



Licensing committee

Date: **Thursday, 25 March 2021**
Time: **16:00**
Venue: **Remote access, [Venue Address]**

Committee members:

Councillors:

Stutely (chair)
Fulton-McAlister (E) (vice chair)
Ackroyd
Brociek-Coulton
Giles
Grahame
Huntley
Maxwell
McCartney-Gray
Oliver
Price
Ryan
Youssef

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Agenda

1 Apologies

To receive apologies for absence

2 Public questions/petitions

To receive questions / petitions from the public.

Please note that all questions must be received by the committee officer detailed on the front of the agenda by **10am on Monday 22 March 2021**

Petitions must be received by the committee officer detailed on the front of the agenda by **10am on Wednesday 24 March 2021**.

For guidance on submitting public questions or petitions please see the council's constitution.

3 Declarations of interest

(Please note that it is the responsibility of individual members to declare an interest prior to the item if they arrive late for the meeting)

4 Minutes

5 - 18

To approve the accuracy of the minutes of the meetings held on 26 November 2020 and 28-29 January 2021.

5 HMO Licensing Policy

19 - 48

Purpose - To consider consulting on a new draft HMO licensing policy.

6 Regulatory sub committee minutes - standing item

49 - 72

To receive the minutes of the regulatory sub committee.

Exempt items:

(During consideration of these items the meeting is not likely to be open to the press and the public.)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part 1 of Schedule 12 A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, members are asked to decide whether, in all circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

Date of publication: **Wednesday, 17 March 2021**



Licensing Committee

16:30 to 17:45

26 November 2020

Present: Councillors Stutely (chair), Fulton-McAlister (E)(vice chair), Ackroyd, Brociek-Coulton, Giles, Grahame, Huntley, Maxwell, Oliver, Price, Ryan and Youssef

Apologies: Councillor McCartney-Gray

1. Declarations of interest

There were none.

2. Public Questions/Petitions

There were none.

3. Minutes

To approve the accuracy of the minutes of the meeting held on 5 August 2020.

4. Statement of Licensing Policy

The chair introduced the report and explained that the purpose of the report was to approve the draft Statement of Licensing Policy for consultation. The committee would have an opportunity to review the consultation responses and the revised policy before the final version of the revised Statement of Licensing Policy was referred to council for adoption.

The environmental health and public protection manager presented the report and reassured members that the committee would consider a cumulative impact assessment (CIA) at the appropriate time in the future.

The public protection (licensing) team leader highlighted to the committee the other changes in the draft licensing policy, made in line with changes to legislation and guidance to ensure that the licensing policy was up-to-date. The statutory consultees would be consulted on the draft licensing policy and any omissions or changes in legislation that had not been covered would be raised in response to the consultation.

During discussion, the committee agreed a number of changes to the draft licensing policy for consultation. Members were asked to advise officers of any typographical errors outside the meeting. The changes included: further text to clarify the definition of an application and who had the ability to apply for a licence; provisions for facilities on the highway in accordance with the appropriate legislation; text to protect vulnerable people and children and provide controls where appropriate; stating the intention that a CIA would be produced at the appropriate time and to review this position 6 months after the policy has been approved; and, requesting the provision of gender neutral toilet facilities, where there were three or more toilets at a premises.

RESOLVED to:

- (1) authorise the environmental health and public protection manager to consult on the draft Statement of Licensing Policy, subject to the following amendments:
 - (a) 3. **Applications for licences** – [Insert here what is the definition of an application and who has the ability to make an application Sec 16 LA]
 - (b) 18.3 (additional text, shown in italics) Applicants should be aware that the provision of facilities (including tables, chairs barriers etc.) on the public highway require a separate permission in accordance with the Highways Act 1980 *or any other relevant legislation that might be in force at the time.*
 - (c) 20.3 (additional bullet point):
 - *protecting people from the risk of harassment and abuse, including sexual harassment, and protecting vulnerable adults from harm*
 - (d) 20.4 (additional bullet point):
 - *protecting people from the risk of harassment and abuse, including sexual harassment, and protecting vulnerable adults from harm*
 - (e) 26.7 (additional bullet point):
 - *where children are employed in the premises*
 - (f) 26.9 (additional bullet point):
 - *Measures to ensure children employed as staff are protected from harm*
 - (g) 29.3 (additional/amended text): Due to the current Covid-19 pandemic and the changing restrictions on licensed premises, it is not possible to carry out an *appropriate* cumulative impact assessment at this time. *It is the intention of this authority to perform a cumulative*

impact assessment at an appropriate time. This committee will review the possible introduction at a six monthly interval from the introduction of this policy.

- (h) 31.1 (additional/amended text): The applicant should provide an appropriate number of suitably designed and maintained toilet facilities together with hand-washing facilities *to be provided separately for use by male and female patrons at all licensed premises where patrons will be consuming food or drink on the premises, or where regulated entertainment is being provided. Generally, where there are three toilets within a premise one should be indicated as being gender neutral. This is to improve accessibility, comfort and the public safety of individuals who prefer not to use gendered toilets.* Generally, these facilities shall be separate to those provided for use by staff, though an exception may be considered in respect of small premises (capacity less than 50 persons including staff). The criteria are attached at Appendix 1.
- (2) note that the committee will consider the outcome of the consultation at a future meeting before recommending the Statement of Licensing Policy to council for adoption.

CHAIR



Licensing Committee

10:30 to 15:20

28 January 2021

Present: Councillors Stutely (chair,) Ackroyd, Driver (substitute for Cllr Ryan) Giles, Huntley, Maxwell, Oliver, and Youssef

Apologies: Councillors Fulton-McAlister (E), Brociek-Coulton, Grahame, McCartney-Gray, Price and Ryan

1. Declarations of interest

There were no declarations of interest.

2. Public Questions/Petitions

There were no public questions or petitions.

3. Application for the renewal of a Sex Establishment Licence - Sugar and Spice

(Daz Crawford and Simon Goodings, directors of Sugar and Spice were in attendance for this item).

The chair introduced the panel and the applicants.

The licensing team leader presented the report. The legal advisor for the committee added that the committee could depart from policy . The committee would be considering each of the three applications on their own merits and would hear all three before any determinations were made. If the committee was minded to give significant weight to the number of licenses, it would be appropriate to consider sensitive locations which were set out at page 5 of the report.

The chair invited Daz Crawford to address the committee. Mr Crawford said that he and Simon Goodings, were the two owners of Sugar and Spice and had been involved in the night-time economy for over thirty years, including managing the most successful nightclub in the city. He had worked in several table dancing venues and brought that experience to Sugar and Spice.

The business model was to move away from the negative reputation of 'gentlemen's clubs' by introducing training for the performers who would work in a well-lit and well

run venue. The venue provided professional entertainment with a five star service. The venue was wheelchair accessible and around thirty percent of the customers were female.

The venue welcomed many regular customers who would use the venue to have a social drink and enjoyed the safe and pleasant atmosphere. The venue had a strict code of conduct which had to be adhered to. The success of the venue was down to the good working relationships with customers, local police and the council. It employed ten bar staff, together with security staff and performers. Professional cleaners were also brought in each day.

The business had been unable to open as a Sex Entertainment Venue (SEV) since March 2020 due to the Covid-19 pandemic, and had instead opened as a bar only in July 2020 to try and keep staff in employment. The venue had been closed since Christmas 2020 and staff had been paid through the furlough scheme which the business had topped up to 100% of wages from March to July.

The performers were interviewed in an extensive process and were tested on the code of conduct and health and safety procedures before they were allowed to start work and a review was undertaken one month into employment to ensure they were 'settling in'. Training was provided on an ongoing basis including advice on how to grow as a professional entertainer. The performers also had access to a representative for one to one advice as well as the manageress with monthly group meetings held to discuss any issues. It was noted that the performers had access to shower facilities.

Within the venue there were 64 CCTV cameras with footage kept for 31 days. There were phones within the venue and panic buttons in the private booths. The panic buttons had been used around six times in eleven years. Trained security staff were present and the 'Challenge 25' process was in place. The venue also made use of technology to check for false IDs. Performers used an app on their mobile phones to ensure that their time spent with customers and the prices were regulated.

The business was run by two experienced and professional operatives who had worked together to build the city's number one table dancing club and he asked that members considered the application on these merits.

A member asked what provision had been made for staff to return to work once lockdown was over. Mr Crawford said that the managers would meet with all of the staff and remind them that the senior girl and the manageress would be there if they had any concerns. The managers had a good relationship with the staff and had been in regular contact with them throughout the lockdown.

A member referred to the code of conduct and asked what training was given to security staff and whether customers who had breached the code of conduct were banned from the premises. Mr Crawford said that the security staff were briefed on the types of customers that the venue had and customers were briefed on the code of conduct at the door. If the customer 'overstepped the mark' in the club, they would be asked to leave. There was also CCTV throughout the venue which could be reviewed and the performers would go directly to management if there was an issue. Security staff received training which was specific to the venue as it was different to a regular bar or pub and had to sign the briefing to say they had

understood. Management would also speak to security staff regularly throughout the night.

The chair asked if the SIA trained security staff were part of the permanent staffing of the venue. Mr Crawford said that they were from a security agency and that a minimum of two SIA trained security staff were present on a Friday and Saturday and one on the other days. The venue was not heavily populated like a nightclub and customers were always seated.

In response to questions from a member, Mr Goodings said that a radio alert scheme was in use with some venues which would allow venues to be altered if someone was ejected from the premises. The venue had wheelchair access and carers were also welcome with no cover charge for carers.

By way of a follow up question, a member asked how one security person could monitor both outside and inside the venue and whether there was a log book kept of customers who breached to code of conduct. Mr Crawford said that there was CCTV access to the private booths so these could be seen at all times. Mr Goodings said that the main door security staff member had worked at the venue for eight years so he was aware of any customers that were not allowed into the premises. If the doorman was dealing with an incident, no one else would be admitted to the venue. He confirmed that he would be agreeable to a condition being placed on the licence to keep a log book of customers who had breached the code of conduct.

In response to a question regarding opening measures following Covid-19, Mr Goodings said that more space had been created between seating and there were screens in some areas. It would be a gradual re-opening and the venue would comply with government guidelines. Some staff were taken on when the venue opened as a bar in the summer to give staff some employment, even though it meant the bar was not making money. He said that he expected to retain most staff and had completed job references for those that had asked.

A member referred to the code of conduct for performers and asked if they would be dismissed if their behaviour put the reputation of the venue into question. Mr Crawford said that there were very professional performers and some that would break the rules. The performers were often 'local celebrities' and any poor behaviour would reflect on the club. A member followed by asking if the performers signed the code of conduct. Mr Crawford confirmed that they did, it was updated regularly and the performers were tested on it.

The chair asked if customers were made aware of the costs when they were offered dances. Mr Goodings said that the performers knew the prices so when they were discussing a service with a customer, the customer would be made aware of the price. When the customer and performer went to a private booth, the performer would put a PIN into a mobile app which showed the price. The price would also show on the PDQ machine so the prices could not be changed. Prices and times were also displayed on big screens throughout the club and there was a timer in each private booth.

By way of a follow up question, the chair asked how much pressure was put onto customers to spend money on dances. Mr Crawford said that the performers were

not allowed to approach a customer until they had purchased a drink. The code of conduct covered interactions with customers and the performers know how to act around patrons. If a customer said no to a performer, the performer should walk away. The performers were given training on approaching customers and they were allowed to spend up to ten minutes with a customer before moving away from them.

A member asked whether there was any help given to customers who seemed to spending large amounts of money in the venue. Mr Crawford said that they had not had this as an issue but the managers would speak to any customers who seemed to be in this situation and restrict their spend if necessary. If a customer was requesting multiple private dances, a manager would be called to check that they were not too drunk and understood the spending as the managers did not want the customers to have a bad experience in the club.

The chair invited the applicants to make a final statement to the committee. Mr Goodings said that the venue had been operating since 2010 and they had not been approached by any schools in the area regarding issues with the venue. The venue did not open until 9pm and the front of the building was very plain. There had been one complaint from a resident that the performers were noisy when they left the building at closing, so they were asked to leave out of the front door instead to mitigate this. Mr Crawford said that they were two highly respected and experienced professional who had been running a successful business for eleven years. They hoped to continue to eliminate the negativity attached to the industry through a well-run venue and thanked the committee for hearing their application.

(Mr Goodings and Mr Crawford left the meeting at this point. The committee took a break at 12:05 and re-convened at 13:00)

4. Application for the renewal of a Sex Establishment Licence – Pure Gold

(Petrit Vladi, owner and operator of Pure Gold and Rob Edge, Licensing Consultant for Pure Gold were in attendance for this item).

The licensing team leader presented the report. The legal advisor for the committee added that the committee could depart from policy if it was minded to.. The committee would be considering each of the three applications on their own merits and would hear all three before any determinations were made. If the committee was minded to give significant weight to the number of licenses, it would be appropriate to consider sensitive locations which were set out at page 5 of the report.

The chair invited Rob Edge, licensing consultant, to address the committee. Mr Edge said that the premises had been managed by Mr Vladi since 2014 and was held in high regard by the responsible authorities which was shown with no objections to the application from the Police or Fire Service. Mr Edge had been contacted to produce a Covid-19 risk assessment by Mr Vladi which showed that he took the responsibility of running the venue seriously. The venue employed ten full time and fifteen part time performers, the majority being local to the area, alongside three SIA trained security staff.

Mr Vladi had recently undertaken a full refurbishment of the premises and was up to date with all relevant payments for the venue, which was shown in the late documents submitted to the committee.

The premises continued to be an asset to the city with a strong management team and robust policies in place to ensure that the licensing objectives were met. There was regular staff training by a consultant and monthly staff meetings. The owner had invested time, money and passion into the venue to be a credit to the night-time economy.

Mr Vladi had stayed in touch with the employees during lockdown to check on their wellbeing and to keep them updated on government guidelines. There was also a 'house mum' who would keep in contact with the performers and spoke to them individually to check on them.

Pure Gold was a quality establishment which diversified the offer of entertainment in the city.

Mr Vladi addressed the committee. He said that there had been no objections to the application as he had always worked with the local authority. He was strict when following rules and legislation. He had converted the business to an SEV in 2017 and had never had any problems with the police. His policies were in place to protect both the staff and customers and Mr Vladi held an SIA qualification alongside being a personal licence holder. He employed fifteen performers who all relied on that employment to support their families. He had invested time and money to make Pure Gold a successful business.

The chair invited committee members to ask questions.

A member asked whether women were welcome as customers at the venue and whether there were any adaptations for disabled customers. Mr Edge said that all customers were welcome and the venue was fully fitted for disabled customers. In terms of carers, each case was dealt with on an individual basis but if they wished, they could sit separately and have soft drinks. It was not in the owner's interest to offer a low quality service to any customer.

A member referred to the statement about staff training and asked if Mr Edge could expand on this. Mr Edge said that Mr Vladi held both a personal licence and SEV licence. The training covered the four licensing objectives and how to implement the challenge 25 policy, including inspecting appropriate documentation. The personal licence holders course included a test and gave an overview of customer conduct and performer conduct rules, including why these were in place and safeguarding elements so that staff could understand why they were necessary.

A member asked what provisions had been made for staff over the lockdown period. Mr Edge said that the main concerns around welfare were mental health and concern for those with no income. The staff were given advice covering these topics. Some staff had taken other full time jobs during the lockdown and some staff were on furlough at eighty percent of their wages. There was a text message support group for staff to contact each other. With regards to plans for re-opening, as there was no firm guidance on dates from the government, the only actions being

taken were regular cleaning and updating the Covid-19 risk assessment. Guidance would be kept under review.

A member asked how many security staff were employed at the venue. Mr Edge said that there were three SIA staff as well as Mr Vladi who also held an SIA qualification. Mr Vladi clarified that on a Sunday to Thursday, there was one doorman and himself, and on a Friday and Saturday, there were three SIA staff and himself. There were thirty two CCTV cameras in the venue, including in the booths and dancing area where the house mum would take the payments. Staff had radios and the manager would be monitoring CCTV. The venue would use the radios to inform other venues of any incidents and there was an incident report for which the doorman would complete and were available to be reviewed by police.

A member referred to the list of sensitive locations and asked if the school in the vicinity of the venue had raised any issues. Mr Vladi said that the school had not been in contact with him but he would be happy to work with them if they did raise concerns. Mr Edge added that the façade of the venue was very discreet and the business did not open until 9pm. The door staff were vigilant about activity on the street to ensure that the venue did not have an impact on other premises.

A member asked how customers were made aware of the prices of the venue. Mr Edge said that they would be spoken to by the doorman to ensure they understood the venue and then escorted to the bar. The customers were informed about the facilities by the house mum but prices, how to pay and how to get a receipt were all advertised within the club. Customers were asked to complete a form if they wanted to exceed a certain spend. Spending was also monitored and if it seemed that an individual was getting 'carried away' they would be spoken to by staff. It was not in the interest of the club to damage its reputation.

Mr Edge confirmed that Challenge 25 was a condition of the premises license and it was advertised within the premises. Under 18s were not admitted to the venue.

The chair asked if there was always someone in the venue with a knowledge of the CCTV system to ensure that disputes could be resolved. Mr Edge said that there were monitors in three locations – behind the bar, in the main office and at the door. There were three staff members who were trained in downloading the CCTV footage. The SIA trained staff would watch the monitor at the door, the manager on duty would watch in the office and the bar staff would be monitoring the screen behind the bar.

In response to a member's question on the relationship with other venue, Mr Edge said that Norwich was a small city so the club owners all knew each other well and would discuss legislation changes and any issues they had. The venues all attended Pubwatch meetings and worked together through their radio systems.

The chair asked how many incident reports had to be completed during the last full year of trading. Mr Edge said that there had been four incidents, two of which were for customers who had broken the code of conduct rules. They were given a polite but firm warning before being given a final warning and asked to leave. Mr Vladi was strict about the customer code of conduct and would not tolerate rules being broken. There was also a disciplinary policy for performers. This had only had to be used once, for a new performer, and was dealt with amicably to ensure they fully

understood the code of conduct. Performers were not to keep personal business cards from customers and should not make contact with customers outside of work.

Mr Vladi confirmed that if the performers did not reach a certain threshold of earnings for the evening they did not pay commission. This was to ensure that all performers took home earnings after each shift.

A member referred to item 20 on page 76 of the agenda papers which stated that performers would leave the venue in a taxi or be escorted to their car. Mr Edge said that the SIA trained staff would escort the performer to their own car or a taxi and ensure they had safely driven away to protect the welfare of the performers. IF the performer went outside for a smoking break, there were coats for them to wear in the staff area and they would have an SIA trained employee with them. Mr Vladi added that if the performer was taking a taxi, the staff would check they had received a text message from the driver and that they got into the right taxi.

In response to a member's question, Mr Vladi said that the private booths did not have panic buttons but it was a very small venue. Staff members were always nearby and the music was not played loudly.

The chair invited the applicants to make a final statement to the committee. Mr Edge said that Mr Vladi ran a very well managed premises with concerns for the welfare of all staff. Monthly meetings were held to ensure that the club remained an asset to the night-time economy with strong procedures and policies in place. The club carried out regular risk assessments on all aspects of work within the club to ensure it continued to run properly. The jobs of around fifty staff depended on the renewal of the licence.

(Mr Edge and Mr Vladi left the meeting at 14:20. The meeting was adjourned and the committee reconvened at 10:10 on Friday 29 January 2021 to hear the final application)

5. Application for the renewal of a Sex Establishment Licence – Lace

(Martyn Stokes, applicant, and Sarah LeFevre, Barrister for Lace were in attendance for this item).

The licensing team leader presented the report. She said that additional papers had been circulated the previous day and all present confirmed that they had read these. The legal advisor for the committee added that the committee could depart from policy if it was minded to. The committee would be considering each of the three applications on their own merits and would hear all three before any determinations were made. If the committee was minded to give significant weight to the number of licenses, it would be appropriate to consider sensitive locations which were set out at page 5 of the report.

The chair invited Sarah LeFevre, barrister representing Lace, to address the committee. Ms LeFevre said that the witness statement and CV for Mr Stokes which had both been circulated to the committee, showed that he had a lot of experience in the night time economy. Mr Stokes was seeking a renewal and a variation to his licence which would bring the licence in line with the other SEVs.

The premises had been in existence for many years and had a discreet entrance next to the bar that it was above and was well policed by door staff. The venue had not been open since March 2020 and it was a very difficult time for such businesses. The venue would re-open on the basis of proven policies which had resulted in a problem free venue. This was shown by the lack of objections from the responsible authorities.

Regarding the staffing at the venue, there was a DPS, the manager, the house mother, 3-4 security staff depending on the day of the week and 10-25 performers. This gave a ratio of 1:2 staff to customers which was incomparable to other kinds of licensed venues and offered protection to both staff and customers.

There was the recognition that the venue would need to 'start again' and rebuild staff and customer bases after the pandemic. When opening was permitted, the applicant would be cautious and ensure that the venue had been fully risk assessed. This information was not submitted as part of the application as it was difficult to forecast for reopening but it was recognised that there would be measures in place, even once the venue was open.

The required level of monitoring was achieved through the use of CCTV cameras and through the staff to performer ratio.

Ms LeFevre added that the applicant understood concerns of the committee but said that the density and proximity of venues had not changed, including proximity to a school, since the last renewal and the venue would respond to any concerns that were brought to it from nearby premises.

Mr Stokes read out his statement which had been circulated to members prior to the meeting and published as part of the late submission papers for the meeting.

The chair referred to page five of the policy and asked what the relationship between Lace and the list of venues was. Mr Stokes said that no venues on the list within the policy had reached out to the club or had concerns, but he was always open to a dialogue if needed. There was a good relationship with the bar underneath the venue and the nearby retail units.

By way of a follow up question, a member asked how the applicant would deal with concerns if they were raised by a nearby premises. Mr Stokes said that if he was approached by the school, he would have a dialogue and would implement measures to alleviate any concerns. The opening times of the venue meant that that it was not open when the school was open but he would work with them if necessary.

In response to a member's question about access for wheelchair users, Mr Stokes said that security staff helped disabled customer up the stairs as there was no lift. The furniture within the venue could also be moved to make it accessible.

A member asked whether the venue kept a log book of incidents and how many incidents had taken place in the last six months that the venue was open. Mr Stokes said that there had not been any incidents but there was a full reporting system in place. Anyone who had been ejected from the club would not be allowed back in at a later date. There were panic buttons at the main bar but not in the private booths as the ratio of staff to customers meant that these were not needed.

A member questioned whether the security staff were trained in dealing with the sensitive nature of such incidents. Mr Stokes said that the venue tried to use regular security staff as the venue was different to a usual bar or club. They also knew the policies of the venue. There would be a minimum of two security staff on a Thursday and three to four on a Friday and Saturday.

The chair asked how customers were informed of the services provided at the venue. Mr Stokes said that all customers were greeted by security staff and told the house rules. When the customer got to the pay desk, there was a price list, which was also available on the tables within the venue. Regarding commission, there performer needed to reach a set fee before paying commission to ensure that all performers went home with a wage, even on a quiet night.

A member asked what the process would be is a customer was spending too much money. Mr Stokes said that there was no benefit to the venue if a customer felt they had been taken advantage of. When a certain level of payment was reached, the manager would check it with the customer.

Regarding re-opening processes, Ms LeFevre said that as more information became available, measures would be considered. The management would be constantly engaged in risk assessments, especially around cleaning of the building.

Mr Stokes confirmed that performers were escorted to their car or taxi at the end of their shift and security would wait until they had safely driven off.

6. Application for the variation of a Sex Establishment Licence – Lace

The licensing team leader presented the report.

Mr Stokes said that the venue was looking to amend condition 10 of the SEV licence to bring it in line with the two other SEV venues in the area. Condition 10 read “Save for in Prince of Wales Road, neither the licensee or any employee or agent shall personally solicit custom for the sex establishment in the locality of the premises.” He said that there would be no explicit photographs on leaflets or drinks promotions.

A member asked how the applicant would ensure that the street was tidy of leaflets. Mr Stokes said that he would not want to be association with littering. The promoter would be asked to check each area they were working in to ensure no leaflets were on the street. Although the venue was close to other SEV venues, he would not impede on their areas when promoting Lace.

Ms LeFevre said that she hoped that through the renewal application, the committee found Mr Stokes to be a competent and thorough manager who was sensitive to the needs of everyone involved in the business.

(The meeting was adjourned at 12:00 for committee members and the legal advisor to the committee to deliberate. The committee reconvened at 16:00 to give the below determinations).

RESOLVED, with all members voting in favour, to:

- 1) Renew the sex establishment licence for Sugar and Spice with the following condition imposed 'A log will be kept of persons refused entry to the premises, or ejected from the premises, or given a formal warning by the premises management as to their behaviour whilst on the premises. This log will be kept in both digital and hard copy format and may be inspected by any police or local authority officer on request. The data will be held for a period of at least one year.'
- 2) Renew the sex establishment licence for Pure Gold, with the following condition imposed 'A log will be kept of persons refused entry to the premises, or ejected from the premises, or given a formal warning by the premises management as to their behaviour whilst on the premises. This log will be kept in both digital and hard copy format and may be inspected by any police or local authority officer on request. The data will be held for a period of at least one year'.
- 3) Renew the sex establishment licence for Lace with the following condition imposed 'A log will be kept of persons refused entry to the premises, or ejected from the premises, or given a formal warning by the premises management as to their behaviour whilst on the premises. This log will be kept in both digital and hard copy format and may be inspected by any police or local authority officer on request. The data will be held for a period of at least one year'.; and
- 4) Grant the variation to condition 10 in the sex establishment licence for Lace to read 'Save for in Prince of Wales Road, neither the licensee or any employee or agent shall personally solicit custom for the sex establishment in the locality of the premises.'

CHAIR

Report to Licensing committee
25 March 2021
Report of Environmental health and public protection manager
Subject HMO Licensing Policy

Item
5

Purpose

For members to consider consulting on a new draft HMO Licensing Policy, in respect of Houses of Multiple Occupation licensed under the Housing Act 2004.

Recommendation

That members resolve to authorise the Environmental health and public protection manager to consult on the draft HMO Licensing Policy.

Corporate and service priorities

The report helps to meet the corporate priorities of people living well and great neighbourhoods, housing and environment.

Financial implications

Costs of consultation and implementation of a new policy will be met from existing budgets.

Ward/s: All Wards

Cabinet member: Councillor Jones - Safer, stronger neighbourhoods

Contact officers: Tony Shearman, Public protection manager 01603 989567

Background documents: None

Report

1. A House in Multiple Occupation is commonly referred to as an HMO. There are approximately 3,000 HMOs in Norwich but only certain properties are required to be licensed under the national mandatory scheme.
2. An HMO is defined under sections 254 and 257 of the Housing Act 2004. A HMO can be a building or part of a building if it is:
 - occupied by persons who form more than one household and where those persons share (or lack) one or more basic amenity, such as a toilet, bathroom and cooking facilities
 - a converted building containing one or more units of accommodation that do not consist entirely of self-contained flats. (There is no requirement that the occupiers share facilities).
 - a converted building consisting entirely of self-contained flats, where the building work undertaken in connection with the conversion did not comply with the 1991 Building Regulations and more than one third of the flats are occupied under short tenancies.
3. Part 2 of the Housing Act 2004 requires Norwich City Council to license certain HMOs in the private rented sector. Licensing was introduced in April 2006 in response to growing national concern regarding the condition and management of the private rented sector, particularly larger HMOs. In October 2018, the definition of HMO requiring a licence was extended by the Secretary of State to include all HMOs with five or more occupants.
4. Licensing is intended to make sure that:
 - HMOs are managed by a 'fit and proper' person.
 - each HMO is suitable for the number occupants living in the building
 - the management of the HMO (including repairs, amenities, health and safety) is satisfactory
 - high risk HMOs can be identified and targeted for improvement.
5. Norwich city council has published a significant amount of information regarding HMO Licensing on the website [here](#), but this has never been consolidated into a policy document.
6. There is no specific requirement under the legislation for a local authority to adopt a policy, however it is considered appropriate to do so to enable the council to:-
 - Set out its approach for the benefit of operators
 - Guide and reassure the public and other public authorities
 - Ensure transparency
 - Ensure consistency
7. A draft policy has been prepared and is attached at Appendix A for members to consider authorisation for public consultation.
8. The legislation does not provide for any statutory consultees that must be consulted. It is proposed to consult with the following:-

- Chief Officer of Police
 - Existing licence holders
 - Trade organisations
 - One or more persons who appear to the authority to represent the interests of persons operating Houses of Multiple Occupation
 - One or more persons who appear to the authority to represent the interests of persons likely to be affected by the exercise of the authorities licensing functions under the Housing Act 2004
9. The draft policy mainly reflects the current practices of HMO Licensing administration and inspection of properties. However there are 2 main departures from current practice that should be brought to members' attention.
- Term of licence changed from 1 year to 5 years
 - Commitment to inspect applicant property before granting an initial licence

Term of licence

10. The Housing Act 2004 allows for licences to be granted for up to 5 years. Prior to 2018, Norwich city council issued HMO licenses for the full 5 year term. At that time there were approx. 170 licenced properties. 5 year licences were then, and still are, the default position for the majority of local authorities.
11. In 2018 the regulations changed meaning that a wider group of properties were encompassed within the licensing regime, raising the number of currently identified properties requiring licensing to approx. 900.
12. At the same time a decision was reached to alter the licence term from 5 years down to 1 year. With the increase in the number of applications now being received and renewed on an annual basis, this has created an unmanageable and unnecessary administrative burden.

Inspection prior to issuing a licence

13. The council has a legal duty to ensure that properties are free from hazards and are suitable for the number of occupants - in most cases this will require at least one inspection. Norwich City council's current commitment to inspecting licensed properties is only to undertake an inspection within 5 years of the initial grant of a licence.
14. A commitment to inspecting prior to the initial grant of a licence, and again during the period of the licence, ensures that a proposed licensed premises is suitable for occupation before a decision is made, and remains so for the term of the licence if granted.
15. An initial inspection will also serve to ensure that any conditions necessary to be applied to the licence, can be properly informed and discussed with the property owner or manager prior to finalising the licence, thus cutting down on later administrative burden and possible appeals.
16. This initial inspection may also provide evidence that a shorter term licence is appropriate due to the specific circumstances of the property.

Conclusion

17. The latest draft policy is attached at Appendix A for committee approval prior to consultation. Following on from formal consultation, this policy will return to Licensing committee for final approval.
18. Following formal adoption, the policy will remain in force for a five year period after which it should be reviewed and formally adopted for a further five year period, and so on.
19. During its five year period, the licensing authority can make such revisions to their policy, at such times as considered appropriate, following a further consultation exercise.



NORWICH
City Council

HMO Licensing Policy

DRAFT

Adopted **????** 2021

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Introduction

Under Part 2 of the Housing Act 2004 there are two types of licensing schemes that relate to Houses in Multiple Occupation (HMOs), the national Mandatory HMO Licensing scheme and Additional Licensing of HMOs.

Under the national Mandatory HMO Licensing scheme all properties that meet the following criteria will require a mandatory HMO licence:

- Is occupied by five or more persons;
- Is occupied by persons living in two or more separate households; and meets—
- The standard test under section 254(2) of the Act;
- The self-contained flat test under section 254(3) of the Act but is not a purpose-built flat situated in a block comprising three or more self-contained flats; or
- The converted building test under section 254(4) of the Act.

Additional Licensing of HMOs covers those HMOs that are not licensed under the Mandatory Scheme but where the Council has used its power to designate areas of the city subject to Additional Licensing of HMOs.

This document sets out the structure of the scheme and the fees and charges and criteria Norwich city council will apply to all licences in relation to the Mandatory HMO Licensing schemes.

HMO Licensing in Norwich

Norwich city council has a responsibility under Section 55 of the Housing Act 2004 to secure the licensing of all Mandatory HMOs and has been implementing its scheme in response to this duty since 2006.

Norwich city council does not currently undertake any Additional Licensing

The HMO Licensing scheme in operation in Norwich therefore covers only mandatory licensable HMOs and all licence applications are to be accompanied with a fee determined by the Council. Once a licence is issued it is not transferable.

The Council has exercised its powers to charge under Section 63(3) and (7) of the Housing Act 2004 and does so taking into account the Provision of Services Regulations 2009, which themselves implement the EU Services Directive.

Under Part 2 of the Housing Act 2004, an HMO is required to be licensed unless:

- a temporary exemption notice is in force in relation to it under section 62, or
- an interim or final management order is in force in relation to it under Chapter 1 of Part 4.

The Council must take all reasonable steps to secure that applications for licences are made to them in respect of HMOs in their area which are required to be licensed under this Part but are not.

Legislation

Below is the key legislation covering housing related licensing:

- Housing Act 2004
 - Main provision for licencing - set out under Parts 2 & 3.
 - Provisions to allow Local Housing Authorities (LHA) to charge for administering licensing under Parts 2 & 3.
 - Definition of a House in Multiple Occupation (HMO)
- Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018
 - Amendment of the definition of an HMO required to be licenced (effective as of 1st October 2018).
- Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- Licensing of Housing in Multiple Occupation (Mandatory Conditions of Licences)(England) Regulations 2018
- Management of Houses of Multiple Occupation (England) Regulations 2006
- Housing, Health & Safety Rating System Enforcement (England) Regulations 2005
- Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012

Consultation and adoption of policy

The Housing Act 2004 and other associated HMO licensing regulations do not set out a formal process or list of statutory consultees for adoption of a policy.

Before adopting a policy the Council will consult with the following:-

- Chief Officer of Police
- Existing licence holders
- Trade organisations
- One or more persons who appear to the authority to represent the interests of persons operating Houses in Multiple Occupation,
- One or more persons who appear to the authority to represent the interests of persons likely to be affected by the exercise of the authorities licensing functions under the Housing Act 2004, such as the National Residential Landlords Association

Prior to formal adoption of the Policy consultation responses will be reviewed by the Licensing Committee.

This Policy was formally adopted at a meeting of the Licensing Committee on **(date)**

The Policy will be reviewed after 5 years, or sooner if necessary.

Interaction with other regulation, policies and strategies

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for the council to act in a way that is incompatible with a convention right.

Particular regard will be given to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 that everyone has the right to respect for their home and private life, and
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence.

In addition to the requirements of the council to promote the licensing objectives, there is a statutory duty under the Equality Act 2010 to:

- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between different communities.
- Eliminate discrimination, harassment and victimisation, which are all prohibited conduct in the Equality Act 2010.

So far as possible, the council will avoid duplication with other regulatory regimes, and will not use its powers under the Housing Act 2004 and associated licensing regulations to achieve outcomes that can be achieved by other legislation and other enforcement agencies.

In particular, the council's licensing functions will be discharged separately from its functions as the local planning authority.

The council's planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for HMO licences should normally be from operators with relevant consents for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. It should be noted that licensing decisions are not bound by decisions made by a planning committee, and vice versa.

The granting of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate. Premises operating in breach of their planning permission may be liable to prosecution under planning law.

If other statutory requirements apply to the operation of a licenced property, the licence holder is responsible for complying with these. It is not a requirement of any licence decision to address other regulatory matter, it is necessary for the licensee to conform with all relevant legislation.

Licence Fees

Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 is accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.

In developing its fee structure the Council has had regard to the European Court of Justice ruling in *R (Hemming) V Westminster City Council* (Case C-316/15) and the High Court decision in *R (Gaskin) v LB Richmond Upon Thames* (2018) EWHC 1996 (Admin) which held that the EU's Provision of Services Directive, which is enshrined in UK law as the Provision of Services Regulations 2009 should apply to property licensing fees and the processes involved in implementing and delivering such schemes.

The Services Directive in particular should be interpreted as precluding charging in advance for costs other than those directly related to the authorisation process of the scheme. In other words, the Council is not permitted to demand fees in advance for anything other than the costs of administering the application for a licence even if it makes it clear that unsuccessful applicants are provided with a refund of the remaining part of the fee. The Council may legitimately recover its wider costs, over and above those relating to the administration of applications, but this should be at the point at which the Council has determined that a licence is to be granted.

The judgements in Hemming and Gaskin, which require the overall licence fee to be paid in two stages, has therefore had the effect that the fee for a licence under Part 2 of the 2004 Act must be levied in two separate parts.

The Council is not allowed to demand fees in the Stage 1 process for anything other than the costs of administering and processing the application for a licence. Furthermore, this element of the fee is non-refundable should the application be unsuccessful.

In the case of Stage 2 payments these can only be requested if the initial application is successful and will be charged to cover the costs of running and enforcing the scheme.

As such the Council, when setting its fees, has adopted the two-stage approach. Fees and charges will be reviewed and set on an annual basis by the Head of Planning and Regulatory Services, and will be published on the Norwich city council website.

Under Section 67 (5) of the Housing Act 2004 the Council has the power to impose a restriction/ obligation on a particular person. In accordance with this power the Council will require the licence holders consent to pay the Stage 2 fee in advance of the licence being issued, this will be required as part of the application process.

In addition, the Council will attach a condition to all HMO licences requiring this obligation to be met i.e. to pay the Stage 2 fee. This approach is consistent with that set out in the Hemming case.

Failure to make the Stage 2 payment will result in the Council taking action through, either the revocation or refusal of the licence or by enforcing the non-compliance of the licence condition associated with the making of the Stage 2 payment.

The licence fees include the average costs of administering applications and inspection of the HMO before a licence is issued and/or during the period of the licence, where applicable. If hazards, management failures or failures to comply with any licence conditions are identified during the licensing inspection the cost of any follow-up work by the council will not be included in the licence fee. This is because there are other ways for us to recover our costs directly from the landlord of a non-compliant HMO, without passing that cost to all licence holders.

Making an application and communication

The primary communication medium for the application will be assumed to be electronic unless alternative prior arrangements are made.

Application forms will be available and completed via the Norwich city council website, and applicants must provide an email address and telephone number to facilitate ongoing communication. All necessary documentation needed to support the application should be submitted in an electronic format, and licences/draft licences will be also sent electronically.

Printed copies of licences etc. can be provided upon specific request.

Licence Criteria

A valid application will include:

- An application form and all supporting information submitted including details of the following:-
 - The proposed licence holder
 - The proposed manager
 - Bank or mortgage company if there is an existing mortgage on the property
 - Any additional owners or any other interested parties details
 - A layout plan of each floor of the property¹
 - The property itself including
 - the extent of any existing fire precautions
 - the types of soft furnishings
 - the number and type of each room (e.g. how many bedrooms)
 - the size of habitable rooms
 - the number of occupants
 - The number and type of amenities (e.g. baths, cookers etc.)
 - The energy rating of the house, where applicable, (from the energy performance certificate) and type of heating
 - Servicing information and safety certification for gas appliances, the electrical installation and the fire detection system
- Payment
- Signed declaration returned

Once a valid application is received the Council will assess each application on its own merits against relevant criteria. The Council has discretion to offer any length of licence it considers appropriate, up to a maximum of 5 years.

¹ This will only apply to certain properties where specifically requested by the Licensing Team

Processing the application

Under the Housing Act 2004 the Council can either grant or refuse a licence. In determining whether to grant or refuse a licence the Council must satisfy itself of the following:

- That the property is reasonably suitable for occupation by a maximum number of people; and

- That the proposed licence holder and manager of the HMO is a fit and proper person and the most appropriate person to hold the licence; and
- That there are satisfactory management arrangements in place or that such arrangements can be put in place by the imposition of conditions in the licence.
- That no banning order under section 16 of the Housing and Planning Act 2016 is in force against a person who— (i) owns an estate or interest in the house or part of it, and (ii) is a lessor or licensor of the house or part of it.

Tests for fitness etc. and satisfactory management arrangements.

Norwich city council must be satisfied that “the proposed management arrangements are satisfactory” before granting an HMO licence. Those arrangements include (but are not limited to) consideration of whether:

- the persons proposed to be involved in the management of the premises has a sufficient level of competence to be involved;
- the persons proposed to be involved with the management of the premises are actually involved in the management
- those persons are ‘fit and proper’, and
- the proposed management structures and funding arrangements are suitable.

If there are concerns about the competencies and structures in place to manage the HMO then conditions can be imposed on the licence to ensure that the necessary arrangements are in place. However, if such conditions will still not be possible or practical to impose then it may be necessary to refuse to grant a licence.

It is for a Council to determine whether a person has sufficient competence to be involved in the management of HMOs and, of course, the level of competence required will in some measure be determined by the complexity of the management challenges posed. The Council will, therefore, be looking at the applicant’s experience and track record of managing HMOs and, in particular where he/she is the existing manager, the premises to which the application relates. In some cases landlords who belong to a recognised trade association or are members of an accreditation scheme may be regarded as having the necessary competence to be involved in the management of the premises because, at least such organisations can be called upon for advice and assistance where necessary.

The management structures must be such that the manager is able to comply with any licence conditions and deal with the day to day operation management issues that arise as well as being able to deal with longer term management issues. In considering whether the structures are appropriate the Council may take account of the following:

- evidence as to whether the systems in place are sufficient to enable the manager to comply with any condition of a licence or if such systems can be put in place through a condition of a licence to ensure compliance;
- evidence of the systems for dealing with:
 - emergency repairs and other issues
 - routine repairs and maintenance to the premises and its curtilage
 - cyclical maintenance
 - management and the provision of services (if any) to the building and its curtilage

- management of tenancies or occupants
- management of the behaviour of tenants, occupants and their visitors to the premises
- neighbourhood issues (including disputes)
- evidence of structures for engagement with the local authority, police and other agencies, where appropriate

In order to be able to demonstrate much of the above evidence it is likely that the manager will need to operate within a reasonable proximity to the HMO, so that he/ she can attend to matters promptly and retain an overview on the condition of the premises and the management of the tenancies.

The Council must also be satisfied that the financial arrangements relating to the HMO are suitable. In that regard the manager must be sufficiently funded or have access to funding to carry out his obligations under the licence and his/her general management functions.

Norwich city council can vary or revoke a licence at any time during the licence period if there is sufficient evidence to support these decisions. Unannounced visits of licensed properties may therefore be undertaken during the licence period to check for compliance with the licensing and management regimes which apply. This is consistent with the powers provided under Section 239 of the Housing Act 2004.

Breach of any such legislation is a strict offence for which further action will be taken. The Housing, Health and Safety Rating System (HHSRS) also applies to rented properties and (if appropriate) remedial works can be enforced via The Housing Act 2004, which will be separate to the powers provided under the licensing scheme.

The Fit and Proper Test

In deciding to grant a licence Norwich city council must be satisfied that the proposed licence holder “is a fit and proper person to be the licence holder ...” and that “the proposed manager of the house is a fit and proper person to be the manager of the house ...”

This requirement is to ensure that those responsible for operating the licence and managing the HMO are of sufficient integrity and good character to be involved in the management of the particular residential premises to which the application relates and as such they do not pose a risk to the health, safety or welfare of persons occupying and visiting the HMO.

When considering whether a person is ‘fit and proper’ Norwich city council will have regard to any wrong doings of the relevant person concerned. This is evidence that the person has:

- committed any offence involving fraud or other dishonesty, violence or drugs and certain types of sexual offences;
- practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability, in connection with the carrying out of business;
- contravened any provision of housing or landlord and tenant law; or
- acted otherwise than in accordance with an approved code of practice.

The above list is not exhaustive, and Norwich city council can and will consider whether a relevant person has committed other relevant wrong doings, for example, discrimination under Regulation 5 of the Equality Act (Sexual Orientation) Regulations 2007. A relevant

person will not be deemed unfit, simply because of poor management, although this is highly relevant to determining any question of suitability or competence.

Norwich city council do not adopt a blanket policy with its consideration of factors under a fit and proper person test. Each case will be considered on its own merits and regard will be had to information provided / omitted from an application form; historical information already held by Norwich city council relating to the premises and / or any relevant person connected with the licence application.

In an application for a licence the applicant must provide details of the following in relation to him/herself and the proposed manager (if the applicant is not to be the licence holder):-

- unspent convictions;
- any findings of a court/tribunal that the person has practised unlawful discrimination;
- any judgement entered against that person in relation to a contravention of housing or landlord and tenant law (and, in so far it relates to the housing or landlord and tenant law, any contravention of any enactment relating to public or environmental health);
- any control order made in respect of any HMO under his/her management or ownership (and in respect of any former HMO he/she owned or managed);
- any enforcement action in respect of any house or HMO under his/her management or ownership (and any former HMO or house he/she owned or managed) under the housing health and safety rating system in Part 1 of the Housing Act 2004 so far as that enforcement action related to a category one hazard;
- details of any refusal to grant a licence, or details of the revocation of a licence granted for non-compliance of a condition or conditions in respect of any house or HMO under his/her management or ownership (and in relation to any former HMO or house he owned or managed);and
- details of any interim or final management orders made by an LHA in respect of any house or HMO under his management (and in respect of any former HMO or house he owned or managed).

An applicant for a licence must disclose any wrong doings which relate to themselves, the proposed manager and any other relevant person, if any. Norwich city council should therefore have sufficient information to decide a person's fitness based on the application.

If Norwich city council are not satisfied that it has sufficient information (being that supplied in connection with the application) to make a determination, it may require the applicant to provide further details and / or undertake their own further enquiries with other relevant Council departments and external bodies as it deems necessary, including for example a Standard Disclosure & Barring Service checks (DBS check), provided at the applicants expense.

The completion and signing of the Licence application form will be taken as an agreement to any such action and the sharing of information between other Local Authorities for all relevant persons associated with the property and application.

Checks may also be made internally with other Council departments such as Licensing, Trading Standards, Planning, Building Control, Council Tax and Housing Benefit.

Norwich city council are also able to request information on criminal convictions, and although this is not undertaken as a matter of routine a DBS check will be requested where there is sufficient evidence that this is necessary. A DBS check may also be requested for

the purposes of officer safety during the course of the licensing application should this also be considered necessary.

Such reasons for requiring a DBS check may include that:

- Norwich city council have evidence of a history of complaints or problems with the landlord (which in themselves might not amount to 'evidence' of unfitness to meet the test), but further investigation may be required;
- the applicant has been evasive or untruthful in their application for a licence;
- the applicant, or proposed manager, is unknown to Norwich city council and has not demonstrated any history or competence of managing HMOs or other private rented properties;
- Norwich city council has reasonable grounds to suspect that the applicant, or the proposed manager, has committed an offence which is relevant to the determination of any question of his/her fitness; or
- The premises provide accommodation mainly to vulnerable persons. In deciding whether a misdemeanour (including a criminal offence) is relevant to the determination of a person's fitness a Council may wish to consider the following factors:
 - the relevance of the misdemeanour(s) in relation to the person's character and integrity to manage residential premises and in particular the type of premises to which the licence relates;
 - the seriousness of the misdemeanour(s) in terms of impact, or potential impact, upon the residents and the wider community, including if more than one misdemeanour has been carried out the cumulative impact;
 - the length of time since any misdemeanour; and
 - any mitigating circumstances.

Consideration of 'Persons Associated or Formerly Associated' with the Proposed Licence Holder or Manager.

If there is evidence that a person associated, or formally associated, with the person proposed to be the licence holder or manager of the HMO, has committed any wrong doings, that evidence may be taken into account in determining the proposed licence holder's or manager's fitness (even if that person has himself or herself an unblemished record).

The purpose of this requirement is to ensure that only fit and proper persons hold licences or are in any way involved in the management of licensed HMOs. It would not be appropriate for a licence to be granted to someone, or for someone to be the manager of a property, if that person was merely acting as a 'front' for someone else who, if he or she were not unfit, would be entitled to be the manager or licence holder.

An example might be that of a husband and wife, where the husband is the landlord (or indeed both he and his partner are joint landlords), but only the wife has applied for the licence. If there is evidence that the husband has committed wrong doings and those wrong doings are relevant to the wife's management of the property or licence, then the Council may refuse to grant her a licence.

Likewise, if a landlord with an unsatisfactory record nominated a "manager" who had a clean record but had acted for him whilst the wrong doings were committed, Norwich city council may consider the managing agent by association to be unfit too.

Amenity standards and licence conditions

All licensed Houses in Multiple Occupation need to be supplied with amenities such as heating, insulation, kitchen facilities, washing facilities and toilets. The number and type of amenities depend on the type and size of the house.

In considering an application for a licence the Council must be satisfied that the property is reasonably suitable for occupation by the number proposing to live there. Some standards are prescribed in the Licensing and Management of Houses in Multiple Occupation (Miscellaneous Provisions) (England) Regulations 2006(SI2006/373).

Minimum room sizes are also set out in The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.

The Council also has power to specify other standards and these are laid out in the Private Sector Housing Amenity Standards document attached at Appendix A.

This document outlines those standards which should be interpreted as guidance to landlords as to what the local authority is likely to consider reasonable taking account of property type and layout. It should also be noted that a Local Authority may consider, in certain justified circumstances that a higher standard than specified in this guidance is required and landlords are advised to discuss their specific property with council officers prior to carrying out alterations.

Licences will be issued with all relevant mandatory conditions set out in the Housing Act 2004 and associated regulations, as well as conditions chosen on a case-by-case basis to ensure wellbeing and protection of occupiers. As well as the amenity standards attached at Appendix A, Norwich city council also provides guidance on fire precautions and further details are available on our website.

Issuing a licence

All new HMOs subject to licensing will be inspected prior to the issuing of a draft licence, to ensure that the HMO is reasonably suitable for occupation by the number of people being requested on the licence application, and to ensure that there are satisfactory management arrangements are in place.

Properties requiring a renewal of a licence may also need inspecting prior to the issuing a draft licence, where there has not been a recent inspection during the period of the previous licence, or there are outstanding concerns or compliance matters requiring addressing.

All HMOs will also remain subject to further inspections during the lifetime of the licence to check compliance with licence conditions, management responsibilities and minimum standards. Frequency of inspection will be driven by a risk assessment of all the data relevant to the property and/or licence holder/manager.

In certain cases, the Council may decide to carry out such inspections without prior notice being given to the owner, licence holder and /or manager. This is consistent with the powers set out in Section 239 of the Housing Act 2004.

Failing to comply with any conditions on a licence is an offence under Section 72(3) of the Housing Act 2004 and, if found guilty the licence holder could face a prosecution or issued with a Civil Penalty of up to £30,000.

Where the inspection has been pre-arranged then licence holders, or applicants where applicable, will be required to provide access to all rooms in the HMO at a suitably arranged appointment.

All contact with the licence holder and relevant person(s) will be made using the contact information provided by the applicant on the original application. Accordingly, it is the licence holder's responsibility to ensure that all contact details are up to date and you must notify Norwich city council of any change in details. The council will not be held responsible for any delay in communication if it is as a result of any contact information changing.

A draft licence with conditions will be issued based on the findings from this inspection. The draft licence will be mailed or emailed to all relevant persons and other interested parties for consultation.

The relevant persons will have an opportunity to make any representations and these must contain all the relevant information to be considered by the authority. No further opportunities will be extended to add to, or make further representations.

Representations must be submitted to the HMO Licensing Team within 21 days of the date the draft licence is sent. Representations received outside of this period will not be considered.

Representations will be considered by a suitably qualified/experienced member of the licensing team, their decision will be final.

When this process is complete a full licence with the conditions will be issued. Again, copies will be sent to all interested parties.

If the licence holder is still dissatisfied with the conditions or terms of the licence, they will have an opportunity to appeal to the First-tier Property Tribunal. The details of how this appeal can be made will be provided with the Licence.

Renewal Applications

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012 set out amendments to "renewal applications", which reduces the burden on landlords applying for the renewal of a licence.

In the case of renewal applications an applicant must provide a complete application form and sign the declarations provided.

It is important to note that the regulations define a "renewal application" as "an application for a licence under section 63 of the Act where, at the time the application is made a licence of

the kind applied for is already held by the applicant and has effect in respect of the HMO or house”.

The effect of this part of the Regulations is that in order for the Council to treat any application as a “renewal” the application must be made during the active period of the current licence. If a renewal application is received after expiry of the previous licence, then the application will be treated as refused and a new licence application will need to be submitted, along with the appropriate fee.

It is important to note that it is the licence holders responsibility to apply to renew the licence at the appropriate time. Norwich city council may send reminders prior to the expiry of any current licence, but these should not be relied upon to prompt a timely application.

Revocation or Variation of a Licence

If circumstances regarding the HMO change during the licence period, the licence holder must notify Norwich city council directly so the licence can be re-assessed and varied if the HMO is considered suitable to accommodate the variation request.

The types of change requiring a variation to the licence would be:-

- there is a change in the number of kitchens (including bedsits) or bathrooms provided
- there is a change to the design or layout of the property
- there is a change of management or ownership
- there is a change of mortgage provider.

Similarly, if the HMO is no longer going to be occupied as an HMO or the licence holder changes, then the licence holder must make an application for the licence to be revoked. Any remaining period of the licence will be forfeited and there will be no right to refund of the original payment.

Where there is a change of licence holder, there is no facility to transfer the licence to another party. A new licence application must be submitted, and the old licence revoked.

As well as voluntary revocation set out above, The Housing Act 2004, s. 70 and 70A also set out other circumstances where the council may take action to revoke a licence. This action falls mainly into 2 categories:-

- Circumstances relating to licence holder or other person, such as:-
 - where the authority consider that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition;
 - where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and
 - where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.
 - Where a banning order is made under section 16 of the Housing and Planning Act 2016 against the licence holder, or a person who— (i) owns an estate or

interest in the house or part of it, and (ii) is a lessor or licensor of the house or part of it.

- Circumstances relating to HMO concerned, such as:-
 - where the authority consider at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the HMO, refuse to grant a new licence to the licence holder on similar terms in respect of it.

Licence Period

Generally, HMO licences would be granted for 5 years. However, the licence period may be reduced in certain circumstances. The following is a list of matters that may be taken into consideration when determining the period for which an HMO licence is granted. This list is not exhaustive and the likely reduction in licence length is indicative. Each case will be considered on its own merits.

Example	Likely reduction
Failure to comply with previous/current HMO licence conditions	2 years
Failure to comply with Planning requirements	1 year
Council tax payments not up-to-date	2 years
Failure to comply with HMO management regulations	2 years
History of substantiated complaints in respect of the property	2 years
Failure to apply voluntarily for licence	3 years
Non-compliance with Building Regulations	2 years
Previous failure to provide up-to-date certificates on time	2 years
No provision of written tenancy or licence agreements	2 years
The existence of significant hazards within the dwelling	3 years

Fire Risk Assessments for Licensed HMOs

Having a fire risk assessment for certain classes of licensed HMO is a legal requirement under the Regulatory Reform (Fire Safety) Order 2005, which is enforced by Norfolk Fire and Rescue Service.

The duty is placed on the 'responsible person' who could be the landlord/licence holder or an agent with full management control. The assessment must be 'suitable and sufficient', and assistance from an appropriately competent person should be sought as necessary to achieve this.

The Council will accept a signed self-certification forms declaring that a suitable and sufficient fire risk assessment is in place for the HMO, however the Council may request and audit the fire risk assessment, where applicable, and other records at any time during the lifetime of the licence, and may be requested during an inspection of the premises prior to determining an application. If any documents requested cannot be provided within 7 days of the request, the Council may revoke the licence.

The acceptance of a fire risk assessment/self-declaration does not protect the responsible person from any action required by Norfolk Fire and Rescue Service.

Further information and guidance on completing a fire risk assessment is available from the Chief Fire Officers Association and the Gov.uk website.

Decision Making - Delegation of Authority

All decisions regarding the grant, refusal, modification and revocation of HMO licences delegated to the post of Public Protection Manager, or any subsequent post fulfilling the responsibilities of managing the HMO licensing function.

Will Tacit Consent Apply?

In deciding whether tacit consent applies the Council has taken into consideration the recent High Court decision in the case of R(Gaskin) v Richmond LBC [2018] EWHC 1996 (Admin). The Gaskin case says that the Provision of Services Directive applies to licensing schemes in full and that regulators should set out how long it will take to carry out a licensing approval process and if they do not meet that timeline then approval (tacit consent) should happen automatically.

Upon receiving a valid application, the Council will aim to provide a decision as soon as is reasonably practicable, however each case will require different processes to be completed before issuing you with a decision. This could therefore extend the time it takes to process your application.

It is therefore the Council's aim to process all valid applications and provide the relevant persons with a decision within 20 weeks of receipt. This will require the full co-operation of the applicant with the Council's requirements for determining a licence application.

If a decision about a licence application has not been received after this period, then tacit approval will apply from the date the application was made. It is therefore lawful for a property to operate as a licensable HMO.

As mentioned the target completion period for issuing a decision and a licence is subject to many factors and as such applicants should check with the Council on the status of their application. By the Council setting out and displaying publicly their licensing processing time, the Council considers this will instil confidence in local landlords and help to keep them informed about the process.

Although there are offences defined within the Housing Act 2004 of operating an unlicensed HMO that is required to be licensed, there is a defence against enforcement action provided that a valid application has been made to the licensing authority, meaning that a property may continue to be occupied whilst an application is considered.

Public Registers

A register of HMO licences is available on the Norwich city council website. Full details are also available by request to the HMO Licensing Team.

Appeals

If an application for an HMO Licence is refused, or the terms of a licence granted are disputed, there is a right to appeal this decision within 28 days to the First-tier Tribunal (Property Chamber - Residential Property). The details of this will be provided with the relevant documentation relating to the refusal or granting of the licence.

DRAFT



October 2018

Private Sector Housing

Amenity Standards



NORWICH
City Council

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1. Introduction

All licensed Houses in Multiple Occupation (HMO) need to be supplied with amenities such as heating, insulation, kitchen facilities, washing facilities and toilets.

The number and type of amenities depend on the type and size of the house.

This document contains the minimum standards required in all HMOs licensed by Norwich City Council. They form part of the licence conditions and should also be used by landlords and letting/managing agents as a guide to amenities provided in all other non-licensed HMOs, particularly those registered with the Property Registration Scheme Norwich (PRSN).

All dwellings may be subject to an assessment using the Housing Health and Safety Rating System (HHSRS) under Part I Housing Act 2004. As a result, it is possible that there will be additional requirements.

2. Definitions:

- House in Multiple Occupation (HMO) – as defined in the Housing Act 2004 section 254.
- Unit of accommodation – A living area occupied by one household eg a bedsit.
- Licensed HMO – An HMO which requires a licence under the Housing Act 2004 part 3.

3. Heating

3.0 Each unit of living accommodation must be equipped with an adequate means of space heating. The heating system must be of appropriate design and layout to heat the whole of the house adequately and efficiently.

3.1 All habitable rooms and bathrooms must be provided with a fixed heating appliance in a suitable position. The heating must be capable of maintaining a room temperature of 21°C even when the outside temperature is -1°C.

3.2 Heating must be available at all times and be under the control of the occupier. If the heating system is controlled from a central location the system must be provided with controls to allow each occupant to regulate the temperature in their unit of accommodation.

3.3 Suitable methods of heating are:

a) central heating

b) electric storage heaters. These must be a fixed installation and capable of being run on economy tariffs with minimum standards of auto charge control in accordance with Building Regulations Part LI and manual back up.

c) fixed gas heaters connected to a suitable flue and terminal outlet.

3.4 Portable heating appliances must not be provided as the main form of heating.

3.5 Any portable electrical appliance provided by the landlord must be PAT tested every 12 months. A certificate showing the results of the test must be made available to the council on request.

a) Portable heating appliances using either paraffin oil or LPG (bottled gas) must not be provided by the landlord.

3.6 The heating system must be safely and properly installed and must be maintained by a suitably qualified person.

4. Insulation and draught proofing

- 4.0** The house must be adequately insulated in order for the tenant to heat the room to an adequate temperature without excessive cost.
- 4.1** Where there is a loft there must be a minimum 270mm of loft insulation or equivalent.
- 4.2** Cavity walls must be filled (except in flats where the leaseholder is unable to insulate).
- 4.3** Attic rooms and dormer windows must be insulated to a standard equivalent to the minimum energy efficiency values set out in approved document L1B. If the current insulation does not meet this standard then additional insulation must be fitted. Care should be taken not to block any ventilation at the edges (eaves).
- 4.4** The house must be draught free and, where necessary, have draught proofing to prevent excessive draughts. This includes draught proofing of windows, doors and floors. Care must be taken where gas appliances are installed. The correct ventilation must be provided for gas use.
- 4.5** In houses of solid brick construction the external brick walls must be insulated. Where plaster and render is stripped from solid external walls the walls should be boarded with insulated dry lining board to meet the requirements of Part L1B of the Building Regulations (or an alternative agreed with building control) before finishing with a smooth skim coat of plaster. In some instances this is not possible. All bedrooms and living rooms where wall insulation is not possible must have a heating source with the capacity to ensure that the

room can be effectively heated and must be fitted with double glazing.

5. Ventilation and damp

- 5.0** There must be means to provide low level background ventilation without excessive draughts.
- 5.1** Each habitable room must have a window which is in good repair and is capable of being opened and shut.
- 5.2** Kitchens, toilets and bathrooms must have mechanical extractor fans. The mechanical extraction rate in bathrooms and toilets must be a minimum of 15 litres per second and in kitchens a minimum rate of 30 l/s (where adjacent to cookers – 60l/s everywhere else in a kitchen).

6. Bathroom facilities

- 6.0** Bathroom facilities must be available within 2 floors of each bedroom. Communal facilities must be accessible from communal areas. All facilities must be inside the building.
- 6.1** The number of facilities must be provided in accordance with the following table:
- 6.2** Minimum standards for bathroom facilities.
- a)** All baths, toilets and wash hand basins must have a smooth and impervious surface and be easy to clean.
 - b)** Each bathroom must either have a bath or a shower.
 - c)** All baths, showers and wash hand basins must provide an adequate supply of both hot and cold water. Hot water may be provided by any of the following methods:

- i. piped from a boiler
- ii. an immersion heater
- iii. a fixed gas appliance (eg a multipoint)
- iv. an instantaneous heater (only to basins and electric showers).

d) Bathrooms should be adequately heated, insulated and draught free.

e) Bathrooms and toilet compartments must have adequate ventilation. Mechanical extraction must be provided (in addition to a window to the outside air) at a minimum extraction rate of 15 litres per second.

f) If the toilet is in a separate compartment there must be a wash hand basin in the compartment.

g) The splash backs to baths, wash hand basins and sinks must extend

to at least the width of the basin or bath. All joints must be sealed and watertight. All tiling must be fixed with waterproof adhesive and joints filled with waterproof grouting.

h) In showers the tiling or splash back must extend above the head of the shower. Where a shower screen is used the tiling/splash back must extend to the edge of a fixed shower screen. Where a shower curtain is used, the tiling should extend beyond the curtain.

i) Bathroom fittings and the water supply must be installed in compliance with Building Regulations: Approved Documents G and appropriate British Standards.

j) Drainage to bathroom and toilet fittings must be installed in compliance with Building Regulations: Approved Document H and appropriate British Standards.

Washing facilities	
Provision of amenities for the number of people	
1-4 people	At least <ul style="list-style-type: none"> • one fixed bath or shower and • a toilet with wash hand basin The toilet may be located separately or may be in the bathroom
5 people	At least <ul style="list-style-type: none"> • one fixed bath or shower and • one separate toilet with a wash hand basin. This is so there is a toilet available for the occupiers when the bathroom is in use.
6-10 people	At least <ul style="list-style-type: none"> • two fixed baths or showers • two toilets with wash hand basins. At least one toilet must be located separately. This is so there is a toilet available for the occupiers when the bathrooms are in use.
11-15 people	At least <ul style="list-style-type: none"> • three bathrooms and • three toilets with wash hand basins At least one toilet must be located separately. This is so there is a toilet available for the occupiers when the bathrooms are in use.

7. Kitchens

7.1 Shared kitchens

The kitchen must be suitably located in relation to the living accommodation.

If kitchens do not have a suitable dining area space dining must be provided within one floor distance (this may be a living room,

bedsit or bedroom of suitable size). The kitchen layout and size must be adequate to enable each occupier to safely prepare food.

The table below shows the minimum requirements for shared kitchens, depending on the number sharing.

Facility	Minimum standard	Up to and including 5 people	More than 5 people
Sink	A sink with constant hot and cold water, a draining board and tiled splash back	1 sink for up to 5 people	2 sinks for 6-8 people 3 sinks for 9-12 people A dishwasher will be acceptable as a second sink
Hob	An electric or gas hob with four rings	1 hob for up to 5 people	2 hobs for 6-8 people 3 hobs for 9-12 people
Oven and grill	An oven and a grill	1 oven and 1 grill for up to 5 people	2 ovens and 2 grills or 1 oven and 1 grill plus a microwave for 6-8 people 3 ovens and 3 grills or 2 ovens and 2 grills plus a microwave for 9-12 people
Electric sockets	<ul style="list-style-type: none"> 30 amp supply for an electric cooker Dedicated sockets for the fridge and for a washing machine set at a convenient height and safe position 3 double sockets at worktop height 	3 double sockets for up to 5 people	4 for 6-12 people
Work tops for food preparation	Work tops must be secure, fixed and of an impervious material	minimum length for up to 5 people: 1m	minimum length for 6-7 people: 1.5m minimum length for 8 people: 2m minimum worktop length for 9-12 people: 2.5m

Facility	Minimum standard	Up to and including 5 people	More than 5 people
Cupboards for the storage of food and cooking utensils The space below the sink is not counted	A floor based food storage cupboard 500mm wide and standard depth and height or a wall mounted food storage cupboard 1000mm wide and standard depth and height should be provided per person	1 cupboard per person	1 cupboard per person
Refrigerators and freezers	A standard fridge-freezer or A separate standard size fridge and a separate freezer	1 fridge-freezer or 1 separate fridge and 1 separate freezer for up to 5 people	2 fridge-freezers or 2 separate fridges and 2 separate freezers for 6-10 people 3 fridge-freezers or 3 separate fridges and 3 separate freezers for 10+ people
Appropriate refuse disposal facilities	A sufficient number of bins must be provided for the storage of refuse awaiting collection both inside and outside	minimum standard	minimum standard
Appropriate extractor fans	Extraction must be provided in accordance with approved document F under Building Regulations 2006	minimum standard	minimum standard
Appropriate fire blankets	To be supplied and sited in accordance with fire guidance*		
Appropriate fire doors	See fire guidance*		
Appropriate finishes	Kitchen floors must be able to be cleaned. Kitchen walls adjacent to cookers, sinks and food preparation areas must have impervious splash-backs. Kitchen ceilings must be in good repair.	minimum standard	minimum standard

* See Norwich City Council's Fire Guidance document.

7.2 Kitchens which are not shared

Kitchens which are not shared are usually provided within a bedsit. If the kitchen is somewhere else it must be suitably located in relation to the living accommodation. If the kitchen does not have a suitable dining area dining space must be provided within one floor distance (this may be a living room, bedsit or bedroom of suitable size).

Any portable electrical appliance provided by the landlord must be PAT tested every 12 months. A certificate showing the results of the test must be made available to the council on request.

The table below shows the minimum requirements for kitchens that are not shared.

Facility	Minimum standard
Cooker and hob	A hob with at least two rings and an oven
Sink	A sink with constant hot and cold water, a draining board and tiled splash back
Sufficient electrical sockets	4 sockets (2 doubles), plus dedicated sockets for a cooker and refrigerator Points must be set at a convenient height and safe position
A worktop for the preparation of food	At least 500mm length The worktop must be secure, fixed and of impervious material
Cupboards for the storage of food and cooking utensils. The space below the sink is not counted.	A floor based storage cupboard of 500mm wide and standard depth and height or A wall mounted food storage cupboard of 1000mm wide and standard depth and height
A refrigerator	A standard refrigerator
Refuse disposal facilities	A sufficient number of bins must be provided for the storage of refuse awaiting collection both inside and outside
Extractor fans	Extraction must be provided in accordance with Building Regulations approved document F
Appropriate fire blankets	To be supplied and sited in accordance with fire guidance*
Appropriate fire doors	See fire guidance*
Appropriate finishes	Kitchen floors must be able to be cleaned. Kitchen walls adjacent to cookers, sinks and food preparation areas must have impervious splash-backs. Kitchen ceilings must be in good repair.

* See Norwich City Council's Fire Guidance document.

8. Occupancy levels

The minimum bedroom sizes are as follows:

<p>for bedrooms with cooking facilities</p>	<p>a minimum of 13m² for one person a minimum of 20m² for two people sharing</p>
<p>for bedrooms where kitchen and dining facilities are provided elsewhere in the house</p>	<p>a minimum of 6.51m² for one person a minimum of 11.22m² for two people sharing</p>
<p>for bedrooms where there the kitchen is provided elsewhere but there are no other dining facilities provided</p>	<p>a minimum of 10m² for one person a minimum of 15m² for two people sharing</p>
<p>for people under 10 years old</p>	<p>a minimum of 4.64m²</p>



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Regulatory Subcommittee

14:00 to 15:30

9 March 2020

Present: Councillors Stutely (chair), Fulton-McAlister (E) and Oliver (substitute for Councillor Ryan)

Apologies: Councillors Brociek-Coulton, Grahame and Ryan

1. Declarations of Interest

There were no declarations of interest.

***2. Exclusion of the Public**

RESOLVED to exclude the public from the meeting during consideration of items *3 and *6 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

***3. Application for renewal of a private hire drivers licence: case numbers 19/01874/PHDRIV**

(The applicant, the public protection licensing advisor and the public protection team leader were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the convictions against him and answered member's questions. He understood he was able to seek legal representation and have a representative attend with him. The applicant advised he had no pending matters outstanding.

(The applicant, the public protection licensing advisor and the public protection team leader left the meeting at this point.)

The subcommittee considered the circumstances surrounding the convictions against the applicant and the council's conviction policy. The committee reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

RESOLVED, unanimously, to renew private hire drivers licence: case number 19/01874/PHDRIV

(The applicant, the public protection licensing advisor and the public protection team leader were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for the decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant, the public protection licensing advisor and the public protection team leader then left the meeting.)

***4. Application for renewal of a private hire drivers licence – application ref: 20/00427/PHDRIV**

(The public protection licensing advisor and the public protection team leader were admitted to the meeting.)

The public protection team leader advised that the applicant made an application to renew his private hire driver's licence in April 2019 and subsequently failed to provide the following documentation to support his application:

- Completed DBS application form
- Copy of DVLA licence
- Completed mandate to check his DVLA driving record
- Medical certificate completed by his GP

The licensing department had written to the applicant twice requesting the information required to process his application. The applicant had been invited to attend committee but had not responded and had not attended the meeting.

(The public protection licensing advisor and the public protection team leader left the meeting at this point.)

The subcommittee considered that they could not determine if the applicant was a fit and proper person, the applicant had not attended the meeting and had failed to provide the necessary information to consider his application.

RESOLVED, unanimously, to refuse the renewal of private hire drivers licence to the applicant (application reference 20/00427/PHDRIV) as the committee considered that the applicant had not provided the necessary information to demonstrate that he satisfied the test of being a fit and proper person to hold such a licence under s51 LG(MP)Act 1976.

(The public protection licensing advisor and the public protection team leader were readmitted to the meeting. The chair informed officers of the subcommittee's decision. The legal adviser asked the licensing department to write to the applicant to advise of the subcommittee's decision and of his right to appeal to the Magistrates' court within 21 days of receipt of the written notification. If the applicant chose not to appeal, he could apply again for a licence in the future).

***5. Application for renewal of a private hire drivers licence – application ref: 19/00448/PHDRIV**

(The public protection licensing advisor and the public protection team leader were admitted to the meeting.)

The public protection team leader advised that the applicant made an application to renew his private hire driver's licence in February 2019 and subsequently failed to provide the following documentation to support his application:

- Disclosure certificate from the DBS

The licensing department had written to the applicant thrice requesting the information required to process his application. The applicant had been invited to attend committee, responded to confirm his attendance but had not attended the meeting.

(The public protection licensing advisor and the public protection team leader left the meeting at this point.)

The subcommittee considered that they could not determine if the applicant was a fit and proper person, the applicant had not attended the meeting and had failed to provide the necessary information to consider his application.

RESOLVED, unanimously, to refuse the renewal of private hire drivers licence to the applicant (application reference 19/00448/PHDRIV) as the committee considered that the applicant had not provided the necessary information to demonstrate that he satisfied the test of being a fit and proper person to hold such a licence under s51 LG(MP)Act 1976.

(The public protection licensing advisor and the public protection team leader were readmitted to the meeting. The chair informed officers of the subcommittee's decision. The legal adviser asked the licensing department to write to the applicant to advise of the subcommittee's decision and of his right to appeal to the Magistrates' court within 21 days of receipt of the written notification. If the applicant chose not to appeal, he could apply again for a licence in the future).

***6. Application for renewal of a hackney carriage drivers licence – application ref: 18/01543/HACKD**

(The public protection licensing advisor and the public protection team leader were admitted to the meeting.)

The public protection team leader advised that the applicant made an application to renew his hackney carriage driver's licence in October 2018 and subsequently failed to provide the following documentation to support his application:

- Medical certificate completed by his GP

The licensing department had written to the applicant thrice requesting the information required to process his application. The applicant had been invited to attend committee. He had responded by email the morning of the meeting and stated that he was unable to attend as he had a full time job which he could not get time off from. He had requested leniency and advised he would provide a medical certificate at a later date.

(The public protection licensing advisor and the public protection team leader left the meeting at this point.)

The subcommittee considered the request for leniency from the applicant and noted that the notification of non-attendance at committee was emailed the morning of committee and the applicant had not attempted to arrange an alternative time to attend committee. The subcommittee considered that they could not determine if the applicant was a fit and proper person, the applicant had not attended the meeting and had failed to provide the medical certificate necessary to consider his application.

RESOLVED, unanimously, to refuse the renewal of hackney carriage drivers licence to the applicant (application reference 18/01543/HACKD) as the committee considered that the applicant had not provided the necessary information to demonstrate that he satisfied the test of being a fit and proper person to hold such a licence under s51 LG(MP)Act 1976.

(The public protection licensing advisor and the public protection team leader were readmitted to the meeting. The chair informed officers of the subcommittee's decision. The legal adviser asked the licensing department to write to the applicant to advise of the subcommittee's decision and of his right to appeal to the Magistrates' court within 21 days of receipt of the written notification. If the applicant chose not to appeal, he could apply again for a licence in the future).

CHAIR



Regulatory Subcommittee

14:15 to 15:40

8 June 2020

Present: Councillors Stutely (chair), Ackroyd, Brociek-Coulton, Giles and Grahame

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of items 4* and 5* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

3*. Application for Grant of Private Hire Drivers' Licence – Application ref 20/00594/PHDRIV

(The applicant and the public protection (licensing) team leader (the licensing officer) were admitted to the meeting. The chair introduced the members of the members of the panel and officers present. The applicant produced his DVLA licence for inspection by the committee. The licensing officer confirmed the number of the licence. The applicant confirmed that he had received a copy of the report and appendices, including a supplementary document containing a typed transcript of handwritten text on the application form. The applicant confirmed that he had been advised that he could have legal representation at the meeting but considered that it was not necessary and that he had no pending matters.)

The licensing officer presented the report. She confirmed that the application was for driving a private hire vehicle only.

The applicant explained the circumstances for the four speeding offences which had led to 12 points being placed on his driving licence and answered members' questions. The applicant could recall the offences which took place on 21 and 25 April 2019 which had occurred when he was working in Poringland, on a road that he was familiar with. When asked to explain why these incidents of speeding were likely to have occurred the applicant explained at the time he was probably too "relaxed". The applicant called up his record on the DVLA website to prompt his memory of the

other two offences which had taken place on 4 December 2018 and 27 January 2019 in Southend. The applicant said in mitigation that he had driven for 20 years and had a good driving record with no accidents. He confirmed that he had no passengers in his car when the offences occurred. All matters related to areas of road with a 30mph limit. He had only slightly exceeded the speed limit except in one case where he had driven between 35 and 38 mph.

The applicant explained his personal circumstances and that he had undertaken training to qualify as a private hire driver to provide for his family. His previous employment had come to an end. He also said that the DVLA speed awareness course had helped him to improve his driving and that he did not have the option to take the course to reduce his points. In reply to whether he was a “fit and proper person”, he explained that his circumstances had changed in the last year when he married and that the safety awareness training and training for his private hire licence made him realise his responsibilities for the safety of his passengers who would be entrusting their lives to him.

(The applicant and licencing officer left the meeting at this point.)

Following discussion, it was:

RESOLVED, with one member dissenting, to grant the application for the grant of a private hire driver’s licence in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976 for a period of one year, and to delegate to the licensing officers, subject to a satisfactory review at the end of this period, the grant of the licence for a further two years.

(The applicant and licencing officer were readmitted to the meeting.)

The chair informed the applicant of the subcommittee’s decision and that it was not unanimous. It was unusual to consider an application with 12 points on their licence, and the members had taken into account the applicant’s circumstances. He reiterated that the applicant should be familiar with the “Green Book” and that he would be obliged to inform the licensing team of any offences that he incurred within seven days.

(The licensing officer then made arrangements with the applicant to provide him with his badge and licence. The applicant then left the meeting at this point.)

4* **Application for Renewal of a Private Hire Driver’s Licence: Case number 18/01541/PHDRIV**

(The licence holder was admitted to the meeting.)

The chair introduced the members of the subcommittee and officers present. The applicant presented his DVLA licence and confirmed the licence number to the licensing officer. In reply to a question, the applicant said that his legal representative was on furlough and not available to represent him at this meeting. He also said that he had not received a copy of the appendices to the report. The applicant confirmed that he had no matters pending other than that connected to the road traffic accident referred to in Appendix B and that the police had notified him on 1 April 2020 that this

would be referred to court. In response to members' questions the applicant said that he did not know if he had been charged with an offence.

RESOLVED, to defer any further consideration of this application for renewal of a private hire driver's licence to a future meeting of the subcommittee, pending further information and to ensure that the applicant has the opportunity to arrange legal representation and has access to a copy of the relevant report and papers for the meeting.

CHAIR



Regulatory Subcommittee

10:00 to 11:05

14 September 2020

Present: Councillors Stutely (chair), Brociek-Coulton, Giles, McCartney-Gray and Youssef

1. Declarations of Interest

There were no declarations of interest.

2. Highways Act 1980: application for licence to place tables and chairs on the highway – Louis Marchesi, 17 Tombland, Norwich, NR3 1AB

The chair welcomed the applicant and introduced the members of the committee and officers. The licensing team leader presented the report. The chair asked the legal advisor to the committee to explain a legal point with the application. The legal advisor explained that if the applicant wanted to place tables and chairs on the highway adjacent to the frontage of the Samson and Hercules then permission would have to be given by the residents of the building. A letter of objection had been received from the managing agent of the building on behalf of some of the residents making it clear that they had not given their permission, therefore the council could not authorise a licence under s115E Highways Act 1980 adjacent to the frontage of Samson and Hercules. The applicant confirmed that she wished to amend her application and the area she now sought to licence did not include the frontage of the Samson and Hercules building.

In response to a member question the applicant said that the following measures were in operation in response to Covid. There was sign on the doorway greeting customers and requesting they sign in for the track and trace system. The number of tables within the pub had been reduced to comply with social distancing. Customers were only able to approach the bar to order and to pay; at all other times they were to remain seated. The business had considered the use of a one way system but there no other suitable exit points which could be monitored and as such were using one access both as the entrance and exit.

Members discussed the amended area to be licensed with the applicant, it was noted the number of tables and chairs which might be granted might not be possible to be placed outside currently due to restrictions caused by social distancing. The applicant then confirmed that she was amending the application further and now sought a licence only for the area of highway adjacent to that part of the frontage of the Louis Marchesi, 17 Tombland from the doorway of the establishment to the

boundary with the Samson and Hercules. To contain a maximum of one bin, three planters, four tables and eight chairs within it barriers at a width of 1.5m.

Members discussed if this left enough room for a wheelchair to safely pass and the licensing team leader confirmed that it met the minimum requirements. Members noted that there was no response ad been received from Norfolk County Council the Highways authority and questioned if this meant they had consented to the application.

(Members of the subcommittee resolved to exclude the public from the meeting during their deliberation and consideration of the matters raised in relation to this application and to seek advice from the subcommittee's legal advisor. The applicant, licensing team leader, and members of the public left the meeting at this point.)

RESOLVED, unanimously, to approve the grant of a licence to place tables and chairs on the highway under s115E of the Highways Act 1980, in respect of The Louis Marchesi, 17 Tombland, NR3 1AB having considered all matters raised by the applicant, statutory consultees and members of the public, subject to the standard conditions for tables and chairs licences, amended as follows:

The area licensed by committee is the area of public highway with a width of 1.5 metres and a length between the doorway of the Louis Marchesi, 17 Tombland, and the boundary between no 17 Tombland and the Samson and Hercules. The licensed area to include permission for barriers and a maximum of one bin, three planters, four tables and eight chairs.

There was an additional condition imposed, namely that "This licence will end immediately upon notice being received by the Norwich City Council that the Highways Authority do not consent to this licence".

(The applicant, licensing team leader, applicant and members of the public were readmitted to the meeting. The chair advised the applicant of the subcommittee's decision.)

CHAIR



Regulatory Subcommittee

13:40 to 15:50

14 September 2020

Present: Councillors Stutely (chair), Brociek-Coulton, Giles, McCartney-Gray and Youssef

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of items 3* and 4* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

3*. Suspension/ revocation of Norwich City Council hackney carriage drivers' licence No19 01107 HACKD (paras 1 and 3)

(The licence holder and the public protection (licensing) advisor were admitted to the meeting. The chair introduced the members of the panel and officers present. The licence holder confirmed that he had received a copy of the report and whilst he did not have the details in front of him he was aware of the report contents. The licence holder confirmed that he had been advised that he could have legal representation at the meeting but considered that it was not necessary. The licensing advisor confirmed that a copy of the licence holder's driving licence was held on file and that a recent check on his convictions showed no pending matters outstanding).

The licensing advisor presented the report.

The licence holder explained the circumstances for the three speeding offences which had led to 9 points being placed on his driving licence and answered members' questions. The licence holder advised that he was going to challenge the SP50 which was recorded in July 2019 but as the incident occurred in Liverpool he would have been required to return there and he decided to accept the points instead. He had been driving on a dual carriageway where he thought the speed limit was 70mph but it had reduced to 50mph and he was caught by a camera. He thought his speed was 57mph but was not sure exactly. He said in mitigation it was a quiet road, he had been travelling alone in the car and had considered the speed

limit to be 70mph. The licence holder said that he did not drive “crazy fast” but that he drove all the time and that these things happen.

The other incident in March 2018, the SP30 related to his travelling at 34mph in a 30mph area on Salhouse Road, the licence holder said his speed had crept up on him, he was returning from his mother’s house and was aware there was a camera on the road. The final SP30 recorded in April 2018 related to a journey where he was returning to Norfolk from Scotland and was captured going above the speed limit near Kings Lynn. He had been travelling at 67mph in a 60mph area. The licence holder said in mitigation that when driving so many thousands of miles there was a greater likelihood of speeding incidents occurring.

In response to a question from the chair the licence holder advised that he had not informed the council’s licensing department that he had failed to dispute the SP50 he acquired in Liverpool. He advised this was an oversight on his part. He had suffered a mini stroke eight years ago and said he did not have a great memory. The licence holder asked that if the committee were considering suspending his licence, they take account of the fact that due to Covid 19 he had been involuntarily suspended from driving for 5 months. During this period, he had no income and had not made a claim to the government’s furlough scheme. He had returned to his first school contract that morning.

(The applicant and licencing advisor left the meeting at this point.)

Following discussion, it was:

RESOLVED, unanimously, to suspend hackney carriage drivers’ licence no 19 01107 HACKD for a period of 14 days; subsequently to grant the licence in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976 for a period of six months and to request that licensing officers check the licence holder’s record for any further breaches of licence conditions. If there are no breaches officers are to grant the remainder of the licence at no further cost to the applicant.

(The licence holder and licencing officer were readmitted to the meeting.)

The chair informed the applicant of the subcommittee’s decision together with the reasons for the decision. He said members had taken into account the applicant’s circumstances and reiterated that the applicant should be familiar with the “Green Book” and that he was obliged to inform the licensing team of any offences that he incurred within seven days. The applicant was unhappy with the committee’s decision and advised he would be appealing it.

(The licensing officer and applicant left the meeting at this point.)

4* Application for Renewal of a Private Hire Driver’s Licence: Case number 19 00180 PHDRIV (paras 1 and 3)

(The applicant, his legal representative and the public protection (licensing) advisor were admitted to the meeting. The chair introduced the members of the panel and officers present. The applicant had forgotten his DVLA licence but the licensing advisor confirmed that this had been seen by the council and a copy was held on file.

The applicant confirmed that he had received a copy of the report and that he was accompanied at the meeting by his legal representative and confirmed that he had no pending matters.)

The licensing advisor presented the report.

The applicant's legal advisor asked if the character references submitted on behalf of the applicant had been received by committee. The chair confirmed that they had been received and considered by the committee. The applicant's legal representative explained the circumstances in relation to his client's conviction for the offence of 'Using Threatening, Abusive, Insulting Words or Behaviour with Intent To Cause Fear or Provocation of Violence'. The applicant's legal advisor said that whilst the applicant had been found guilty at the magistrate's court of this offence he had not been found guilty in relation to every allegation made in respect of the incident.

The applicant explained the circumstances surrounding the conviction. It had been raining and the job had been passed between operators. The applicant was not made aware that the passenger was accompanied by a dog when the job was transferred to him. The applicant's legal advisor said the applicant's intention was to get out of the car, place a blanket on the back seat and to carry the dog. The advisor noted that the magistrates court considered that the applicant had believed the customer spat on his dashboard. The magistrates had found that the applicant had followed the customer aggressively and believed his behaviour presented as threatening. However, the magistrates considered the applicant had not intended to appear aggressive but was nevertheless reckless as to the consequences of his actions. The applicant had been found guilty and sentenced to a fine of £350 which represented one weeks net salary and as a Band B was in the lowest category of penalty which could be imposed with the guidelines.

The applicant's legal advisor noted that the offence which took place in May 2019 was set within the broader context of the applicant's recent life experiences. The applicant's legal advisor referred to the character references which had been presented on behalf of the applicant. He said the applicant was aware that he had let himself down and that his fitness to operate as a taxi driver was in question. He said this was an isolated incident, a one off which had been borne out of an aggressive exchange where the applicant was adamant the customer had spat on his dashboard. The applicant had worked as a driver without any other incident for seven years.

Members expressed their sorrow at the difficult year the applicant had experienced. In response to a member question, the applicant confirmed that he was aware of the Equality Act 2010 and the legal requirement upon taxi drivers to carry guide dogs. He said it was not his intention to refuse to carry the dog but he wanted to place a rug on his back seat before the dog got in. The chair asked the applicant to take the panel through the exchange. The applicant said as the customer opened the door he had said "woah, woah" and that he needed to put a rug on the back seat. The customer started swearing at him, the applicant switched on his radio in order that the controller could hear the exchange and the customer approached the driver's door shouted in at him and then spat on his dashboard.

(The applicant, his legal representative and the licencing advisor left the meeting at this point.)

Committee considered that on the day of the incident the applicant's behaviour was not the fit and proper behaviour expected of taxi drivers. However, committee considered this behaviour was out of character and accepted that the applicant had not refused to carry the dog. Committee considered the applicant's driving history before and after the incident had taken place and the character references which had been provided.

Following discussion, it was:

RESOLVED, unanimously to renew Private Hire Driver's Licence:19 00180 PHDRIV in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976.

(The applicant, his legal representative and the licencing officer were readmitted to the meeting.)

The chair informed the applicant of the subcommittee's decision. He said members had taken into account the applicant's circumstances.

CHAIR



Regulatory Subcommittee

10:00 to 11:30 and 14:00 to 16:45

12 October 2020

Present: Councillors Stutely (chair), Giles, McCartney-Gray (substitute for Councillor Huntley), Maxwell and Grahame (from item 6* below - afternoon session only)

Apologies: Councillor Huntley and Councillor Grahame (morning session)

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of items 3* to 8* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

**3*. Application for Renewal of a Private Hire Driver's Licence
19/01101/PHDRIV (Paragraphs 1 and 3)**

(The public protection (licensing) team leader (the licensing officer) was admitted to the meeting. The applicant did not attend.)

The licensing officer presented the report. The applicant had applied for renewal of a private hire driver's licence on 15 May 2019 but had failed to provide a disclosure certificate from the DBS (criminal record check) or a medical certificate completed by his GP to support the application. The council's licensing team had written to the applicant on 10 December 2019 and emailed the applicant on 30 January 2020 to request the required documentation. The applicant had been invited to this subcommittee meeting and sent a copy of the report and advised of his right to be legally represented at the meeting. The licencing officer confirmed that the applicant had also been emailed a copy of the agenda and relevant report and the joining details for the Zoom meeting. There had been no response from the applicant or any further contact from him since the submission of the application for renewal in May 2019. No emails or letters had been returned to the council as undelivered.

(The licensing officer left the meeting at this point.)

Following discussion it was:

RESOLVED, unanimously, to refuse to renew Private Hire Driver's Licence 19/01101/PHDRIV for any other reasonable cause, in that the applicant has failed to provide the necessary information to demonstrate that he satisfied the test of being a fit and proper person to hold such a licence under S51 of the Local Government (Miscellaneous Provisions) Act, 1976.

(The licensing officer was admitted to the meeting and informed of the subcommittee's decision. The applicant would receive notification of the subcommittee's decision and had the right to appeal within 21 days of receipt of that letter.)

(The subcommittee adjourned at 10:15 and reconvened at 11:00 with Councillors Stutely, Giles, McCartney-Gray and Maxwell present.)

**4*. Application for Renewal of a Private Hire Driver's Licence
19/00955/PHDRIV (Paragraphs 1 and 3)**

(The public protection (licensing) team leader (the licensing officer) was admitted to the meeting. The applicant did not attend.)

The licensing officer presented the report. The applicant had applied for renewal of a private hire driver's licence on 2 May 2019 but had failed to provide a disclosure certificate from the DBS (criminal record check), a copy of his DVLA licence and a completed mandate form to check his DVLA record, to support the application. The council's licensing team had written to the applicant on 15 May 2019 and 13 June 2019 and emailed the applicant on 30 January 2020 to request the required documentation. The applicant had been invited to this subcommittee meeting and sent a copy of the report and advised of his right to be legally represented at the meeting. The licensing officer confirmed that the applicant had also been emailed a copy of the agenda and relevant report and the joining details for the Zoom meeting. There had been no response from the applicant or any further contact from him since the submission of the application for renewal in May 2019. No emails or letters had been returned to the council as undelivered.

(The licensing officer left the meeting at this point.)

Following discussion it was:

RESOLVED, unanimously, to refuse to renew Private Hire Driver's Licence 19/00955/PHDRIV for any other reasonable cause, in that the applicant has failed to provide the necessary information to demonstrate that he satisfied the test of being a fit and proper person to hold such a licence under S51 of the Local Government (Miscellaneous Provisions) Act, 1976.

(The licensing officer was admitted to the meeting and informed of the subcommittee's decision. The applicant would receive notification of the subcommittee's decision and had the right to appeal within 21 days of receipt of that letter.)

**5*. Application for Renewal of a Private Hire Driver's Licence
19/01402/PHDRIV (Paragraphs 1 and 3)**

The public protection (licensing) team leader (the licensing officer) said that since the publication of the report, the applicant had provided the disclosure certificate from the DBS (criminal records check) and medical certificate completed by his GP. She confirmed that the information was satisfactory and that the renewal of the private hire driver's licence could be granted.

In reply to a member's question, the licensing officer confirmed that the renewal of the licence would be backdated to the date that the previous licence had expired.

RESOLVED to withdraw this application (19/01402/PHDRIV) from consideration at this subcommittee meeting because the applicant has now provided the necessary information to satisfy the licensing officer that the applicant is a fit and proper person to hold such a licence under S51 of the Local Government (Miscellaneous Provisions) Act, 1976.

(The subcommittee adjourned at 11:30 and reconvened at 14:00 with the following members present: Councillors Stutely, Giles, McCartney-Gray, Maxwell and Grahame.)

6*. Consideration of Suspension or Revocation¹ of Private Hire Driver's Licence 20/00573/PHDRIV (Paragraphs 1 and 3)

(The public protection (licensing) team leader (licensing officer) and the licence holder were admitted to the meeting.)

The chair welcomed the licence holder to the meeting. General introductions to the members of the subcommittee and the officers in attendance ensued.

The licence holder provided his DVLA licence for checking by the licensing officer and confirmed that he was aware of his right to be accompanied by a legal representative but had chosen not to be represented.

The licensing officer presented the report. She explained that the title of the report and the recommendation should be amended to "suspension or revocation of the licence holder's private hire driver's licence" and not "renewal" as stated in the report. During the presentation of the report, the licensing officer said the date that the licence holder had received the caution was 12 August 2020 (not 20 July 2020 as stated in the report) and he had notified the licensing department of this on 13 August 2020 (therefore complying with condition 12 of the Norwich City Council Private Hire Driver's Licence requirements).

The licence holder confirmed that he had received a copy of the report. He explained the circumstances that had led to him receiving a simple caution for assault by beating and answered members' questions. His relationship with his partner had subsequently broken down and he was now living with his parents. He had admitted the offence. He had not yet advised his employers of this incident and

¹ Title of committee report and recommendation amended at meeting.

had been working as a private hire driver since he had received the caution. He confirmed that he had no other matters pending.

The licence holder explained the circumstances that led to him receiving the caution. He said he had “lost his cool”. He had entered the bedroom after his partner had earlier retired to bed and he had physically restrained her by holding her wrists during a verbal argument. Later his partner had come towards him “with fists flailing”, and in self-defence he had hit her on the side of the head and believed he injured her. This second incident took place in the living room. Alcohol was involved but the licence holder said this was not to excess, giving a value of 3 on a scale of 1 to 10 where 10 would be very intoxicated. The licence holder was asked about injuries to himself, he said that whilst he was hit the punches were very light and he was not injured. His partner had not reported this incident to the police at the time.

(The licence holder and the licensing officer left the meeting.)

RESOLVED, with 4 members voting in favour, and 1 member abstaining from voting, to revoke the Private Hire Driver’s Licence 20/00573/PHDRIV, under any other reasonable cause, for the following reasons:

Members noted the primary objective of the taxi licensing legislation was to protect the safety of the public. The council’s Taxi and PHV Licensing Criminal Convictions’ Policy, especially paragraphs 8 and 16, was considered together with the contents of the report and the evidence of the licence holder.

Members are not satisfied that the licence holder is a fit and proper person to hold a licence as the offence against his partner was premeditated, he had lost his temper and acted violently towards her by holding her down and by hitting her, which was unacceptable behaviour for a taxi driver. It was necessary for a taxi driver to deal calmly at all times with members of the public, some of whom may be difficult or challenging, and members noting the circumstances of the caution did not believe that the licence holder was suitable for this role.

(The licence holder and the licensing officer were readmitted to the meeting and informed of the subcommittee’s decision. The licence holder would receive written notification of the decision and would have 21 days from the receipt of the letter to appeal.)

(The licence holder and the licensing officer left the meeting at this point.)

(The subcommittee adjourned for a short break and reconvened with all members previously listed present at 15:08.)

**7*. Application for Renewal of a Private Hire Driver’s Licence
20/00835/PHDRIV (Paragraphs 1 and 3)**

(Please see item 7* (continued) below for the full minute of this item.)

(The public protection (licensing) team leader (licencing officer) and the applicant were admitted to the meeting.)

The chair welcomed the applicant to the meeting. General introductions to the members of the subcommittee and the officers in attendance ensued.

The licensing officer presented the report.

The applicant confirmed that he was aware of his right to be legally represented but had chosen not to be. He also produced his DVLA licence for the licensing officer to check.

The applicant explained the circumstances leading to the receipt of 6 penalty points and failing to inform the licensing team within 7 days of the conviction.

(As the applicant had a poor internet signal, it was agreed to adjourn further consideration of this item to allow the applicant to return home to continue his account without losing internet connection. The committee would proceed to the next agenda item and then return to this item. The applicant and the licensing officer then left the meeting.)

**8*. Application for Renewal of a Private Hire Vehicle Licence
19/01782/PHVEH (Paragraphs 1 and 3)**

(The public protection (licensing) team leader (licensing officer) and the applicant were admitted to the meeting. During this item the applicant was joined by a colleague who assisted him in answering members' questions.)

The chair welcomed the applicant to the meeting. General introductions to the members of the subcommittee and the officers in attendance ensued.

The applicant confirmed that he was aware of his right to be legally represented but had chosen not to be. He produced his DVLA licence for checking by the licensing officer.

The licensing officer presented the report. The application to renew the vehicle licence had not been made in time and the applicant had requested that an exception to the council's policy be made so that a private hire vehicle licence was granted for this vehicle.

The applicant, together with his colleague, explained that the vehicle licence had not been renewed due to an administrative error. The licence had been renewed annually to this point. The vehicle had not been used for hire during the lockdown but, due to the requirements of the Covid-19 pandemic, it was required for use as larger vehicles were needed for customer safety. The vehicle was mechanically sound albeit over 5 years' old. (The licensing officer referred members to page 65 to the mechanical test sheet on page 65 of the agenda papers.)

(The applicant and the licensing officer left the meeting.)

RESOLVED, unanimously, to grant a private hire vehicle licence in respect of this application (19/01782/PHVEH), as an exception to the Norwich City Council policy not to grant private hire vehicle licences for vehicles over 5 years' old on initial licensing, for the following reasons: the vehicle licence had not been renewed before

the licence expired due to an administrative error; and, that the vehicle was in a sound mechanical condition.

(The applicant and the licensing officer were readmitted to the meeting and informed of the subcommittee's decision. The applicant and the licensing officer then left the meeting.)

(The subcommittee then returned to consideration of the previous agenda item.

7*. (Continued) Application for Renewal of a Private Hire Driver's Licence 20/00835/PHDRIV (Paragraphs 1 and 3)

(Councillor McCartney-Gray left the meeting during this item.)

(Prior to adjournment –

(The public protection (licensing) team leader (licencing officer) and the applicant were admitted to the meeting.)

The chair welcomed the applicant to the meeting. General introductions to the members of the subcommittee and the officers in attendance ensued.

The licensing officer presented the report.

The applicant confirmed that he was aware of his right to be legally represented but had chosen not to be. He also produced his DVLA licence for the licensing officer to check.

The applicant explained the circumstances leading to the receipt of 6 penalty points in October 2019 and his failure to inform the licensing team within 7 days of the conviction.)

(As the applicant had a poor internet signal, it was agreed to adjourn further consideration of this item to allow the applicant to return home to continue his account without losing internet connection.))

(The applicant and the licensing officer were readmitted to the meeting.)

The applicant explained the circumstances surrounding his offence of driving at 48 mph near the Kett's Hill roundabout, on Barrack Street in October 2019. He was driving a new electric car and it was 10 pm at night. He had not advised the licensing department of the offence in the first instance because he was not aware of how many points would be on his licence. There had been a problem with post reaching him from the DVLA because he had changed address. He had appealed the award of 6 points through the magistrates' court because of the impact that it would have on his job and that he considered it should be 4 points. He was very sorry that this had happened, it had been a mistake and he had a young family to support. When he had renewed his driver's licence he was still unaware of the number of points that had been awarded and had left that part of the form blank. He had been in to City Hall to meet licensing officers to help fill in the forms but this had been difficult due to Covid-19. He explained that the outcome of the appeal had

been in late June or July, where he had paid fines, and that he had received notification of the points on 4 August.

The licensing officer said that the applicant had not advised the council of the points on his licence. There had been delays this year in obtaining medical certification and the last check that the office did was to check that the DVLA licence information was up to date. In this case the DVLA check had been conducted on 19 August 2020 and it was then that the points on the applicant's driving licence had come to light.

The applicant said that he had sent an email to the licensing department regarding the points.

(The meeting adjourned for 10 minutes to allow the applicant to find the email and send it to the licensing officer for verification. The subcommittee reconvened with the exception of Councillor McCartney-Gray, who had left the meeting at this point.)

The licensing officer reported that the email sent on 19 August from the applicant was in relation to the DVLA check regarding the code required to release information on the applicant's DVLA licence. It did not satisfy condition 12 of the council's Private Hire Driver's licence. The applicant had known the number of points awarded from the magistrate's court on 4 August 2020 and had not informed the licensing department within 7 days as required.

In mitigation the applicant said that he had been in Poland from 10 August to 5 September 2020. He had completed the application form for the renewal of his private hire driver's licence in stages and liaised with the licensing assistant throughout but it had been a difficult situation this year because of Covid-19 and access to City Hall.

(The applicant and the licensing officer left the meeting.)

RESOLVED, unanimously, to:

- (1) grant a private hire driver's licence (20/00835/PHDRIV), initially for a period of 12 months and to delegate the renewal for a further two years to the public protection (licensing) team leader;
- (2) suspend the private hire driver's licence for 1 week;
- (3) advise the applicant that he should familiarise himself with the "Green Book" in relation to his conduct and reporting convictions to the licensing authority.

(The applicant and the licensing officer were readmitted to the meeting and informed of the subcommittee's decision. The licence holder would receive written notification of the decision and would have 21 days from the receipt of the letter to appeal.)

CHAIR



Regulatory Subcommittee

14:00 to 15:40

8 January 2021

Present: Councillors Stutely (chair), Maxwell, McCartney-Gray, Peek
(substitute for Councillor Oliver) and Youssef

Apologies: Councillor Oliver

1. Declarations of Interest

There were no declarations of interest.

2. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of items 3* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

3*. Application for Renewal of a Private Hire Drivers' licence case number 20/00729/PHDRIV

(The applicant and the public protection (licensing) advisor (the licensing officer) were admitted to the meeting. The chair introduced the members of the members of the panel and officers present. The applicant produced his DVLA licence for inspection by the committee. The licensing officer confirmed the number of the licence. The applicant confirmed that he had received a copy of the report and appendices. The applicant confirmed that he had been advised that he could have legal representation at the meeting but considered that it was not necessary.)

The licensing officer presented the report.

The applicant explained the circumstances that had led to the offence of driving a vehicle without third party insurance and the receipt of 6 penalty points and a £300 fine, and answered questions from members of the subcommittee and the legal advisor.

The offence had occurred on 4 April 2018 when the applicant was on his way to Stansted Airport for a family holiday. He had decided not to take his private hire vehicle because of leaving it at the airport for the duration of the holiday. He had therefore decided to take his personal car but it had no insurance and he thought that he could drive it on his friend's insurance. His friend did not speak English very

well but had asked his insurance company for temporary cover so that the applicant could drive to the airport and the friend drive it back. The police stopped the car on the A11 on the way to Stansted, and the applicant was unable to get an internet signal and as only the friend's signature was on the documentation, the friend was permitted to drive them to the airport. On investigation and contrary to the applicant's understanding the friend was the only person insured to drive the vehicle, being the main driver. The applicant received the points on his licence and the fine. The applicant had contacted the insurance company during his holiday in Denmark but because the offence had occurred at 4:00 (a.m.) on 4 April 2018 and the time on the insurance was 12:00, it was too late. He had tried to clear the points from the licence and it was a single offence for which he was sorry. It had not been intentional and had he known that he was not covered by insurance the friend would have driven to the airport.

In reply to a member's question, the applicant said that he had not informed the licensing authority of the offence within seven days because he was on holiday and then trying to clear the points off the licence, but had telephoned the council and was advised to send everything through in writing, so he had sent an email later.

The applicant then re-sent the email, originally sent to the licencing office on 22 June 2018, to the licensing officer, who confirmed that the office had received it on that date, and that it contained details of the points on the licence from 4 April 2018. She apologised because the email had been misfiled.

(The applicant confirmed that he had no further convictions or matters pending, and that this was the first time he had renewed his licence.)

In reply to further questions from the legal advisor and the chair, the applicant confirmed that his friend was covered by the insurance policy to drive the applicant's car. The friend would use the car to take the family to the airport and then return to pick them up at the end of their holiday. The applicant had thought from the conversation with the insurance company on the phone that he had been covered by temporary insurance to drive the car and did not check the policy.

Following discussion, it was:

RESOLVED, unanimously, to grant the application for the renewal of a private hire driver's licence in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976 for a period of one year, and to delegate to the licensing officers, subject to a satisfactory review at the end of this period and DVLA check, the grant of the licence for a further two years. The subcommittee required a written warning as to future conduct to be given to the applicant because of the seriousness of the offence.

In coming to their decision members considered that driving without insurance was a serious offence but, taking into account all elements of the case, that the applicant remained a fit and proper person to be a taxi driver. The subcommittee took into account that the applicant was not driving in his professional capacity at the time of the offence. It was a single incident, resulting from an error of judgement, which was not likely to be repeated. The applicant had informed the licensing authority of the offence, albeit outside the 7 days stipulated as a condition of the licence.

(The applicant and licencing officer were readmitted to the meeting.)

The chair informed the applicant of the subcommittee's decision and that it was unanimous. The applicant would receive a letter containing the subcommittee's decision and a written warning.

CHAIR

