 Situated in the south west of Hertfordshire, Watford has several locational advantages due to its excellent communication links. The M1 motorway, with direct links to the town centre, and the London to Glasgow railway pass through the Borough. London Euston can be reached in 20 minutes, while the nearby M25 motorway has enhanced road access to the major airports at Heathrow, Gatwick, Stansted and Luton.
- 4.4 Watford has major A-road links to adjoining areas and is also connected to the underground rail network with the Metropolitan Line terminus adjacent to Cassiobury Park. A branch line railway serves St. Albans Abbey.
- 4.5 Watford Borough covers an area of 2,142 hectares (8.3 sq. miles). Watford is a major town in the region. It is a sub-regional shopping destination, centered around the **Atria Shopping Centre** in the town centre, and has one of the most vibrant night-time economies in Hertfordshire. **Upgrading works to the pond and surrounding area were completed in 2014, and improvement works to the town centre and associated High Street improvement works were completed late 2018 and early 2019. It was traditionally a centre for the printing industry and now boasts the headquarters of a number of nationally known firms. Unemployment figures are well below Great Britain's average. However there are pockets of deprivation, characterised by a high concentration of minority ethnic groups, single parent families, low income households and a high incidence of long term health problems.**
- 4.6 Potential operators should however refer to the District Plan and the emerging Local Development Framework (through our Development **Management** Team or on our website at www.watford.gov.uk) for details about the local planning authority's approach to granting planning permission for developments where such activities may take place.
- 4.7 Further information about the Borough is contained in the Watford Local Plan 2006-2031 Part 1 Core Strategy which can be obtained from the Council's offices or at:

https://www.watford.gov.uk/info/20012/planning_and_building_control/1051/watford_local_plan
- 4.8 In September 2008 we launched a 24-hour strategy for the town centre **and** following public consultation, we began to tackle some key issues which are now being addressed. In January 2009 we launched our Cultural Study to remodel the town centre – particularly The Parade – to act as a stimulating focal point for culture and heritage within the borough. The Cultural Plan saw

physical improvements to the Pond and the Parade area and the creation of an events space; works which were completed in 2014.

- 4.9 The events space has seen events such as the Big Beach, the Big Screen and the Big Skate, and the Town Centre as a whole has hosted an 'Imagine Watford' Arts festival on a number of occasions. The council has adopted a Cultural Strategy to run from 2018 until 2025 which seeks to grow sustainable opportunities for creative enterprise, cultural provision, and participation for our local communities. The council is also working on a Town Centre Vision, which will build on the extension to the shopping centre and the associated improvement works to the High Street between Clarendon Road and Market Street. This statement of principles will be used to help deliver the Town Centre Vision and accordingly may need to be reviewed before its expiry in 2025 as the Vision develops.
- 4.10 This approach and initiatives above led to us being awarded Purple Flag accreditation for our management with our partners of our town centre night-time economy in September 2012. The Purple Flag accreditation was renewed in 2016, and again in 2018. The accreditation was due to be reconsidered in 2020, but was delayed due to the Covid-19 pandemic.
- 4.11 As of 6 April 2016, it is a mandatory condition for holders of operating licences to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of principles and reference the authority's Local Area Profile where there is one.
- 4.12 It is not a requirement for licensing authorities to complete a Local Area Profile. Although the council has not completed a Local Area Profile we encourage operators to contact the licensing authority to consider and identify potential areas of mutual concern affecting their business in a way that aims to permit gambling without presenting risks to the licensing objectives, as required by the Gambling Act.
- 4.13 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from 'time to time' and any amended parts re-consulted upon. The statement must be then re-published.

5. Responsible Authorities

- 5.1 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the council if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- the Gambling Commission
 - the Police
 - the Fire Service
 - a competent body to advise the authority about the protection of children from harm
 - the local planning authority
 - Environmental Health
 - HM Revenue and Customs
 - a licensing authority in whose area the premises is situated (that is, the council itself and also any adjoining council where premises straddle the boundaries between the two).
- 5.2 **Although** Local Public Health Departments are not responsible authorities the licensing authority will seek advice from the local Public Health team in order to assess applications **and its statement of principles**. This approach will be taken to assist the licensing authority in exercising its own functions as a responsible authority.
- 5.3 Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the council will not generally take into account representations which are deemed to be irrelevant, such as:

- there are too many gambling premises in the locality (because need for gambling facilities cannot be taken into account)
- the premises are likely to be a fire risk (because public safety is not a licensing objective)
- the location of the premises is likely to lead to traffic congestion (because this does not relate to the licensing objectives)
- the premises will cause crowds to congregate in one area causing noise and nuisance (because other powers are generally available to deal with these issues. It should be noted that, unlike the Licensing Act 2003, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant laws).

Each representation will, however, be considered on its own individual merits.

5.4 Child protection

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

In accordance with the above principles, the licensing authority designates the Hertfordshire Safeguarding Children Partnership for this purpose.

- 5.5 The contact details of all the responsible authorities under the Gambling Act 2005 are available via the council's website at www.watford.gov.uk.

6. Interested parties

6.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person -

- a) lives sufficiently close to the premises to be likely to be affected by the authorities activities
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

6.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. In the case of doubt, the benefit will be given to the party making the representation until the contrary can be shown.
- interested parties can include trade associations, and residents'/tenants' associations, providing that they can show they represent someone who would be classed as an interested party in their own right. Councillors and MPs may also be interested parties. Elected councillors may represent interested parties, providing they do not also sit on the Licensing sub-committee determining the application in question.
- In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities, or has business interests likely to be affected, the council may take account of:
 - the size of the premises
 - the nature of the premises
 - the nature of the authorised activities being proposed
 - the distance of the premises from the person making the representation
 - the characteristics of the complainant (including any special interests or knowledge relating to the application in question)
 - the potential impact of the premises

6.3 The licensing authority will not consider representations that are frivolous or vexatious, or which relate to demand or need for gambling facilities. Decisions on whether representations are frivolous or vexatious will be made objectively and not on the basis of any political judgement. Where representations are rejected, the person making that representation will be given a written reason. A report will be made to the licensing sub-committee determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.

- 6.4 A vexatious representation is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally taken to be one that is lacking in seriousness, or is unrelated to the licensing objectives, **the** guidance issued by the Gambling Commission or this statement of licensing policy.
- 6.5 Interested parties should appreciate that moral objections to gambling, or the need for gambling premises, are not valid reasons to reject applications for premises licences.
- 6.6 Representations **must be made in writing and must:**
- indicate the name and address of the person or organisation making the representation
 - indicate the premises to which the representation relates
 - indicate the proximity of the premises to the person making the representation. A sketch map or plan may be helpful to show this
 - clearly set out the reasons for making the representation. **Reference to a specific licensing objective may be helpful.**

7. Exchange of Information

- 7.1 Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 7.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the General Data Protection Regulations **and the Data Protection Act 2018** will not be contravened. The licensing authority will also have regard to Guidance issued by the Gambling Commission to Local Authorities, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 7.3 The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the **P**olice and other partners to fulfil its' statutory objective of reducing crime in the area.
- 7.4 Details of applications and representations which are referred to a Licensing sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the licensing authority is asked to do so.

8. Compliance and Enforcement

- 8.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 8.2 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:
- proportionate: it will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised
 - accountable: with decisions being justifiable, and be subject to public scrutiny
 - consistent: rules and standards will be joined up and implemented fairly
 - transparent and open: licence conditions will be kept simple and user friendly; and
 - targeted: regulation should be focused on the problem, and minimise side effects.
- 8.3 The licensing authority will avoid duplication with other regulatory regimes. Where matters come to light which are properly the role of other statutory agencies however, the licensing authority may bring those matters to the attention of those other agencies where appropriate.
- 8.4 The licensing authority notes the Commission's risk-based inspection programme, based on:
- the licensing objectives
 - relevant codes of practice issued by the Gambling Commission
 - guidance issued by the Gambling Commission, in particular at Part 36 of the Guidance to Local Authorities
 - the principles set out in this statement of licensing policy.
- 8.5 The licensing authority has an established working partnership with the Gambling Commission, and undertakes risk-based inspections and compliance visits.
- 8.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. Enforcement involves taking formal action where either those requirements are not met or illegal activities take place.
- 8.7 The Gambling Commission will be the enforcement body for operator and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 8.8 We have a long-established **compliance** policy based around the principles of consistency, transparency and proportionality set out in the Government's statutory Regulators' Code.

- 8.9 Our **compliance** policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated and minor offence may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.
- 8.10 We continue to work actively with other responsible authorities in enforcing licensing legislation. We share information about licence-holders and licensed premises under the Crime and Disorder Act 1998, and expect to be closely consulted when any enforcement action may be required.
- 8.11 As a council we have also signed up to the Hertfordshire Better Business for All Partnership Charter which is a voluntary undertaking between Hertfordshire Regulatory Services and all local businesses, irrespective of size or resources. It aims to support a relationship between businesses and regulators built upon trust, understanding and a desire to improve together in terms of compliance with regulation and support of business growth.
- 8.12 The authority's approach to the carrying out of premises licence reviews is set out in chapter 17.

PART B

PREMISES LICENCES

9. Definition of premises licences

9.1 Premises are defined in the Act as “any place”. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and it will always be a question of fact in the circumstances. The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separated can be properly regarded as different premises.

9.2 In considering applications for multiple licences for a building or those for a specific part of the building to be licensed, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.

9.3 This licensing authority will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

9.4 The licensing authority takes particular note of the Commission’s guidance to be aware of the following:

- the third licensing objective seeks to protect children from being harmed or exploited by gambling and premises should be configured so that children are prohibited from participating in gambling, such that they are not invited to participate in, have accidental access to, or closely observe gambling
- entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit. The council would expect the plan of the premises to clearly denote entrances and exits.
- customers should be able to participate in the activity named on the premises licence.

9.5 The licensing authority will take account of the following factors when considering whether premises are separate:

- do the premises have a separate registration for business rates?
- is the neighbouring premises owned by the same person or by someone else?
- can each of the premises be accessed from the street or a public passageway?
- can the premises only be accessed from any other gambling premises?

9.6 The location of the premises and the suitability of the division (including the nature of any partitions etc) will be a matter for discussion in each case between the applicant and the licensing authority’s officers.

- 9.7 The licensing authority notes the Commission’s guidance at paragraphs 7.19 – 7.23. Where more than one premises licence is permitted within a building the gaming machine entitlement for the separately licensed premises may not be aggregated and no more than the permitted number and category of machines for the relevant type of premises may be placed in any one of the individual sets of premises within the building. Section 152, when properly applied, means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises cannot, for example, be licensed as a bingo club on weekdays and a betting shop at weekends.

Provisional Statements

- 9.8 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional licence stage; or
- which, in the authority’s opinion, reflect a change in the operator’s circumstances
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. In accordance with the guidance, there must be substantial changes to the plan in order for such a decision to be made, and each decision will take into account the merits of the individual application. The council will discuss any concerns of this nature with the applicants before making a decision

- 9.9 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are bought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:

- first whether the premises ought to be permitted to be used for gambling
- second, whether appropriate conditions can be in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

- 9.10 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant

such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 – 7.65 of the Guidance to Licensing Authorities.

Location

- 9.11 The licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 9.12 Should any specific policy be decided upon as regards areas where gambling premises should not be located, this policy statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome. Reference should also be made to the local area risk assessment prepared by the operator.

Duplication with other regulatory regimes

- 9.13 This authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 9.14 Under section 210 of the Act the licensing authority is not entitled to have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building. The licensing authority will however consider relevant representations from the local planning authority about the effect of the grant of a premises licence on an extant planning permission where this relates to the licensing objectives, a Commission code of practice, or this statement of principles.

Licensing objectives

- 9.15 The grant of a Premises licences must be reasonably consistent with the licensing objectives.

Conditions

- 9.16 Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility
 - directly related to the premises and the type of licence applied for
 - fairly and reasonably related to the scale and type of premises: and
 - reasonable in all other respects.

- 9.17 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of control measures this licensing authority may utilise should the authority consider it necessary for the promotion of the licensing objectives, such as the use of machine and door supervisors, supervision of adult gaming machines, appropriate signage for adult-only areas, staff training etc. There are specific comments made in this regard under each of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.
- 9.18 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 9.19 It is noted that there are conditions which the licensing authority cannot attach to premises licences:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition
 - conditions relating to gaming machine categories, numbers, or method of operation
 - conditions which provide that membership of a club or body be required
 - conditions in relation to stakes, fees, winning or prizes.

Door Supervisors

- 9.20 The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 9.21 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The licensing authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.
- 9.22 It is noted though that the Gambling Act 2005 has amended the Security Industry Act 2001 and that in-house door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority. However, the licensing authority strongly recommends that any door supervisors or security staff who are employed should be licensed by the SIA.

10. Adult Gaming Centres

10.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances/ machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- staff training
- change machines
- advertising sources of help and other means of help for problem gamblers

This list is not mandatory or exhaustive, and is merely indicative of example measures.

10.2 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

10.3 As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare.

11. Licensed Family Entertainment Centres

11.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances and/or machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- staff training

This list is not mandatory or exhaustive, and is merely indicative of example measures.

11.2 Measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare will be considered in order to protect children and vulnerable persons.

11.3 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

12. Casinos

The licensing authority has passed a “no casino” resolution under section 166 of the Act on **XX XXXX 2021**, to be in effect from 6 January 2022.

13. Bingo premises

- 13.1 Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.
- 13.2 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 13.3 Commercial bingo halls will require a bingo premises licence from the licensing authority.
- 13.4 Amusement arcades providing prize bingo will require a prize gaming permit from the council.
- 13.5 In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, **and they are only allowed to game on category D machines**. When considering applications of this type the council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.
- 13.6 A limited number of gaming machines may also be made available at bingo licensed premises. Where category C or above machines are available in premises to which children are admitted, the licensing authority will seek to ensure that:
- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
 - only adults are admitted to the area where these machines are located
 - access to the area where the machines are located is supervised
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 13.7 The licensing authority notes that the Gambling Commission's Guidance states:
- 18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

- 18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that ‘licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises’ in order to prevent underage gambling.
- 18.9 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstance that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.
- 18.10 Equipment operated by a bingo operating licence for the purpose of playing bingo, for example what are currently known as mechanised cash bingo, electronic bingo terminal (EBTs) and video bingo terminals (VBTs), will be exempt from controls on gaming machines provided they comply with any conditions set by the Commission and, in the case of EBTs, do not hold gaming machine content.
- 18.11 An EBT that offers gaming machine content in addition to bingo content is considered to be a gaming machine and would count towards the total number of gaming machines or towards the offering of bingo. Any EBTs that do not offer gaming machine content would not count towards the number of gaming machines.
- 13.8 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority’s statement of principles by removing the default conditions.
- 13.9 Operators’ attention is also drawn to paragraph 18.25 – 18.32 concerning primary gambling activity **and the location of gaming machines**.

Bingo in clubs and alcohol-licensed premises

- 13.10 Bingo may be provided **on alcohol-licensed premises and in members’ clubs and miners’ welfare institutes** either in accordance with a permit or providing that the limits in section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days to £2000, and require the Commission to be notified as soon as is reasonably practicable if that limit is breached. Stakes or prizes above that limit will require a bingo operators licence and the corresponding personal and premises licences.

14. Betting premises

- 14.1 Anyone wishing to operate a betting office will require a betting premises licence from the licensing authority. Children and young persons will not be able to enter premises with a betting premises licence.
- 14.2 The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.
- 14.3 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The Authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.
- 14.4 Betting premises will be able to provide a limited number of gaming machines and some betting machines.
- 14.5 The licensing authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. We will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.
- 14.6 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 14.7 Each application will be considered on its own individual merits.

Primary Gambling Activity

- 14.8 Operating licences issued by the Commission provide that gaming machines may be made available for use in licensed betting premises **in combination with the named activity on the operating licence.**
- 14.9 **The licensing authority must be satisfied that the a premises applying for a premises licence to permit betting, or a premises which is already licensed to provide betting, is or will operate in a manner which a customer would reasonably expect to recognise as a premises licensed for the purposes of providing facilities for betting.** In this respect, **the authority would expect such facilities to include information that enables customers to access details of events on which bets can be made, make such bets, learn the outcome and**

collect any winnings. Where betting facilities are provided only by betting machines the number of betting machines must exceed the number of gaming machines made available for use.

- 14.10 The Licence Conditions and Codes of Practice (LCCP) sets out the full requirements on operators. To assist operators of betting premises the Commission has published a document setting out the indicators that are used to assess as to whether the requirements for betting being the primary gambling activity in any particular premises are being met.
- 14.11 Should the licensing authority receive an application to vary a premises licence for bingo or betting in order to extend the opening hours, the authority will satisfy itself that the reason for the application is in line with the requirements on primary gambling activity. (i.e. the need for operating licence holders to ensure that there are still sufficient facilities available to participate in the gambling activity appropriate to the licence type ('the primary activity' or 'the principal activity') at those premises and not replaced by the making available of gaming machines). Therefore, the applicant should be able to demonstrate that the extension of the opening hours is not designed solely to benefit from the machine entitlement and activity which is ancillary to the primary activity of the premises, namely betting or bingo.

15. Tracks

- 15.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 15.2 Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 15.3 There may be a number of subsidiary licences authorising other gambling activities to take place **for specific parts of the premises**. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 15.4 When considering whether to exercise its power to restrict the number of betting machines at a track the licensing authority will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.
- 15.5 This licensing authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.
- 15.6 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 15.7 Appropriate licence conditions may be:
- proof of age schemes
 - CCTV
 - supervision of entrances/machine areas
 - physical separation of areas
 - location of entry
 - notices/signage
 - specific opening hours
 - the location of gaming machines

This list is not mandatory or exhaustive, and is merely indicative of example measures.

- 15.8 Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.
- 15.9 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 15.10 This licensing authority would prefer for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Betting machines at tracks

- 15.11 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

Condition on rules being displayed

- 15.12 It is a mandatory condition of premises licence that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks. The licensing authority will adopt the approach in line with guidance from the Gambling Commission that it may be disproportionate and unnecessary to display betting rules at each distinct betting location. The licensing authority will expect betting rules to be accessible to all customers, regardless of which area of the track they are in, and the track premises licence holder should make necessary arrangements to ensure to achieve this aim. This could include displaying rules at various parts of the track if certain areas are restricted to specific customers, or that other measures are taken to ensure that they are made available to the public, such as being could printed in the race-card or made available in leaflet form from the track office.

16. Travelling Fairs

- 16.1 It will fall to the licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 16.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

17. Review of Premises Licences

- 17.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities.
- 17.2 However, it is for the licensing authority to decide **whether to accept any application for review of a licence, after considering whether the application is:**
- **frivolous, vexatious, will certainly not cause this authority to wish to alter/revoke/suspend the licence, or substantially the same as previous representations or requests for review;**
 - **in accordance with any relevant code of practice issued by the Gambling Commission;**
 - **in accordance with any relevant guidance issued by the Gambling Commission;**
 - **reasonably consistent with the licensing objectives; and**
 - **in accordance with the authority's statement of principles.**
- 17.3 **In the interest of fairness, responsible authorities (including the licensing authority) are encouraged to give an early warning of concerns about problems identified at premises concerned and of the need for improvement, although it is recognised this is not always practicable or desirable. It is expected that a failure to respond to such warnings would lead to a decision to apply for a review.**
- 17.4 **Any enforcement action taken by the licensing authority, including considering a review, will be undertaken in accordance with our compliance policy.**
- 17.3 Licensing authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted.
- 17.4 The licensing authority may review premises licences of its own volition **on the basis of any reason which it thinks is appropriate.** This may be on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This can extend to a review of a class of licences where it considers particular issues have arisen.
- 17.5 The purpose of a review is to determine whether the licensing authority should take any action in relation to the licence. If action is justified the licensing authority may:
- add, remove or amend a licence condition (other than a mandatory condition)
 - exclude or amend a default condition imposed by regulations
 - suspend the premises licence for a period not exceeding three months
 - revoke the premises licence.
- 17.6 In determining the appropriate course of action the licensing authority must have regard to the principles set out in section 153 of the Act as well as any relevant representations.

- 17.7 The licensing authority must have reasonable grounds in order to take action to amend, refuse, suspend or revoke a licence. In every case, an evidentiary basis for the review will need to be laid before the licensing authority.

PART C

PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES

18. Unlicensed Family Entertainment Centre gaming machine permits

- 18.1 Where a premises does not hold a premises licence but wishes to provide category D machines only gaming machines, it may apply to the licensing authority for this permit. It should be noted that under section 238 the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use. If they are also used for other purposes the application is likely to be refused.
- 18.2 The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. In preparing that statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25 of the Act.
- 18.3 Accordingly this licensing authority will also have regard to the licensing objectives when considering applications relating to unlicensed FEC permits.
- 18.4 An FEC gaming machine permit cannot be granted unless the chief officer of Police has been consulted, and no conditions may be imposed upon the grant of a permit. Therefore the licensing authority will wish to be satisfied as to the applicant's suitability before granting a permit. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued.

Statement of principles

- 18.5 Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include background checks on staff, training for staff in dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.
- 18.6 Applicants will be expected to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
 - that staff are trained to have a full understanding of the maximum stakes and prizes; and
 - an awareness of local school holiday times and how to identify to the local education authority should truants be identified.
- 18.7 Compliance with any relevant industry Code of Practice for FECs issued by BACTA or other trade associations may be taken by the licensing authority as

evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above.

- 18.8 Applicants must submit with their application a copy of a plan of the premises, to a scale of 1:100, showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers.
- 18.9 The licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

19. (Alcohol) Licensed premises gaming machine permits

- 19.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. **The notification process is prescribed under the Gambling Act.**
- 19.2 Under section 284 the licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (**for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines**)
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises.
- 19.3 Should it be necessary to issue a section 284 order, the licence-holder will be given at least twenty-one days' notice of the intention to make the order, and consider any representations which might be made. The authority will hold a hearing if the licensee requests.
- 19.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "such matters as they think relevant."

Statement of principles

- 19.5 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not use the adult-only gaming machines. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.
- 19.6 Measures which will satisfy the authority that there will be no access may include the adult machines being in site of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 19.7 A plan must accompany applications indicating where, and what type, of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the premises licence issued under the Licensing Act 2003.

- 19.8 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with, as an **application for a new premises licence**.
- 19.9 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 19.10 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

Administrative matters

- 19.11 Notifications and applications for fewer than five machines shall be dealt with by the licensing authority's officers.
- 19.12 Applications for five or more machines will be referred to a licensing sub-committee of councillors, unless there are no representations and officers are satisfied that the licensing objectives will be promoted. In these situations notifications and applications will be dealt with by the licensing authority's officers.

20. Prize Gaming Permits

- 20.1 The licensing authority may prepare a statement of principles which they propose to apply in exercising their functions which may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit.
- 20.2 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, providing that none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.
- 20.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives, **but may wish to do so**, but must have regard to any Gambling Commission guidance.

Applicants should set out the types of gaming they are intending to offer and should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations
- and that the gaming offered is within the law.

- 20.4 **The licensing authority cannot attach conditions to a permit.**
- 20.5 Applications may only be made by people who occupy or plan to occupy the premises, are aged 18 or over (if an individual), and no premises licence or club gaming permit under the Gambling Act 2005 may be in force.

Statement of principles

- 20.6 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to unequal chances prize gaming. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.
- 20.7 A plan must accompany applications indicating where, and what type, of prize gaming is to be provided.

21. Club Gaming and Club Machines Permits

- 21.1 Members' clubs (but not commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit.
- 21.2 The licensing authority notes paragraphs 25.44 – 25.49 of the Commission's Guidance as to matters to take into account when determining that a club meets the statutory qualifying requirements. These include the club's constitution; the frequency of gaming; and ensuring that there are more than 25 members. The club must be conducted "wholly or mainly" for purposes other than gaming, unless the gaming is in bridge and whist clubs covered by regulations made by the Secretary of State.
- 21.3 The licensing authority may only refuse an application on the grounds that:
- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied the applicant's premises are used wholly or mainly by children and/or young persons
 - an offence under the Act or a breach of the permit has been committed by the applicant whilst providing gaming facilities
 - a permit held by the applicant has been cancelled in the previous ten years; or
 - an objection has been raised by the Commission or by the Police.

Club gaming permit

- 21.4 A club gaming permit allows the premises to provide
- up to three machines of categories B, C or D
 - equal chance gaming and
 - games of chance as set out in regulations.

Club gaming machine permit

- 21.5 A club gaming machine permit will enable the premises to provide up to three machines of categories B, C or D.
- 21.6 The licensing authority will wish to be satisfied that applicants for these permits meet the statutory criteria for members' clubs contained in sections 266 and 267 of the Act. Clubs which hold a club premises certificate under the Licensing Act 2003 are entitled to benefit from a fast-track application procedure.

22. Temporary Use Notices

- 22.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. There can, however, be more than one competition with a single winner held at the individual event covered by a specific temporary use notice. The facilities may not be provided in circumstances where any person participating in the gaming does so by means of a gaming machine. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities and at paragraphs 14.10-14.13 of the Guidance. As with “premises”, the definition of a “set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of a “set of premises”, the licensing authority need to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in place that could be described as one set of premises, as recommended in the Gambling Commission’s Guidance to Licensing Authorities.

23. Occasional Use Notices

- 23.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

24. Small Society Lotteries

24.1 The licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exhaustive, could affect the risk status of an operator:

- submission of late returns (returns must be submitted within three months of the date that a lottery was drawn)
- submission of incomplete or incorrect forms
- breaches of the limits for small society lotteries.

Should you have any comments as regards this document please send them via e-mail or letter to:

Austen Young
Licensing Team
Community Protection
Watford Borough Council
Town Hall
Watford
Hertfordshire
WD17 3EX

Email: licensing@watford.gov.uk

Part A

Report to: Licensing Committee

Date of meeting: Thursday, 8 July 2021

Report author: Senior Licensing Officer (AY)

Title: Licensing Act 2003 - Annual Report for 2020

1.0 Summary

1.1 The council is responsible under the Licensing Act 2003, which came into force on 24 November 2005, for licensing the sale of alcohol and provision of regulated entertainment and late night refreshment within the Borough. This is the fourteenth annual report on the operation of the Act within the Borough.

1.2 This year has been an extremely challenging year for the hospitality and licensed sector due to the Covid-19 pandemic, and to simply compare figures with previous years would not give a true picture of the sector. However, this report will seek to highlight some of the support that has been given to premises, either through the council or at a national level.

2.0 Risks

2.1 There are no risks associated with this report, as it is for information only.

3.0 Recommendations

3.1 That the Licensing Committee notes the report.

Further information:

Austen Young
austen.young@watford.gov.uk

Report approved by: Justine Hoy, Head of Community Protection

4.0 Detailed proposal

4.1 Under the Licensing Act 2003, Watford Borough Council has responsibility for licensing alcohol, regulated entertainment and late night refreshment. This encompasses the determination, grant, administration and enforcement of

premises licences, club premises certificates, personal licences and temporary event notices to authorise those activities to take place.

4.2 The Act requires the licensing authority to produce a statement of licensing policy in consultation with specified stakeholders, with the current policy having come into force on 1 April 2021. Any decisions in relation to the Act must be in furtherance of the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. The licensing authority is required to have regard to statutory guidance issued by the Secretary of State in the exercise of its functions.

4.3 The country as a whole has found itself in unprecedented times since the beginning of 2020 due to the Covid-19 pandemic, which has resulted in national and local area specific lockdowns, and the forced closure of businesses or restrictions upon the ability of businesses to operate. There have been restrictions and prohibitions in place for public gatherings both inside and outside, affecting weddings, funerals, and all forms of social events such as carol concerts, school fairs, council-run events and other such activities which in other times may have required licensing if they had been allowed to take place.

4.4 With lockdowns being in place, and businesses and event organisers either having to cancel events, or deciding not to proceed with events due to the pandemic, this has seen a dramatic impact upon licensing applications and licensed premises.

4.5 **Number of licensed premises**

4.6 As of 31 December 2020, there were 341 licensed premises (including 17 qualifying clubs), which was an increase of 4 from 31 December 2019. As of 1 June 2021, there were 342 licensed premises. However, this figure does need to be considered alongside the fact that there are some licensed premises which have permanently closed during the pandemic, but the licences have not lapsed or been surrendered. The true picture will take some time to unfold.

4.7 **New applications**

4.8 In 2020 there were 15 applications for new licences (compared to 14 in 2019, 21 in 2018, and 23 in 2017).

<i>Alcohol on-sales and other licensable activities (9 applications in 2019)</i>	Tasty Bean, Oxhey Park BloomsYard, Atria Watford Greek Pitta, St Albans Road Pryzm, The Parade
<i>Alcohol off-sales (3 applications in 2019)</i>	Soralina (Candy & Cocktails), Ridge Lane Draculas European Foods, The Parade Square Pizza House, Langley Road

	Sofibel, Clarendon Road Nisa, The Brow Thirsty Work Bars, Metropolitan Station Approach Lock 81, Colne Way Favorit, The Parade V One Vodka, Ascot Road Co-Op, York Way
<i>Late-night refreshment only (1 application in 2019)</i>	Papa John's, Market Street
<i>Regulated entertainment only (1 application in 2019)</i>	None
<i>Club premises certificates (no applications in 2019)</i>	None

4.9 It is notable that of the new applications received, five were to allow alcohol sales online, and the application for late night refreshment included off-sales of alcohol. This shows how businesses have adapted to the lockdowns and to the government guidance encouraging people to stay at home. Not since 2014 has there been more off-sales applications than on-sales applications, which can be held to reflect upon the restrictions put in place during the pandemic. This has also been influenced by the fact that these years have seen significant improvements to the Borough, in particular the Town Centre with the Met Quarter development, Parade improvements, and shopping centre extension which have encouraged more restaurants and entertainment activities into the town centre.

4.10 Variation applications

4.11 There were five applications submitted to vary existing licences and eight minor variations.

	2015	2016	2017	2018	2019	2020
Full variations	6	10	4	3	10	5
Minor variations	19	6	13	15	24	8

No variations were refused.

4.12 All full variations were submitted prior to the first national lockdown in March 2020. Four applications were to increase hours for licensable activities, and the final application was to increase licensed hours. The lack of applications since March 2020 may be explained in the high uncertainty that businesses faced due to the pandemic and losses that businesses were experiencing due to restricted trade or not being able to trade at all.

4.13 The minor variations continued being received throughout the year. Four applications were for amendments to premises layouts, and four related to amending conditions. Of the applications amending conditions, three were submitted after discussions with the Police to update and add conditions to the licences. This is instead of taking the premises to review and demonstrates the approach of partnership working that the Police have with premises. One application was submitted to amend conditions to remove restrictions on outside drinking. These changes were sought by the business due to the restrictions on premises having customers inside, and were discussed with the Police and licensing authority before being submitted.

4.14 Miscellaneous applications

4.15 The table below sets out the number of licence transfers and changes of designated premises supervisors (DPSs) received.

	2015	2016	2017	2018	2019	2020
Licence transfer	30	29	23	20	23	30
Change of DPS	59	57	49	63	88	48

4.16 Objections were received against an application to transfer a licence and against an application to change a DPS. Both applications related to the same premises and were refused when brought before a sub-committee. The actual hearings for these applications took place in 2021, but the original applications were submitted in 2020.

4.17 Hearings

4.18 There were two hearings conducted in 2020, with a third hearing booked but cancelled (vacated) when the corresponding representations were withdrawn.

	2015	2016	2017	2018	2019	2020
Scheduled hearings	12	12	10	6	3	3
Vacated hearings	5	7	6	5	2	1

4.19 Residents submitted objections against each application (compared to two in 2019, five in 2018, and four in 2017). Environmental Health submitted objections against two applications, but withdrew their representations after agreeing conditions with the applicants. Although no representations were required to be considered by a sub-committee from any other responsible authority, the Police did agree conditions in all cases.

4.20 Surrendered and lapsed licences

4.21 The table below shows the number of licences that were surrendered or which were recorded as lapsing in 2020

2015	2016	2017	2018	2019	2020
10*	6*	10*	14*	8*	13*

* new licences were also applied for in lieu of some of those that were surrendered

4.22 In 2018, four premises licences lapsed due to the dissolution of the companies that held the respective licences. In 2019, one premises licence lapsed when the company holding the licence was dissolved. In 2020, nine premises licences lapsed when the licence holders entered administration or were dissolved. This growth can be explained by the mounting pressures on the hospitality sector experienced during the pandemic. Unfortunately, one premises licence lapsed upon the death of the licence holder. Of these lapsed licences, only one licence was reinstated by using the process set out in the Act. At the time of writing this report:

- three premises have been subject to new applications (all have been granted), with two premises still being vacant
- one premises is occupied by a business not offering licensable activities
- one premises has been demolished
- three premises are vacant with no enquires regarding licensing

4.23 Four premises licences were surrendered when the respective occupiers closed their businesses, with all four premises still being vacant at the time of writing.

4.24 Temporary event notices

4.25 The table below indicates the number of temporary event notices received each year by the council.

Year	Number of TENs Received
2015	323
2016	342
2017	352
2018	264
2019	329
2020	55

No TENs received in 2020 were required to go to a hearing because of objections.

4.26 Unsurprisingly, due to restrictions on public gatherings and premises being required to be closed at various times, the number of TENs have decreased significantly. Of the 55 TENs received, 37 were received before the first lockdown, when premises were still working towards normal operations with extensions for New Year's Day and Easter. The TENs that came in after the first lockdown were primarily

requesting extended hours for the late August Bank Holiday and for extended trading in the period between Christmas and New Year's Eve.

4.27 Personal licences

4.28 The table below shows the number of personal licences issued for 2020.

Year	Number of personal licences
2015	69
2016	79
2017	64
2018	66
2019	71
2020	45
Total	1391

4.29 As far as officers are aware, none of the personal licences issued by the licensing authority have been revoked by the courts following convictions for a relevant offence. The licensing authority has not been notified of any offences which have required it to consider using its powers to suspend or revoke a personal licence.

4.30 Appeals

4.31 There were no appeals lodged in relation to any applications under the Licensing Act 2003 in 2020.

5.0 Compliance and enforcement

5.1 Council officers and the Police have continued to work proactively and reactively to ensure compliance with licensing legislation.

5.2 During 2020, this has involved working with premises and our partners during the pandemic, both in terms of offering support and advice to premises and our partners in promoting messages around public health and Covid-19 restrictions and advice.

5.3 Officers can advise that we still receive only a small number of complaints against licensed premises. Primarily our role this year has been more proactive, in helping premises with queries over their licences and providing advice on how they can trade, or supporting them with advice on how to vary their licences or provide clarification on legislative amendments. However, a small number of complaints were still received, focussed on allegations that premises were opening when they were not allowed to during lockdown. When complaints are received we work with Environmental Health on these issues and provide advice on licensing matters as required. As mentioned earlier, three minor variations were submitted to vary

licence conditions where concerns had been raised by the Police to address the concerns of the Police and promote the licensing objectives without the need for more formal enforcement action.

5.4 Licensing reviews

5.5 There were three reviews lodged with the licensing authority in 2020, with the hearings to determine these applications actually being heard in 2021

	2015	2016	2017	2018	2019	2020
Number of reviews	0	0	1	0	0	3

5.6 All three reviews were brought by the Police, although Environmental Health did support the Police in one review. In all three cases the sub-committees decided to revoke the respective licences.

5.7 The promotion of the licensing objective of the prevention of crime and disorder was key in all three reviews.

6.0 Pandemic support

6.1 Officers would like to highlight some of the measures put in place both locally and nationally to support licensed premises during the pandemic.

- Expanded business rates relief – this was for the value of 100% for 12 months for 2020/2021, with £37,321,334.58 credited to 1026 business. While this will not have covered every single licensed premises, and unfortunately the figures weren't compiled separately for licensed businesses, a majority of hospitality and licensed business would have been eligible for this support
- Expanded business rates relief – for the value of 100% for 3 months, and then 66% for 9 months during 2021/2022. The figures for this support have not yet been published, but as with the support for 2020/2021, most hospitality or licensed premises should be eligible
- The council has paid out £32,692,415.50 in direct grants to businesses. The majority of these grants were paid out to businesses mandated to close under lockdown and tier restrictions. Again, unfortunately the figures were not separated to take into account licensed and non-licensed premises, but a range of licensed premises, such as cafés, bars and pubs will have been eligible
- The Watford Business Recovery and Growth programme ran from October 2020 to May 2021, and was available to any Watford business to deliver business advisory support
- The Watford Business Growth Grant programme is, at the time of writing this report, currently running, and is available to businesses with 5 to 10 employees

- The council has provided ongoing advice and guidance to businesses and residents to ensure that they operate in a Covid-safe manner and in accordance with legislation. Covid and traffic marshals have been employed to assist with this. Proactive visits formed part of this support as well, with Environmental Health visiting premises and providing support on how to operate safely, with any concerns being fed back to the licensing team. The Police took a proactive approach in asking licensed premises to complete pre-opening questionnaires which were reviewed by the licensing team to identify any issues with their licences and conditions. Where concerns were identified premises were contacted and given advice on how to change their licences
- The Government introduced the Business and Planning Act 2020, which introduced a new licensing regime for pavement licences, as well as allowing premises temporary permission to sell alcohol for consumption off the premises where they previously only had permission for on-sales. This legislation dis-applied certain licensing conditions which prohibited or restricted off-sales where premises were licensed for this activity. Although originally planned to last until September 2021, these provisions have since been extended to 30 September 2022
- The Government has introduced legislation to make the following changes to temporary event notices for the years 2022 and 2023 only:
 - increase from 15 to 20 the number of TENs that can be obtained for any one particular premises
 - increase from 21 to 26 the number of days in a calendar year during which time premises can be licensed under TENs to provide licensable activities
- Reviewing policies as required due to expiration dates or legal requirements but without suggesting sweeping changes to allow for some stability for businesses

6.2 The above measures are only some of the steps put in place by the council and Government, with a focus on support being available to the hospitality sector and licensed premises. It should be acknowledged that some premises, such as large supermarkets and convenience stores, have been able to remain open at all times due to being classified as essential retail. Premises such as take-aways and restaurants have been able to access support, as well as learning to adapt and sign up to online delivery platforms.

6.3 The licensing team have continued to be available to premises for queries and support on licensing matters, as well as working with other agencies, particularly Environmental Health, to address concerns raised and highlight where support is required. Applications have continued to be processed in line with legislative and policy requirements. Pre-application advice has still been available to businesses and has been offered not only when sought but also in response to any issues identified. Officers have been aware of guidance from the Government, or from

organisations such as the Local Government Association and the Institute of Licensing.

- 6.4 Officers can advise that they were invited to participate in discussions with the Ministry of Communities, Housing and Local Government when drawing up the Business and Planning Act 2020 in order to advise on the measures required by such legislation, and the guidance on how to implement the legislation.

7.0 Implications

7.1 Financial

- 7.2 The Shared Director of Finance comments that budgets were adjusted accordingly in 2020/21 to reflect the implications of Covid 19.

7.3 Legal Issues (Monitoring Officer)

- 7.4 The Group Head of Democracy and Governance comments that there are no legal implications arising from this report.

7.4 Equalities, Human Rights and Data Protection

- 7.5 No equalities impact assessment has been carried out since this report is for information only and is not requesting or proposing any changes to policy.

Appendices

None

Background papers

Watford Borough Council Road to Renewal Plan