



LICENSING AND REGISTRATION COMMITTEE

AGENDA

DATE:	Monday, 25 March 2024
TIME:	6.30 pm
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor J Henderson (Chairman)
Councillor Wiggins (Vice-Chairman)
Councillor Casey
Councillor Codling
Councillor A Cossens

Councillor Davidson
Councillor Kotz
Councillor Land
Councillor Smith
Councillor Thompson

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DATE OF PUBLICATION: Friday, 15 March 2024

AGENDA

1 Apologies for Absence and Substitutions

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

2 Minutes of the Last Meeting (Pages 7 - 14)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Wednesday, 31 January 2024.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Miscellaneous Licensing Sub-Committee (Pages 15 - 16)

The Committee will formally receive and note, for its information only, the minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Monday, 5 February 2024.

6 Premises/Personal Licences Sub-Committee (Pages 17 - 20)

The Committee will formally receive and note, for its information only, the minutes of the Premises/Personal Licences Sub-Committee meetings held on Monday, 29 January 2024 and Monday, 11 March 2024.

7 Report of the Assistant Director (Governance) - A.1 - Licensing Enforcement Schedule of Routine Licensing Inspections for 2023 (Pages 21 - 34)

The purpose of this report is to update Committee on the Schedule of Inspections carried out in 2023/24 and invite the Committee to consider the arrangements for routine inspections of licences, permits, consents etc within the scope of the Committee's work. The Committee is asked to consider approving an updated Schedule for Inspections to be undertaken in 2024/25. Both the 2023/24 routine inspections detail and the proposals for 2024/25 are set out in Appendix A of the Officer report.

8 Report of the Assistant Director (Governance) - A.2 - Film Classification Policy (Pages 35 - 48)

The Council is the licensing authority under the Licensing Act 2003 and exhibitions of film is one of the types of regulated activity requiring an authorisation from the Council under the Act. Most exhibitions of film have a classification to indicate the age restrictions that should apply to the exhibition of the individual film. In the UK the classification body is generally the British Board of Film Classification (the BBFC). However, not all films have a classification.

For this Council, there is currently no formal policy or procedure to deal with the classification of previously unclassified films as well as to deal with circumstances where there are appeals by distributors against the BBFC decisions or to reclassify films.

This report considers a proposed Film Classification Policy to be adopted. As a policy matter, in due course, any decision to adopt the policy will be a matter for the Council's Cabinet (following a recommendation from this Committee).

9 Date of the Next Meeting of the Committee

To enable the Committee to discuss fixing the date of its next meeting which is likely to be held in July 2024.

10 Exclusion of Press & Public

The Committee is asked to consider passing the following resolutions:-

- a) *“that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 11 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.” and,*
- b) *“that under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting during consideration of Agenda Item 12 on the grounds that the public interest in so doing outweighs the public interest in that part of the hearing taking place in public.”*

11 Exempt Minutes - Miscellaneous Licensing Sub-Committee (Pages 49 - 52)

The Committee will formally receive and note, for its information only, the exempt minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Monday, 5 February 2024.

12 Exempt Minutes - Premises/Personal Licences Sub-Committee (Pages 53 - 60)

The Committee will formally receive and note, for its information only, the exempt minutes of the meetings of the Premises/Personal Licences Sub-Committee held on Monday, 29 January 2024 and Monday, 11 March 2024.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Licensing and Registration Committee is to be held in the at Time Not Specified on Date Not Specified.

Information for Visitors

FIRE EVACUATION PROCEDURE

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

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

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

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**MINUTES OF THE MEETING OF THE LICENSING AND REGISTRATION
COMMITTEE,
HELD ON WEDNESDAY, 31ST JANUARY, 2024 AT 6.30 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors J Henderson (Chairman), Wiggins (Vice-Chairman), Casey, A Cossens, Davidson, Smith and Thompson
In Attendance:	Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Grant Fenton-Jones (Environmental Health Manager)(except items 31 - 37), Keith Durran (Committee Services Officer) and Bethany Jones (Committee Services Officer)

23. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were given from Councillors Codling and Kotz (with no substitutes). It was also noted that Councillor Land was not in attendance for this meeting.

24. MINUTES OF THE LAST MEETING

It was moved by Councillor Davidson, seconded by Councillor A Cossens and:-

RESOLVED that the minutes of the last meeting of the Committee, held on Monday, 16 October 2023 be approved as a correct record and signed by the Chairman.

25. DECLARATIONS OF INTEREST

Councillor Smith declared for the public record for transparency that he was a London Taxi driver but that he had no ties in that capacity to the District of Tendring.

26. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted a notice of a question.

27. MISCELLANEOUS LICENSING SUB-COMMITTEE

It was moved by Councillor Davidson, seconded by Councillor A Cossens and:-

RESOLVED that the Committee formally received and noted, for its information only, the Minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Monday, 11 December 2023.

28. PREMISES/PERSONAL LICENCES SUB-COMMITTEE

It was moved by Councillor Wiggins, seconded by Councillor Thompson and:-

RESOLVED that the Committee formally received and noted, for its information only, the Minutes of the meetings of the Premises and Personal Licences Sub-Committee held on

Monday, 13 November 2023, Friday, 17 November 2023 and Friday, 24 November 2023.

29. REPORT OF THE DIRECTOR (OPERATIONS & DELIVERY) - A.1 - PROPOSED FEES AND CHARGES FOR CARAVAN SITE LICENSING - HOUSING & ENVIRONMENT

The Committee was told that the Officer report set out the proposed fees and charges for 2024/25 for Operations & Delivery / Housing & Environment. They continued to be considered against a number of key principles that formed part of the long-term financial forecast approach and which were summarised later in the report.

It was reported to the Committee that any amendments to income budgets that were required to reflect changes to fees and charges would be included in the detailed budget proposals for 2024/25 that would be considered by Cabinet/Full Council as appropriate.

Officers informed Members that, in respect of Full Council, the individual decisions agreeing the fees and charges would be collated and presented as part of the overall budget setting process for 2024/25.

Members were further informed that the Officer report set out the proposed fees and charges for the 2024/25 Licensing of Residential Parks (protected sites) and for charging fees as part of the Council's inspection regime in accordance with the legislation.

The Committee heard that the proposed fees and charges associated with licensing of Residential Sites (relevant protected sites) had been increased using the projected rate of inflation for the next financial year, and approval was sought to better reflect cost recovery in relation to the administration of the licensing areas concerned. It was proposed that the amended fees and charges would take effect from 1 April 2024.

Members were finally informed that the proposed fees and charges for 2024/25 along with fees and charges for 2023/24 were set out within Appendix A of the Officer report.

It was moved by Councillor Davidson, seconded by Councillor Thompson and unanimously:-

RESOLVED that:

- 1) the proposed fees and charges for 2024/25, as set out in column B of Appendix A to item A.1 of the report of the Corporate Director (Operations & Delivery), be approved with effect from April 2024; and,
- 2) the Assistant Director for Housing & Environment be authorised to publish The Mobile Homes (Residential Protected Sites) fees and charges in accordance with the relevant legislative provisions.

30. REPORT OF THE DIRECTOR (OPERATIONS & DELIVERY) - A.2 - OPERATIONS & DELIVERY/HOUSING & ENVIRONMENT - PROPOSED FEES & CHARGES FOR ANIMAL & BEAUTY LICENSING 2024/25

The Committee was told that the Officer report set out the proposed fees and charges for 2024/25 for Operations & Delivery / Housing & Environment. They continued to be considered against a number of key principles that formed part of the long term financial forecast approach and which were summarised later on in the Officer report.

Members heard that any amendments to income budgets that were required to reflect changes to fees and charges would be included in detailed budget proposals for 2024/25 that would be considered by Cabinet / Full Council, as appropriate.

The Committee was informed that in respect of Full Council, the individual decisions agreeing fees and charges would be collated and presented as part of the overall budget setting process for 2024/25.

Officers also told Members that the Officer report set out the current schedule of fees and charges and presented for them for approval along with the proposed fees and charges to take effect from April 2024.

Members finally heard that the fees and charges payable for applications were within the remit of the Committee and, where a discretion existed, it was proposed that an increase be approved to better reflect cost recovery in relation to the administration of the licensing areas concerned. The proposed fees and charges for 2024/25 along with fees and charges for 2023/24 were set out within Appendix A of the Officer report.

It was moved by Councillor Casey, seconded by Councillor Davidson and unanimously:-

RESOLVED that:

- 1) the Schedule of Fees and Charges 2024/25 for Operations & Delivery / Housing & Environment, as set out in Appendix A to item A.2 of the report of the Corporate Director (Operations & Delivery), be agreed;
- 2) the current fees and charges in place since April 2023 be as set out in column A of the aforementioned Appendix A;
- 3) the proposed fees and charges for 2024/25, as set out in column B of Appendix A be approved with effect from April 2024; and
- 4) the Assistant Director for Housing & Environment be authorised to publish the Animal and Beauty Treatment Licensing fees in accordance with relevant legislative provisions.

31. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.3 - PROPOSED LICENSING FEES AND CHARGES FOR 2024/25

The Committee was told that the Officer report set out the proposed fees and charges for 2024/25 for licensing applications etc within the responsibility of the Democratic Services and Elections, Governance – Licensing Section. They were contained within Appendix A of the Officer report.

Members heard that any amendments to income budgets that were required to reflect changes to fees and charges would be included in the detailed budget proposals for 2024/25 that would be considered by Cabinet/Full Council, as appropriate.

The Committee was informed that, the Council would need to demonstrate that the fees it charged for such licences had been set in accordance with the law and best practice, so as to recover its allowable costs in administrating the various licensing regimes for which it was responsible.

Officers told Members that, fees should be set so as to avoid either a surplus or a subsidy where possible and be adjusted, if necessary, in succeeding years to achieve and maintain the correct balance.

Members finally heard that the Officer report set out the revised fees and charges for licences and associated items which it was proposed to take effect from April 2024.

It was moved by Councillor Thompson, seconded by Councillor A Cossens and unanimously:-

RESOLVED that:

- 1) the proposed licensing fees and charges, as set out in Appendix A of the Officer report (A.3) be approved with effect from April 2024 (Note: this resolution only applied to those fees and charges where the Council had the discretion to determine the said fee);
- 2) the Licensing Manager be authorised to publish the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions; and,
- 3) further to 2) above, the Head of Democratic Services and Elections be authorised to consider any objections received and to determine the final fees payable in consultation with the Chairman (or failing her the Vice-Chairman) of the Licensing and Registration Committee.

32. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.4 - GOVERNMENT BEST PRACTICE GUIDANCE TO LICENSING AUTHORITIES UPDATE - THIS COUNCIL'S TAXI/PRIVATE HIRE LICENSING POLICY

The Committee was reminded that, at its meeting held on 16 October 2023, it had authorised the new Taxi/Private Hire Licensing Policy to be submitted to Cabinet for adoption. The Licensing Policy had subsequently been approved and adopted by Cabinet on 10 November 2023 and would remain in effect for five years (subject to any review in response to changes in regulation or guidance).

Members heard that the decision of Cabinet on the Taxi/Private Hire Licensing Policy (at Minute 51 of Cabinet's meeting on 10 November 2023) had been as follows:

- a) *Approves the final draft statement of Taxi/Private Hire Policy, as set out in Appendix A to item A.6 of the Report of the Portfolio Holder for Housing & Planning, for adoption and publication;*
- b) *Authorises Officers to develop (over the coming months), and implement, a programme to bring the policy positions in the approved Statement into operation; and*

- c) *Authorises Officers to make minor amendments to the Taxi/Private Hire Policy in order to take account of such matters as legislative changes and Government Guidance on taxi and private hire licensing.*

The Committee was told that since that Cabinet decision referred to, the Department for Transport had issued its new Best Practice Guidance on 17 November 2023.

Officers told Members that, the Council, in preparing its Taxi/Private Hire Licensing Policy, had had regard to a consultation by Government on an updated Best Practice Guidance. However, as referred to, Government had not issued its response to the consultation (and the new Best Practice Guidance) until after this Council had approved its new policy.

The Committee also heard that four matters namely, (i) daily licensed vehicle checks, (ii) age policy for licensed vehicles, (iii) the review period for Taxi Ranks and (iv) penalty point schemes for licensed drivers and operators had been highlighted as matters upon which this Committee's view would be greatly appreciated (prior to any decisions (by Officers/Cabinet) being taken in respect of those matters).

The Head of Democratic Services and Elections made Members aware that the retention period would be coming back to the Committee and that the Portfolio Holder had been consulted and that they had consented to that course of action.

It was moved by Councillor Casey, seconded by Councillor Davidson and unanimously:-

RESOLVED that:

- (a) the Committee notes the approach being taken, as set out in Part 3 (Background) section (and Appendix B) of the Officer report (A.4) to the following matters identified in the recently updated published Government Best Practice Guidance:
- (i) Daily licensed vehicle checks;
 - (ii) Age policy for licensed vehicles;
 - (iii) Review period for Taxi Ranks;
 - (iv) Penalty Point Scheme; and
- (b) the Committee agrees to the course of action set out in Part 3 (Background) section of the Officer report (A.4) to the matters referenced above and otherwise agrees to the implementation programme for the Taxi/Private Hire Licensing Policy, as set out in Appendix A of the aforesaid Officer report.

33. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.5 - VARIOUS LICENSING PROVISIONS - APPLICATIONS APPROVED UNDER DELEGATED POWERS

The Committee was given details of the licences, certificates and permits recently granted which were set out in the Officer report as follows with separate headings:

- (i) Premises Licences/Club Premises Certificates

The total of Premises Licences / Club Premises Certificates that have been approved under Delegated Powers during the period 31 August 2022 to 31 January 2023. For comparison, the following also shows the numbers approved for the periods shown:

Type of Licence	Number of Licences as at			
	January to March 2023 (Q4 2022/23)	April to June 2023 (Q1 2023/24)	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)
<i>Premises Licences/Club Premises Certificates - Approved</i>	26	15	16	10

(ii) **Personal Licences under the Licensing Act 2003**

The total of Personal Licences approved under Delegated Powers since 7 February 2005, the 'First Appointed Day' on the dates shown were.

Type of Licence	Number of Licences as at			
	March 2023 (End of Q4 2022/23)	June 2023 (End of Q1 2023/24)	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)
<i>Personal Licences</i>	2381	2409	2436	2456

(iii) **Gambling Licences/Permits**

Below is a table showing the number of gambling licences and permits that were licensed with this Authority on the dates shown.

Type of Licence	Number of Licences as at			
	March 2023 (End of Q4 2022/23)	June 2023 (End of Q1 2023/24)	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)
<i>Adult Gaming Centres</i>	19	19	17	17
<i>Betting Premises</i>	11	11	11	11
<i>Bingo Premises</i>	15	15	15	15
<i>Family Entertainment Centres</i>	2	2	0	0
<i>Unlicensed Family Entertainment Centres</i>	29	29	27	27
<i>Prize Gaming Permits</i>	2	1	1	1
<i>Club Gaming & Club Machine Permits</i>	23	23	22	22
<i>Licensed Premises Gaming Machine Permits</i>	21	22	21	21

Licensed Premises Machine Notifications	116	116	116	122
Small Society Lottery Permits	117	116	114	122

(iv) **Hackney Carriage/Private Hire Licence**

Below is a table showing the number of drivers, vehicles and operators that were licensed with this Authority on the dates shown.

Type of Licence	Number of Licences as at			
	March 2023 (End of Q4 2022/23)	June 2023 (End of Q1 2023/24)	July to Sept 2023 (Q2 2023/24)	Oct to Dec 2023 (Q3 2023/24)
Hackney Carriage Driver	280	279	285	287
Private Hire Driver	6	6	6	6
Hackney Carriage Vehicle	200	198	200	202
Private Hire Vehicle	27	27	28	29
Private Hire Operator	18	19	20	19
Temporary Insurance Vehicles	3	2	1	2

Although the number of driver applications processed is broadly the same now has been the case over the last year, there has been a drop in the number of existing licenced drivers renewing (and a comparative increase in new individuals becoming licensed).

Members heard that, in addition to the information above, the Committee at its next meeting, would receive a report on the progress undertaken against the routine inspection position agreed at this point in 2023 and that it would be invited to determine the routine inspection position for 2024/25.

It was moved by Councillor Thompson, seconded by Councillor A Cossens and:

RESOLVED that the Committee **NOTES** the contents of this Officer report (A.5).

34. DATE OF THE NEXT MEETING OF THE COMMITTEE

It was **RESOLVED** that the next meeting of the Committee would be held on Monday, 25 March 2024, commencing at 6.30 p.m.

35. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Davidson, seconded by Councillor Wiggins and:-

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of Agenda Items 14 and 15 on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.

36. EXEMPT MINUTES - MISCELLANEOUS LICENSING SUB-COMMITTEE

It was moved by Councillor Davidson, seconded by Councillor Wiggins and:-

RESOLVED that the exempt minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Monday, 11 December 2023 be formally received and noted.

37. EXEMPT MINUTES - PREMISES/PERSONAL LICENCES SUB-COMMITTEE

It was moved by Councillor Davidson, seconded by Councillor Wiggins and:-

RESOLVED that the exempt minutes of the meetings of the Premises and Personal Licences Sub-Committee held on Monday, 13 November 2023 and Friday, 24 November 2023 be formally received and noted.

The meeting was declared closed at 7.02 pm

Chairman

Public Document Pack Agenda Item 5

Miscellaneous Licensing Sub-Committee

5 February 2024

**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,
HELD ON MONDAY, 5TH FEBRUARY, 2024 AT 10.00 AM
IN THE CONNAUGHT ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors J Henderson (Chairman), Smith (Vice-Chairman), A Cossens, Davidson and McWilliams
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Michael Cook (Licensing Manager), Bethany Jones (Committee Services Officer) and Emma King (Licensing Officer)

24. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor Codling (with Councillor McWilliams substituting).

25. MINUTES OF THE LAST MEETING

It was moved by Councillor A Cossens, seconded by Councillor Davidson and:-

RESOLVED that the minutes of the last meeting of the Sub-Committee, held on Monday, 11 December 2023 be approved as a correct record and signed by the Chairman.

26. DECLARATIONS OF INTEREST

Councillor Smith (Vice-Chairman) declared for the public record that he was a London Taxi driver of 34 years' experience but that he had no ties in that capacity to the District of Tendring.

27. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Davidson, seconded by Councillor Smith, and:-

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 5, 6 and 7 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.

28. EXEMPT MINUTES

It was moved by Councillor Smith, seconded by Councillor A Cossens and:-

RESOLVED that the Exempt Minutes of the last meeting of the Sub-Committee, held on Monday, 11 December 2023, be approved as a correct record and signed by the Chairman.

29. **REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - B.1 - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE**

RESOLVED that the named individual's Hackney Carriage/Private Hire Driver's Licence application be granted in full.

30. **REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - B.2 - REVIEW OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE**

RESOLVED that the Sub-Committee were in support of the 12 enforcement penalty points already imposed on the named individual's driver's licence and that no further action should be taken in relation to this matter.

The meeting was declared closed at 10.56 am

Chairman

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON MONDAY, 29TH JANUARY, 2024 AT 10.00 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors A Cossens, Kotz, Smith and Wiggins (Standby)
Also in attendance:	Gary Burke (Senior Licensing Officer – Essex Police)
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Bethany Jones (Committee Services Officer) and Emma King (Licensing Officer)

21. CHAIRMAN FOR THE MEETING

It was moved by Councillor Smith, seconded by Councillor A Cossens and:

RESOLVED that – Councillor Kotz be elected as Chairman for the meeting.

22. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence, or substitutions.

23. MINUTES OF THE PREVIOUS MEETINGS

It was agreed and **RESOLVED** that the minutes of the meetings held on Monday, 13 November 2023, Friday, 17 November 2023 and Friday, 24 November 2023 be approved as a correct record and signed by the Chairman.

24. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

25. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor A Cossens, seconded by Councillor Smith and:-

RESOLVED that under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the items of business to be considered below on the grounds that the public interest in doing so outweighs the public interest in that part of the hearing taking place in public. For the purposes of this decisions, a party and any person assisting or representing a party shall not be treated as a member of the public.

26. REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - APPLICATION FOR THE GRANT OF PERSONAL LICENCE

It was **RESOLVED** that the Personal Licence grant application submitted by the applicant be refused.

27. EXEMPT MINUTES OF THE PREVIOUS MEETINGS

It was agreed and **RESOLVED** that the Exempt Minutes of the meetings of the Sub-Committee, held on, Monday, 13 November 2023 and Friday, 24 November 2023, be approved as a correct record and be signed by the Chairman.

The meeting was declared closed at 10.54 am

Chairman

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON MONDAY, 11TH MARCH, 2024 AT 11.30 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors A Cossens, Davidson, J Henderson and Smith
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Keith Durran (Committee Services Officer) and Emma King (Licensing Officer)
Also in Attendance:	Gary Burke (Sneior Licensing Officer – Essex Police)

28. CHAIRMAN OF THE MEETING

It was moved by Councillor Smith, seconded by Councillor Davidson and:

RESOLVED that – Councillor J Henderson be elected as Chairman for the meeting.

29. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence, or substitutions.

30. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the minutes of the meeting held on Monday 29 January 2024, be approved as a correct record and be signed by the Chairman.

31. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

32. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Smith, seconded by Councillor Davidson and:-

RESOLVED that under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the items of business to be considered below on the grounds that the public interest in doing so outweighs the public interest in that part of the hearing taking place in public. For the purposes of this decisions, a party and any person assisting or representing a party shall not be treated as a member of the public.

33. REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - APPLICATION FOR THE GRANT OF A PERSONAL LICENCE

The Sub-Committee convened in private session to decide if Members agreed or disagreed with the Essex Police decision to object to the Personal Licence.

It was **RESOLVED** that the Personal Licence grant application submitted be refused.

34. EXEMPT MINUTES OF THE PREVIOUS MEETING

It was **RESOLVED** that the Exempt Minutes of the meeting of the Sub-Committee, held on Monday, 29 January 2024 be approved as a correct record and be signed by the Chairman.

The meeting was declared closed at 12.07 pm

Chairman

LICENSING AND REGISTRATION COMMITTEE

25 MARCH 2024

REPORT OF THE ASSISTANT DIRECTOR GOVERNANCE

A.1 - LICENSING ENFORCEMENT SCHEDULE OF ROUTINE LICENSING INSPECTIONS FOR 2023

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The purpose of this report is to update Committee on the Schedule of Inspections carried out in 2023/24 and invite the Committee to consider the arrangements for routine inspections of licences, permits, consents etc within the scope of the Committee's work. The Committee is asked to consider approving an updated Schedule for Inspections to be undertaken in 2024/25. Both the 2023/24 routine inspections detail and the proposals for 2024/25 are set out in Appendix A to this report.

EXECUTIVE SUMMARY

Tendring District Council is a Licensing Authority by virtue of separate legislative provisions relevant to the individuals licensing framework. As set out in those separate provisions, the Council will determine its approach to ensuring that those who are licensed comply with the requirements of the licence, permit, notice, consent etc, concerned.

Where the Licensing Authority takes enforcement action to ensure compliance with conditions etc. then it does so in accordance with the relevant legal framework and it will have due regard to the Licensing Service Enforcement policy and the Council's overall Enforcement Policy.

At Appendix A to this report are details of numbers of relevant licences/permits/consents etc for different authorisations from the Council in 2023/24 and 2024/25 as well as number of routine inspections undertaken in 2023/24 and the proposals for routine inspections in 2024/25.

RECOMMENDATION(S)

It is recommended that the Committee:

- (a) Notes the detail provided of routine licensing inspections carried out in 2023/24 as set out in this report;**
- (b) considers the need and frequency for routine inspections with a view to achieving compliance with licensing requirements within the remit of this Committee and, if satisfied, endorse the schedule of such inspections as set out at Appendix A to this report; and**
- (c) notes that Officers will then make arrangements, within the available resource, to implement the endorsed routine inspection arrangements in 2024/25 and report on progress to this Committee in time for it to inform consideration of a revised schedule for 2025/26.**

REASON(S) FOR THE RECOMMENDATION(S)

The Committee has, within its remit, a range of licences, permits, consents etc and it is appropriate that the Committee indicates to the Council Officers the extent to which time and resource is applied to different licences etc on a routine basis to monitor, encourage and enforce compliance with the legislative requirements and Council policies for those respective licences. The schedule set out at Appendix A represents a draft schedule in relation to 2024/25.

ALTERNATIVE OPTIONS CONSIDERED

To not adopt a programme of routine inspections would mean such inspections were not necessarily undertaken and inspections were not undertaken in the pro-active way identified in the schedule. This in itself can lead to a pattern of inspections that does not reflect the overall needs of the Council across its licensing functions.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft schedule set out at Appendix A is intended to support the following themes from the Council's Corporate Plan 2024-28:

- Pride in our area and services to residents – getting the basics right
- Championing our Local Environment - tough on those who do not respect our Environment

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The express powers of the Council in relation to inspection for licencing permits, consents and licences are set out in the various separate licensing statutes and include the following:

Licence Type	Powers to Inspect
Street Collections	Section 5 of the Police, Factories, & c. (Miscellaneous Provisions) Act 1916 provides for Councils to adopt Regulations concerning Street Collections. Section 6 of the Tendring District Council Regulations requires Street Collectors to produce written authority to a duty officer. The regulation also sets out a range of requirements on collectors and a breach of requirements is an offence under regulation 18.
House to House Collections	There are no express powers in the House to house Collections Act 1939. There are though powers in that Act that are exercisable by a Police Constable.
Private Hire and Hackney Carriage Vehicles	Section 73(1) of Part II to the Local Government (Miscellaneous Provisions) Act 1976 – It is an (6)(3) Vehicles Licences offence to wilfully obstruct a duly authorised Council Officer or Police Officer acting in pursuance of the licensing requirements in the 1976 Act or otherwise assist them or

	<p>provide information reasonably required.</p> <p>Section 50(1) – proprietors of licensed vehicles shall present for inspection their vehicle upon a notice from the Council (up to three times a year). Section 50(4) – the insurance documents for the licensed vehicle shall be produced upon request of a duly appointed Council Officer. Section 68 – Duly authorised Council Officers or Police Officers may inspect a licensed vehicle at all reasonable times and suspend the vehicle licence if the vehicle is not fit for use.</p>
Private Hire Operators	<p>Section 73(1) of Part II to the Local Government (Miscellaneous Provisions) Act 1976 – It is an offence to wilfully obstruct a duly authorised Council Officer or Police Officer acting in pursuance of the licensing requirements in the 1976 Act or otherwise assist them or provide information reasonably required. Section 56(2) – operators shall produce records of bookings on request to a duly authorised Council Officer or Police Officer. Section 56(4) – operators shall produce their licence on request to a duly authorised Council Officer or Police Officer.</p>
Private Hire and Hackney Carriage (Drivers Licence concluding a Dual Licence)	<p>Section 73(1) of Part II to the Local Government (Miscellaneous Provisions) Act 1976 – It is an offence to wilfully obstruct a duly authorised Council Officer or Police Officer acting in pursuance of the licensing requirements in the 1976 Act or otherwise assist them or provide information reasonably required. Section 51(3) – licensed drivers shall produce their licence badge upon request within five days.</p>
Sex shops/Sexual Entertainment Venues	<p>Paragraph 25 of Schedule 3 to Part II of the Local Government (Miscellaneous Provisions) Act 1982 – A duly authorised Council Officer or Police Officer may enter and inspect a licensed premises. It is an offence (without reasonable excuse) to obstruct such an inspection.</p>
Street Trading Consent	<p>There are no express powers in Schedule 4 to Part III of the Local Government (Miscellaneous Provisions) Act 1982</p>
Scrap Metal Site Licence	<p>Section 16(1) of the Scrap Metal Dealers Act 2013 – Police and Council Officer may enter and inspect on notice to the site manager. Section 16(9) - The officers may inspect scrap metal and records of the licensees including of payments. Section 16(13) – obstruction of an inspecting officer is an offence.</p>
Temporary Event Notice (TENS) under Licensing Act 2003	<p>An authorised Council Officer may enter the premises to which a temporary event notice relates. Where an authorised Council Officer has reason to believe that premises are being/to be used for a licensable activity, he may enter the premises to check authorisation.</p>
Personal Licences under Licensing Act 2003	<p>An authorised Council Officer may require the holder of the personal licence to produce that licence for examination.</p>
Premises Licences under Licensing Act 2003	<p>An authorised Council Officer has the power to require production of a Premises Licence from the Licensee (or nominee). Where an authorised Council Officer has reason to believe that premises are being/to be used for a licensable</p>

	activity, he may enter the premises to check authorisation.
Club Premises Certificates under Licensing Act 2003	An authorised Council Officer has the power to require production of a Club Premises Certificate from the nominee of the Club. Where an authorised Council Officer has reason to believe that premises are being/to be used for a licensable activity, he may enter the premises to check authorisation.
Club Permits under Gambling Act 2005	An authorised officer may undertake activities for the purpose of assessing compliance with the Act. They may enter premises: (a) to discover whether facilities for gambling other than private and non-commercial gaming or betting are being provided, are about to be provided or have been provided on the premises, (b) to determine whether an operating licence or premises licence is held in respect of the provision of facilities for gambling on the premises, and (c) to determine whether facilities are being, will be or have been provided in accordance with the terms and conditions of an operating licence or premises licence.
Gaming Machine Permits under Gambling Act 2005	See above
Premises Licences under Gambling Act 2005	See above
Gaming Notifications under Gambling Act 2005	See above
Pleasure Boats and Boatmen	There are no express powers in the relevant legislation - Section 94 of the Public Health Acts, Amendment Act 1907. However, those provisions do allow for a licence to be suspended/revoked.

In exercising the express powers of the Council as Licensing Authority under the Licensing Act 2003 it must do so with a view to promoting the licensing objectives defined in that Act, as follows:

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance;
- The protection of children from harm.

In respect of the express powers under the Gambling Act 2005, the Licensing Authority must carry out those functions with a view to aiming to permit the use of premises for gambling in so far as the authority think it is, inter alia, reasonably consistent with the licensing objectives defined in that Act, as follows:

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

In respect of Taxi and private hire vehicle (PHV) licensing, Councils must use their licensing powers to protect children and vulnerable adults and do so being mindful of the statutory taxi and private hire vehicle standards issued by Government from time to time.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The cost of the activity in support of carrying out the Routine Schedule will be met from the current service budget.

Consideration has been given to the finance and resource implications of the proposed decision set out in the recommendation section of the report and any significant issues are set out below.

It is considered that the routine inspection arrangements set out in Appendix A to this report can be accommodated within the overall resource for achieving compliance with the relevant licensing requirements, within the legal framework referred to, and providing for inspections etc to be arranged in response to intelligence received or complaints made.

USE OF RESOURCES AND VALUE FOR MONEY

The intention in setting a schedule of routine inspections is to ensure resources are dedicated in a programmed way to inspections of those who hold licences, consents, permits etc from the Council (as Licensing Authority). As such it seeks to support the policy objectives of the Council exercising licensing functions.

In addition to identifying individual enforcement needs for a specific licensee, permit or consent holder etc, it will act to support future guidance and enforcement for a wider group of licensees and policy development by the Council. As such it is intended to support well informed decision making and improve efficiency going forward. These routine inspections are intended to be in addition to reactive enforcement based on information received and activity around enforcement covering those who are currently unlicensed. The allocation of resources across all of these areas of enforcement will need to be applied flexibly based on circumstances

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The various calls on enforcement resources will be monitored to support appropriate decision making in this element of licensing.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	As set out above, the maintenance of a schedule of routine inspections is designed, over time, to support decision making by the Council.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	As delivery of the routine inspections programme takes place it will be monitored and lessons learned are fed back into practices, resources allocated and policy / guidance. This approach is intended to support efficiency of the service.

MILESTONES AND DELIVERY

The report sets out the proposed routine enforcement activity to be undertaken in 2024/25 and invites the Committee to consider approving this Schedule for Inspections with a view to reviewing this in early 2025 based on experience of applying the schedule.

ASSOCIATED RISKS AND MITIGATION

The two most significant risks would be that the Council does not inspect licences sufficiently on a routine basis (that the licensing regime does not function effectively to achieve compliance) and, in a potentially competing way, that it applies excessive resource to routine inspections (and this in turn means that it is unable to respond appropriately to intelligence it receives of potentially unauthorised licensable activity or complaints from consumers or others about the actions of licensees in respect of licensable activities).

It is the role of Officers, initially, and the Committee, periodically, to consider issues identified as risks and determine the appropriate responses.

OUTCOME OF CONSULTATION AND ENGAGEMENT

Through the year the routine inspections has implicitly resulted in engagement with licensees.

EQUALITIES

In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);
- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who do not.

SOCIAL VALUE CONSIDERATIONS

Well regulated activities should, of themselves, contribute to the overall economic, social and environmental well-being of the District. The adoption of the proposed schedule of routine inspections seeks to support well regulated licensable activities.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT IMPLICATIONS

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

Crime and Disorder

The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it

	reasonably can to prevent crime and disorder in its area. The schedule of routine inspections seeks to support this duty.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

In addition to the activity identified in the schedule at Appendix A, the Council's Officers also routinely check publicly available information in local publications and the internet for evidence to inform pro-active compliance activity. Officers also receive information from a variety of other sources that assist intelligence for the Council's licensing function. The action taken will depend upon the nature of the information and the extent to which it identifies non-compliances/offences and offenders and the risk of harm to the public and consumers. Some of this information may be through complaints about the activities of individuals/organisations that are undertaking unauthorised licensable activity or activity that is contrary to the basis on which a licence is held. Such pro-active and responsive compliance activity will constitute the majority of the time resource available within the team concerned.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Licensing and Registration Committee – 8 March 2024 - Minute 140 refers

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – 2023/24 details of authorisations and inspections undertaken and proposed Schedule of Routine Licensing Inspections for 2024/25.

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A.2 – APPENDIX A – OVERVIEW 2023/4 AND PROPOSED 2024/5 ENFORCEMENT SCHEDULE

Schedule of Routine Licensing Inspections

Licence Type	Number of Licences, Permits etc 2023	Number of Inspections carried out 23/24	Number of Licences, Permits etc 2024	Proposed Routine Inspection
Street Collections	24	1	20	At least ten Street Collections will be checked 'on-street' each year to check for compliance with Regulations. The reports from the inspections will then identify any further matters requiring action.
Private Hire Vehicles	26	15	29	<p>The vehicles are subject to two mechanical tests (under 10 years old) and a MOT each year.</p> <p>Any vehicle that is aged 10 years plus will be required to have an additional mechanical test each year, bringing it to three in total.</p> <p>Visual Inspections are carried out following reports of damage or accident to the vehicle.</p> <p>Visual Inspections are carried out as part of the Operators check.</p>
Hackney Carriage Vehicle	201	121	203	<p>The vehicles are subject to two mechanical tests (under 10 years old) and a MOT each year.</p> <p>Any vehicle that is aged 10 years plus will be required to have an additional mechanical test each year, bringing it to three in total.</p> <p>Visual Inspections are carried out following reports of damage or accident to the vehicle.</p>

A2 – APPENDIX A – OVERVIEW 2023/4 AND PROPOSED 2024/5 ENFORCEMENT SCHEDULE

				<p>At least 12 taxi rank inspections will be carried out throughout the year to check on compliance. A visual inspection will also be carried out at this time.</p> <p>The Council will seek to conduct a joint operation with Essex Police which will involve stopping and inspecting vehicles, checking on compliance and safety of the vehicle.</p>
Private Hire Operators	19	3	19	The Council will seek to visit a quarter of private hire operators within a year to check compliance with the conditions of their Licence; including daily and periodic vehicle maintenance checks.
Private Hire / Hackney Carriage Drivers Licence	285	44	294	Drivers are seen each year through routine daily interactions with the licensed trade. This includes application process, during vehicle and rank inspections as well as any complaints received. The Council will monitor numbers of licenses seen with a view to one fifth of all licences being seen in a year.
Sex shops/Sexual Entertainment Venues	1	1	1	At least one visit will be undertaken to the establishment to check on compliance.
Street Trading Consent (Except at Dovercourt Market)	7	27	7	At least two visits per year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.
Street Trading Consent (Dovercourt Market)	13	10	18	At least two visits per year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.

A2 – APPENDIX A – OVERVIEW 2023/4 AND PROPOSED 2024/5 ENFORCEMENT SCHEDULE

Scrap Metal Site Licence	15	3	18	<p>At least one compliance check to be carried out throughout the period of the licence by an authorised Council Officer. One fifth of all licences will be routinely inspected each year.</p> <p>The Council will seek to do joint enforcement operations with Essex Police.</p>
Temporary Event Notice (TENS) under Licensing Act 2003	348	4	357	<p>The Council will seek to visit at least ten events authorised by a TEN throughout the year to ensure that the organisers are aware of their responsibilities under such Notices. The reports from the inspection will then identify any further matters requiring action.</p>
Premises Licences under Licensing Act 2003	560	245	570	<p>40% of licensed premises will receive a compliance visit within the year.</p> <p>A rolling programme of visits to licensed premises is underway to check compliance by the Premises Licence. The reports from the inspection will then identify any further matters requiring action.</p> <p>The Council seeks to conduct joint inspection exercises throughout the year with other responsible authorities e.g. Police and Environmental.</p>
Club Premises Certificates under Licensing Act 2003	55	9	55	<p>30% of licensed premises will receive a compliance visit within the year.</p> <p>A rolling programme of visits to licensed premises is underway to check compliance by the Premises Licence. The reports from the inspection will then identify any further matters requiring action.</p>

A2 – APPENDIX A – OVERVIEW 2023/4 AND PROPOSED 2024/5 ENFORCEMENT SCHEDULE

				The Council seeks to conduct joint inspection exercises throughout the year with other responsible authorities e.g. Police and Environmental.
Adult Gaming Centres under Gambling Act 2005	19	12	17	One visit every other year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action. As such 50% of licenced will be visited routinely this year/
Betting Premises under Gambling Act 2005	11	9	11	One visit every other year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.
Bingo Premises under Gambling Act 2005	14	8	15	One visit every other year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.
Family Entertainment Centres under Gambling Act 2005	2	0	0	One visit every other year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.
Unlicensed Family Entertainment Centres under Gambling Act 2005	29	11	27	One visit every other year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.
Prize Gaming Permits under Gambling Act 2005	2	0	1	One visit every other year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.
Club Gaming & Club Machine Permits under Gambling Act 2005	24	2	21	One visit every other year by an Authorised Council Officer. The reports from the inspection will then identify any further matters requiring action.
Licensed Premises Gaming Machine Permits under Gambling Act 2005	21	6	21	These will be inspected on the same basis as the LA2003 Premises Licence held.
Licensed Premises Machine Notifications under Gambling Act 2005	114	11	120	These will be inspected on the same basis as the LA2003 Premises Licence held.

A2 – APPENDIX A – OVERVIEW 2023/4 AND PROPOSED 2024/5 ENFORCEMENT SCHEDULE

Boats	30	2	47	At least four visits will be made to the Harbours and compliance checks will be carried out in respect of licensed boats there.
Boatman	40	3	61	At least four visits will be made to the Harbours and compliance checks will be carried out in respect of licensed boatman there.

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LICENSING AND REGISTRATION COMMITTEE

25 MARCH 2024

REPORT OF THE ASSISTANT DIRECTOR GOVERNANCE

A.2. LICENSING ACT 2003 – EXHIBITIONS OF FILM - FILM CLASSIFICATION POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The Council is the licensing authority under the Licensing Act 2003 and exhibitions of film is one of the types of regulated activity requiring an authorisation from the Council under that Act. Most exhibitions of film have a classification to indicate the age restrictions that should apply to the exhibition of the individual film. In the UK the classification body is generally the British Board of Film Classification (the BBFC). However, not all films have a classification.

For this Council, there is currently no formal policy or procedure to deal with the classification of previously unclassified films as well as to deal with circumstances where there are appeals by distributors against the BBFC decisions or to reclassify films.

This report considers a proposed Film Classification Policy to be adopted. As a policy matter, in due course, any decision to adopt the policy will be a matter for the Council's Cabinet (following a recommendation from this Committee).

EXECUTIVE SUMMARY

Tendring District Council is a Licensing Authority under the provisions of the Licensing Act 2003 (the Act). A function of the Licensing Authority under the Act is to receive, consider and determine applications for Premises Licences or Club Premises Certificates. The Act regulates various activities (known as licensable activities or in the case of a private club operating pursuant to a Club Premises Certificate, qualifying club activities). Those activities include the provision of regulated entertainment.

The Act seeks to promote 4 licensing objectives. These are:

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

Schedule 1 of the Licensing Act 2003 sets out what activities are regarded as the provision of regulated entertainment. The description of entertainment activities licensable under the Act include the exhibition of film. To be licensable, an activity needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

Take place in the presence of a public audience, or
Where that activity takes place in private, be the subject of a charge made with a view to profit.

All premises licences that permit regulated entertainment in the form of the exhibition of films have a mandatory condition attached to it relating to the admission of children to that premises. Children under the Licensing Act 2003 are defined as anyone under the age of 18. The mandatory condition is a requirement under Section 20 of the Licensing Act 2003. The mandatory condition reads as follows:

“Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification **or recommended by this licensing authority as appropriate.”**

The emphasis shown above is solely for this report.

When considering any film which has been put forward for a classification, the Licensing Authority will consider it in terms of how the exhibition of this film will impact on the licensing objectives, including the protection of children from harm. This will apply to any films that have been put forward for a classification that will allow children to watch it. There are seven classification tiers (U, PG, 12, 12A, 15, 18 & R18) relating to what age a child may be permitted to watch the film on their own or whether there should be any parental or adult supervision.

The British Board of Film Classification (BBFC) is the national standard classification body for films. However, as the premises licence condition quoted above states, the Licensing Authority may classify films (even where the BBFC has classified it). Where no classification from the BBFC exists, the Council may wish to apply its own film classification. Such local classifications apply solely to the District of Tendring. When classifying any film, the Licensing Authority will have regard to the BBFC Guidelines.

There are specific factors that may influence a classification decision such as:

- Discrimination
- Drugs
- Imitable behaviour
- Language
- Nudity
- Sex
- Threat
- Violence

RECOMMENDATION(S)

It is recommended that the Committee:

Approve for an eight week public consultation the draft policy for Film Classification (as attached to this report at Appendix A) and for the outcome of that consultation to be submitted to a future meeting of this Committee.

REASON(S) FOR THE RECOMMENDATION(S)

It is recommended that the Council use 'The British Board of Film Classification Guidelines' as a reference point for its considerations concerning the access of children to the film(s). In particular, the 'General Classifications Considerations' section of this Guidance may be helpful.

ALTERNATIVE OPTIONS CONSIDERED

The public exhibition of films upon licensed premises must either be classified by the British Board of Film Classification or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft Film Classification Policy set out at Appendix A is intended to support the following themes from the Council's Corporate Plan 2024-28:

- Pride in our area and services to residents – putting residents first
- Promoting our heritage offer, attracting visitors and encouraging them to stay longer – promote the district

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The Licensing Act 2003 includes the following relevant provisions:

- Part 1 Section 1 – sets out that regulated entertainment is a licensable activity under the Act.
- Schedule 1 Part 1 – defines regulated entertainment as being for members of the public (or section of the public), members of a club/guests or otherwise with a view to a profit. It goes on to list types of regulated entertainment covered by the Act and these include exhibition of a film.

Since April 2015 there has no longer been a need for an authorisation under the Licensing Act 2003 if the exhibition of a film is a) not-for-profit and b) to be held between 8.00am and 11.00pm.

In exercising the express powers of the Council as Licensing Authority under the Licensing Act 2003 it must do so with a view to promoting the licensing objectives defined in that Act, as follows:

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance;
- The protection of children from harm.

Film classification under section 20 of the Licensing Act 2003: Mandatory condition: exhibition of films

“(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

- (2) *Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.*
- (3) *Where—*
- (a) *the film classification body is not specified in the licence, or*
 - (b) *the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.*
- (4) *In this section—*
- *“children” means persons aged under 18; and*
 - *“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c. 39) (authority to determine suitability of video works for classification).”*

The Council is required to have regard to the Secretary of State’s guidance under Section 182 of the Licensing Act 2003. This guidance includes a section on the exhibition of films (paragraphs 10.59-10.60). This section of the guidance covers the position in respect of adverts. Paragraph 11.27 of the guidance references offences around licensed premises being used for the evasion of copyright in respect of pirated or unlicensed films and music. There are then references to circumstances in which entertainment activities are not licensable and this includes particular circumstances for the exhibition of films in paragraphs 16.5 and 16.6 of the guidance. Due regard has been given to these elements of the guidance (and more generally) in the drafting of the Film Classification policy set out at Appendix A.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The cost of the activity in support of carrying out the film classification has been set at the Licensing and Registration Committee during the fees and charges report.

The Licensing Authority have a fee scheme run on a cost recovery basis. The fees charged will cover the costs associated with the film classification process.

USE OF RESOURCES AND VALUE FOR MONEY

<p>A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;</p>	<p>The adoption of a policy for film classification is designed to support efficiency and openness to the public including those wishing to screen films that the Council may be called upon to classify.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</p>	<p>The adoption of a policy for film classification is designed to provide a framework for decisions on classifications going forward.</p>
<p>C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.</p>	<p>The adoption of a policy for film classification should avoid any unnecessary activity that would be required as and when the Council is in a position to consider classifying a film.</p>

MILESTONES AND DELIVERY

The Council has undertaken limited consultation already on the draft policy. It is now

proposed to give the public the opportunity to comment on the policy and for the outcome of that consultation to be submitted to it when called upon to consider recommending the Cabinet to approve such a policy.

ASSOCIATED RISKS AND MITIGATION

The primary risk at the moment is that, in the absence of a policy, the Council applies its film classification role in a way that is 'Wednesbury' unreasonable. The adoption of a policy following a period of consultation is intended to mitigate against that risk.

It is the role of Officers, initially, and the Committee, periodically, to consider issues identified as risks and determine the appropriate responses.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The following organisations have been consulted in preparing this report:

Electric Palace, Harwich; and
Picturedrome Clacton Century.

At the time of writing this report, only Electric Palace have responded that the consultation "was extremely helpful and looked as expected. We are grateful for you sharing this with us".

EQUALITIES

In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);
- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who do not.

SOCIAL VALUE CONSIDERATIONS

There are no social value considerations directly related to this report.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of

the following and any significant issues are set out below.	
Crime and Disorder	The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>The current process requires all film classification requests to be submitted to the Licensing Authority with suggested age classifications from the film maker.</p> <p>The processing officer will follow the guidelines set out by the BBFC. The officer's aim is to always protect children and vulnerable adults from potentially harmful or unsuitable content.</p> <p>Members of the Premises / Personal Sub Committee watch the films and determines the classification following consideration of the officers' recommendations.</p> <p>There is currently no formal policy or procedure for the Licensing Authority to deal with the classification of unclassified films and with the adoption of the new policy, this will enable both the applicant and the Licensing Authority to process these requests.</p>
PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.
Not Applicable
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
None

APPENDICES
Appendix A – Proposed Film Classification Policy

REPORT CONTACT OFFICER(S)	
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Tendring District Council



FILM CLASSIFICATION POLICY

Tendring District Council: www.tendringdc.gov.uk

POLICY FOR DETERMINING FILM CLASSIFICATION

1. INTRODUCTION

- 1.1 Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence, currently only the British Board of Film Classification (BBFC), or by the Licensing Authority itself.
- 1.2 The public exhibition of films on licensed premises must therefore either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.3 The purpose of this Policy is to set out the formal procedure for Tendring District Council (the Licensing Authority) to determine within its area, the classification of previously unclassified films, to amend classifications and deal with appeals by distributors against the BBFC's decisions or requests to reclassify films.
- 1.4 Section 26 of the Counter Terrorism and Security Act 2015 places a duty on Tendring District Council to have 'due regard to the need to prevent people from being drawn into terrorism'.
- 1.5 Where a premises seeks or intends to exhibit film(s), the venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003, apart from the limited exemptions detailed at Section 8 of this policy. In the case of a Temporary Event Notice, the Licensing Act 2003 mandatory condition relating to films does not apply, but applicants may still request the assistance of the Council in determining the classification of a film(s)
- 1.6 The Act defines children as 'any person under the age of 18' and the exhibition of film as 'the exhibition of moving pictures'.

2. BACKGROUND

- 2.1 The Licensing Authority may be requested to authorise the showing of an unclassified film(s) within the Tendring District Council district. Typically this will be for:
 - A film festival covering a specific period of time
 - A one off screening of a film(s)
 - A trailer for a film
- 2.2 The Licensing Authority may also be requested to authorise a film that has already been classified by the BBFC when:
 - A distributor of a film wishes to appeal against the decision of the BBFC and request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions) or;
 - An independent party may request that the Licensing Authority reclassifies/authorises the film for local screening (with recommendations on age restrictions).

3. PROCEDURE FOR SUBMISSION OF FILM(S)

- 3.1 Applications for authorisation of film(s) shall be referred to the Licensing Manager and will be determined by the Miscellaneous Licensing Sub Committee.
- 3.2 Applications should be submitted to the Licensing Authority, for the attention of the Licensing Manager, at least 2 months before the proposed screening.

- 3.3 An application for authorisation needs to be in a form that can be viewed, read and understood, should state detailed reasons for the request and include the following information:
- The date(s), time(s) and proposed venue for the exhibition of the film(s)
 - The name of the film maker;
 - A brief synopsis of the film(s);
 - Any recommendation that may have been made by the film maker regarding an age limit for the intended audience for exhibition of the film;
 - Any existing classification issues by an existing classification body, whether within or outside the UK.
 - If the film has previously been classified by another Licensing Authority, details of the classification awarded by that authority, together with the date and venue at which it was shown.
 - Information identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film;
 - The language spoken in the film and whether there are subtitles in English
 - Details of how any age restrictions will be enforced;
- 3.4 All requests shall be accompanied by the film(s), where possible in USB format to avoid delays, the cost to be borne by the applicant. Other formats are available and can be discussed and agreed with the Licensing Authority.
- 3.5 If the film contains dialogue that is in a language other than English, an interpreter, approved by the Licensing Authority may be required for the classification, the cost to be borne by the applicant.
- 3.6 Applicants must ensure all material subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988, the Counter Terrorism and Security Act 2015 or any other relevant legislation and has not been created through the commission of a criminal offence.

4. PROCESS

- 4.1 Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
- 4.2 A Licensing Officer will view the film and prepare a brief report outlining any areas of concern or note in accordance with the BBFC guidelines, and the Licensing Committee will view the film and assess it against the BBFC guidelines and Government Guidance.
- 4.3 The Chair will have the final decision on the classification to be applied to the film. In the absence of the Chair, the decision will be made by the Vice Chair.
- 4.4 A notice of determination will be issued.
- 4.5 The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 4.6 Where the Licensing Authority has determined to refuse the authorisation of a film, reasons for the decision shall be given.
- 4.7 A fee will be payable on application.

5. CLASSIFICATION

- 5.1 The BBFC classifies films in accordance with published guidelines that are based on extensive research into public opinion and professional advice, generally reflecting public sensibilities and expectations as they change over time.

- 5.2 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted and will use this system together with any future amendments that may apply, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). The Licensing Authority, however, is not obliged to follow these guidelines.
- 5.3 Where a licensed premises within the Tendring District Council district seeks to exhibit a film(s) that has not been classified by the BBFC, then it will be the responsibility of the Licensing Authority to authorise that film(s).
- 5.4 The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. However, material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959, or is in breach of the Copyright Design and Patents Act 1988, or the Counter Terrorism and Security Act 2015; or has been created through the commission of a criminal offence.
- 5.5 The Licensing Authority shall concern itself primarily with the protection of children from harm and will not use its powers to censor films unless there is a clear cause to believe that this is required to promote the licensing objectives.

6. PROTECTION OF CHILDREN FROM HARM

- 6.1 The protection of children from harm is a licensing objective under the Act. Section 182 Government Guidance to Licensing Authorities under the Act states: It includes the protection of children from moral, psychological, and physical harm. This includes not only protection children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives, for example, in the context of exposure to certain films or adult entertainment. Licensing Authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 6.2 In line with the Government Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.
- 6.3 Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any person under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.
- 6.4 In these circumstances, the licence holder will be required to display in a conspicuous position, a notice clearly stating the relevant age restrictions and requirements or non-admittance. E.g.: Persons under the age of (insert appropriate age) cannot be admitted to any part of the programme Persons under the age of (insert appropriate age) can only be admitted to the programme if accompanied by an adult.

7. AUTHORISATION

- 7.1 Any authorisation(s) for the exhibition of film issued by the Licensing Authority will only apply when the film is exhibited within the area covered by Tendring District Council and does not affect the authorisations of any other Authority.
- 7.2 Once authorised by the Licensing Authority a film(s) will be authorised for a particular showing or festival only and subject to the recommendations imposed by the Licensing Authority.
- 7.3 The issue of any authorisation by the Licensing Authority is strictly limited to the determination of film classification and it will be assumed that all relevant third-party consents and licences in respect of

any and all copyright confidential information and all other intellectual property rights have been obtained.

- 7.4 Where the Licensing Authority has authorised unclassified material to be shown, it will require an undertaking from the applicant of that they are satisfied, after making proper enquiry, that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988, Counter Terrorism and Security Act 2015 or any other relevant legislation and has not been created through the commission of a criminal offence.
- 7.5 The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.
- 7.6 Each application will be considered on its individual merits. There is no right of appeal to the classification imposed by the Licensing Authority, save by way of Judicial Review of the decision.
- 7.7 All authorisations issued under a Premises Licence or Club Premises Certificate will be subject to the mandatory conditions contained in the Act relating to the exhibition of film.

8. EXEMPTIONS

- 8.1 The provision of the exhibition of film is exempt from regulation by The Act if either:
 - It consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery, or:
 - Its sole or main purpose is to:
 - demonstrate any product,
 - advertise any goods or services, or
 - provide information, education or instruction.
 - the film is shown on a 'not-for-profit' basis in a community premises between the hours of 08.00 and 23.00 provided that the audience does not exceed 500.

9. CONTACT DETAILS

All applications should be sent for the attention of:
The Licensing Manager
Licensing Section
Tendring District Council
Town Hall
Clacton on Sea
Essex CO15 1SE

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of the Local Government Act 1972.

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