

# Joint Executive (Cabinet) Committee

Forest Heath & St Edmundsbury councils

**West Suffolk**  
working together

<b>Title of Report:</b>	<b>Single Council Preparations: Approval to Consult on Harmonised Regulation and Licensing Policies</b>	
<b>Report No:</b>	<b>CAB/JT/18/018</b>	
<b>Report to and date:</b>	<b>Joint Executive (Cabinet) Committee</b>	24 July 2018
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<b>Purpose of report:</b>	To consider proposals to consult on policies to be harmonised during 2018/2019 in preparation for single council.	
<b>Recommendation:</b>	<p><b>It is <u>RECOMMENDED</u> that, the Joint Executive (Cabinet) Committee:</b></p> <p><b>(1) agrees to the proposed approach for consultation on the following policies:</b></p> <p><b>(a) Taxi policy</b> <b>(b) Street Trading and Vending policy</b> <b>(c) Enforcement policy; and</b></p> <p style="text-align: right;"><i>Continued over.....</i></p>	

	<p><b>(2) notes that the FHDC Portfolio Holder for Planning and Growth will be asked to take decisions on undertaking the following consultations under their existing delegated authority:</b></p> <p><b>(a) Statement of Licensing Policy; and</b>  <b>(b) Newmarket Cumulative Impact Area</b></p>		
<p><b>Key Decision:</b></p> <p><i>(Check the appropriate box and delete all those that <b>do not</b> apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p>		
<p><i>The decisions made as a result of this report will usually be published within <b>48 hours</b> and cannot be actioned until <b>five clear working days of the publication of the decision</b> have elapsed. This item is included on the Decisions Plan.</i></p>			
<b>Consultation:</b>	Consultations will follow approval		
<b>Alternative option(s):</b>	Consult on options		
<b>Implications:</b>			
<p><i>Are there any <b>financial</b> implications? If yes, please give details</i></p>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
<p><i>Are there any <b>staffing</b> implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Other than time required to prepare and run consultations</p>		
<p><i>Are there any <b>ICT</b> implications? If yes, please give details</i></p>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
<p><i>Are there any <b>legal and/or policy</b> implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <ul style="list-style-type: none"> <li><b>Need to harmonise policies as part of preparing for single Council</b></li> <li>Consultation responses will inform the decision making process for the new harmonised policies</li> </ul>		
<p><i>Are there any <b>equality</b> implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>We will ensure relevant representatives of groups with protected characteristics are targeted through all of our consultations. See paragraph 2.3 for further details.</p>		
<b>Risk/opportunity assessment:</b>		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
<b>Risk area</b>	<b>Inherent level of risk</b> (before controls)	<b>Controls</b>	<b>Residual risk</b> (after controls)
Potential for misunderstanding of our intentions for harmonising these key policy areas	Medium	Communications supporting consultation and explanatory notes will set out our intentions clearly	Low
Reputational risk if we overpromise and plans for future review cannot deliver	Medium	Defined scope of future reviews	Low

<b>Ward(s) affected:</b>	All West Suffolk Ward/s
<b>Background papers:</b> <i>(all background papers are to be published on the website and a link included)</i>	
<b>Documents attached:</b>	<b>Appendix A:</b> Decision-making timetable <b>Appendix B:</b> Summary of proposals for harmonisation (for taxis and street trading licensing) <b>Appendix C:</b> Draft West Suffolk Enforcement Policy

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## **1. Key issues and reasons for recommendation(s)**

### **1.1 Policy Harmonisation for single council**

1.1.1 As we move to a single Council we need new West Suffolk policies that reflect the purpose of regulation in protecting the public, regulating business activity and enabling growth.

1.1.2 Updating the policy framework is a matter for the Shadow Authority and Executive, taking advice from the Licensing and Regulatory Committees and Officers. The approach to the review takes into account the principles set out in the Single Council Implementation Plan developed for that purpose. Specifically these principles set the following parameters for the scope of this review:

- i) avoidable decisions on the policy differences will not be taken now;
- ii) transitional arrangements will be made for unavoidable decisions; and
- iii) policy improvements will not be made solely as a result of single council, only if they were already planned or required as part of business as usual.

1.1.3 Consulting relevant stakeholders is an essential part of the policy making process. Decisions for consultation and sign-off are being taken at the most appropriate level with regard to legislation and complexity. Consequently, it is recommended the Joint Executive (Cabinet) Committee reviews and approves the consultation process set out in section 2 of this paper.

1.1.4 This report summarises our approach to the more complex policy harmonisations, some of which include transition options. Separately, the following already harmonised policies require decisions for renewal and will be presented to the executives as part of normal business :

- Contaminated Land Strategy
- Gambling Act Statement of Policy.

Separately, the following harmonisation decisions will need to be made for the planning and regulatory service:

- Licence fee harmonisation (see 1.7)
- Annual hackney carriage fare setting and harmonisation (see 1.8)
- Skin piercing byelaws

Skin piercing byelaws have been reviewed and legal advice has determined that no action is required now.

1.1.5 It is also worth noting that there is a separate process for existing harmonised policies to collectively be 'rolled forward' to the new single council. A recommendation will be considered later in the year around the process for turning existing joint policies into single policies, where the only changes required are rebranding and technical wording changes, for example: "councils" to "council". For planning and regulatory policies, this recommendation will cover:

- Housing Assistance policy
- Civil Sanctions Policy dealing with rogue landlords
- Houses in Multiple Occupation (HMO) guidance
- Joint development management policies
- Sex establishment licensing
- Empty homes strategy
- Park homes
- Gambling Act Statement of Policy (subject to FHDC and SEBC adoption)
- Statement of Licensing Policy (subject to FHDC adoption)

1.1.6 To provide additional context, there are additional planning and regulatory publications and decisions required for 2018/19, in the normal course of business as they are due for renewal:

- Food Services Safety Plan
- Air Quality Management Area declaration
- Local Air Quality Management annual report

1.1.7 The policy areas listed below are covered in this paper. The longevity of the proposed policy changes depends on the policy area. For example, future policy reviews are being planned for West Suffolk Taxi and Street Trading and Vending policies to account for parameter ii) above. The following approaches are recommended:

- Enforcement Policy – aligned and fit-for-purpose policy for West Suffolk
- Taxi policy – transitional arrangements
- Street Trading and Vending – transitional arrangements
- Statement of Licensing Policy – no policy differences for harmonisation
- Newmarket Cumulative Impact Area - decision required on whether the Area policy should be renewed
- Hackney vehicle fares– adoption of harmonised fares across West Suffolk following first stage alignment in June 2018
- Licence fees for taxi and street trading and vending licences – adoption of harmonised licence fees for West Suffolk.

1.1.8 A joint informal working group of the Licensing and Regulatory Committees took place on 19 June 2018 with the aim of providing early feedback on the proposed options. The proposals outlined below were deemed sensible by those who attended and the opportunity for future reviews was welcomed. Helpful ideas and challenge were provided for further developing the policies once the single council is established.

## 1.2 **Enforcement Policy**

1.2.1 The new West Suffolk Enforcement Policy (Appendix C) aims to be an 'overarching' policy that outlines the principles for good enforcement. There are also some service-specific details, which are set out where appropriate in separate documents for example the housing Civil Sanctions policy. The draft policy is a 'code of practice' style document that describes good enforcement that supports our strategic objectives. The updated policy reflects the latest

understanding of the way 'better regulation' can support our strategic objectives.

1.2.2 Officers are of the opinion that the process for adopting the draft policy does not require transitional arrangements (before April 2019) as the overarching policy aims to be a summary of the principles for good enforcement already adopted by our services. It also captures universal enforcement actions utilised across the board. The policy will be reviewed on a regular basis to ensure that it is up to date.

1.2.3 As part of the draft Enforcement Policy, guidance focussing specifically on how the council undertakes surveillance in line with the Regulation of Investigatory Powers (RIPA) will be appended to the policy when published. This is a guidance document on the legislation aimed primarily at officers.

### 1.3 **Transition Arrangements for Taxi Policy**

1.3.1 The existing handbooks approved currently by the Councils set out licence requirements for hackney carriage and private hire vehicles and drivers, alongside private hire telephone operators. The number of licences held under these policies are as follows:

<b>Licence Type</b>	<b>FHDC</b>	<b>SEBC</b>
Hackney carriages	129	71
Private hire vehicles	44	330
Private hire operators	18	75
Drivers	199	474
Total licences	390	920

1.3.2 Almost all sections of these policies were aligned in 2017. The creation of a new West Suffolk Council will mean a single licensing authority for all of West Suffolk therefore cars can operate anywhere. This requires alignment of the remaining policy areas. The current position and transition proposals are set out below and further detail can be found in Appendix B.

#### 1.3.3 Livery

Hackney carriages need to be recognisable to the public as the type of taxi that can ply for hire on the street. All hackney vehicles are required to have a roof sign and council licence plates to identify them. Some authorities also impose a livery on their hackney carriages for the following reasons:

- Additional identifier as a vehicle insured to ply for hire on the curb
- Increased ability for the trade to self-regulate in terms of differentiating between private hire vehicles and hackney carriages, and classify those vehicles that can legitimately trade in the area from those that cannot
- A standard livery also is thought to improve the appearance of the hackney carriage fleet and enhance an area's public image.

1.3.4 Currently only Forest Heath hackney carriage vehicles are required to have a livery. This consists of a black base colour and yellow bonnet and tailgate or boot. In harmonising policy, it is recommended that we do not enforce a livery across West Suffolk from 1 April 2019 but recommend that all new or replacement cars put on the road are black. This recommendation will ensure vehicle owners will not lose out ahead of any future livery decision by West Suffolk Council. There will be no requirements for existing licensed vehicles to change, subject to any future review.

1.3.5 Age of Vehicle upon first licensing or vehicle replacement

Vehicle age is a commonly used criterion to review vehicle condition when licensing a taxi vehicle for the road. However, there is limited consensus among licensing authorities on the maximum age a vehicle can be safely used for public hire. This is because age is only an indicator and not a definitive marker of vehicle safety.

1.3.6 We need to harmonise the maximum age requirements so we can provide licences on a consistent basis across West Suffolk from 1 April 2019. The average maximum age restriction upon first licensing was 5 years across 14 local authorities reviewed. 5 years is therefore considered a reasonable compromise on age for private hire vehicles and reflects what has been more widely adopted by other councils.

The current requirements and transition proposals are set out in the table below. These proposals reflect the need for minimum consistent standards:

Class of Vehicle	FHDC	SEBC	Transition
Private hire vehicles	3 years and 3 months for all vehicles	7 years	5 years
Saloon hackney vehicles		7 years	3 years 3 months
Wheelchair accessible hackney vehicles		New upon first licensing (delivery mileage only)	1 year upon initial licensing (and 3 years 3 month upon replacement)
Private hire vehicle age exemption		Vehicles in good condition (introduced in 2017, SEBC only)	Keep exemption but tighten criteria for eligibility and 'good condition'

1.3.7 Byelaws

Byelaws are currently included as part of the existing policy framework. They are location specific, differ in length and repeat existing policy requirements. External legal advice provided to our Councils is that byelaws are becoming obsolete for taxi licensing and should be replaced by formally adopting underlying legislation. Given that the licensing requirements set out in the current and proposed handbooks replicate the byelaws, it is proposed that the byelaws are revoked.

### 1.3.8 New national guidance recommendation

There is also an additional proposed option to update public safety aspects of policy in response to new national guidance. Our policy already complies with most of this guidance. The only area for improvement is to increase requirements for private hire vehicle operators to further support public safety. Operators collect personal data, commonly over the phone, and the need for appropriate background checks and complaints procedures in place is recognised and will be included in the future policy review.

1.3.9 It is proposed we introduce a requirement for all complaints from customers to be logged and reported to the council. A later review can use this data and further improvements based on evidence and best practice can be considered.

### 1.4 **Transition arrangements for Street Trading and Vending Policy**

1.4.1 The two current policies outline the approach and licensing requirements for specific 'consent' areas covering relevant street furniture, trading from an isolated pitch and café vending outside premises.

1.4.2 The current position is set out below:

<b>Licensed Street traders and vendors</b>		<b>Registered catering facilities</b>
FHDC	SEBC	85 (63 hot food and 22 cold food)
8 street trading permits	6 street trading permits 8 cafe permits (Bury St Edmunds only)	

1.4.3 The 85 catering facilities are registered with the councils' Food Safety team but do not have a street trading and vending licence as they do not operate within one our current consent areas. Therefore, they do not currently fall under the relevant street trading and vending policy.

1.4.4 The Forest Heath policy was developed in 2012 and street trading guidance updated in 2014 is fairly detailed in its approach. St Edmundsbury policy was revised in 1999 and needs refreshing. The following policy differences must be harmonised for Single Council (detailed proposals are set out in Appendix B):

- Food safety and health and safety certification required as part of the application process
- Specify pitch on licence as standard
- Retain current consent areas:
  - FHDC:
    - Brandon (Market Hill),
    - Mildenhall (Market Place),
    - Newmarket (Sun Lane, Wellington St, Birdcage Walk)
    - All council car parks in these areas
  - SEBC:
    - Bury St Edmunds: (Angel Hill, Station Hill)
    - Haverhill (High St, Hamlet Rd, Camps Rd, Queen St)



### 1.5 **Statement of Licensing policy**

This is a policy that full council is statutorily required to approve. It is a statement of our actions under the Licensing Act 2003, relating to the retail or supply of alcohol, regulated entertainment and late night refreshment. There are no policy differences between the Forest Heath District Council and St Edmundsbury Borough Council documents.

The Forest Heath policy is due for renewal in January 2019. The Shadow Executive (Cabinet) will be asked to adopt the policy, subject to subsequent approval by FHDC Council, as part of a group of policies to be 'rolled forward' to the new single council (as set out in paragraph 1.1.5).

### 1.6 **Cumulative Impact Area – Newmarket**

The Licensing Act 2003 set outs provision for the creation of area-based Cumulative Impact Areas (CIA), previously known as Cumulative Impact Policies (CIP), in areas where there is high concentration of licensed premises and crime statistics suggest it is required. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. We currently have two CIAs, in Bury St Edmunds and Newmarket. The Newmarket CIA is due to expire in January 2019. It is recommended that the public and other key stakeholders are consulted on whether to renew the Newmarket CIA in its current form.

### 1.7 **Licence Fees**

1.7.1 We need to harmonise fee structures for taxi and Street Trading and Vending licences in preparation for single council. These harmonised fees will be agreed as part of the budget setting for the shadow council.

### 1.8 **Hackney Carriage Fares**

1.8.1 Fares that hackney carriage drivers charge the public are currently agreed annually by the Licensing and Regulatory Committees. The harmonisation of fares for single council will be agreed through the appropriate process.

## **2. Approach for Consultation**

### 2.1 **Timing and Approach**

2.1.1 The timeline for policy development and democratic process is set out in Appendix A. Officers have planned time for consultation, reviewing policy and final decisions ahead of February 2019 to ensure the harmonised policies are in place for 1 April.

2.1.2 We will ensure the communications messages as part of consultation emphasise that these are only short term policy arrangements until such time in 2019/20 when a more extensive review can be undertaken. This will be complemented by targeted engagement with trade associations and representatives. We will agree the timetable for future policy reviews with Portfolio Holders in due course.

## 2.2 **Policies**

### 2.2.1 Taxi Policy

A six week public survey consultation is proposed for policy changes in September and October 2018. Stakeholder forums are also being planned based on the existing taxi driver forums, in parallel to ensure continued communication with the trade.

2.2.2 Early engagement with the trade and feedback from the first joint Licensing and Regulatory committee workshop has highlighted concerns around single council adversely affecting patterns of demand for taxis. Hackney carriage licensees perceive that there will be overcrowding of taxi ranks and fall in demand due to vehicles being able to move across both council areas.

2.2.3 To support future provision once single council is in place, we propose commissioning an independent specialist to undertake staged analysis of the demand both now and after single council. This will take the form of a review known as a 'taxi unmet demand survey'. If the evidence suggests there will be a significant changes in demand we can then implement a range of positions, such as preferentially licensing certain types of vehicles or introducing a limit on new registrations for a specified time period.

### 2.2.4 Street Trading and Vending Policy

The Street Trading and Vending consultation will run in parallel with the taxi consultation. This will take the form of public and trade surveys with tailored questions.

### 2.2.5 Enforcement Policy

An 8 week public consultation will take place throughout August and September in the form of a survey. Targeted engagement will also take place with the following groups:

- Police
- Fire and Rescue Service
- Town and Parish Councils
- Suffolk County Council – Trading Standards and Highways
- Neighbouring Authorities
- Business operators, represented by organisations such as:
  - BIDs
  - Menta
  - Chambers of Commerce
  - New Anglia Growth Hub.

### 2.2.6 Statement of Licensing Policy

Only statutory consultees will be notified of the new FHDC policy, since there will be no change in substantive content. Statutory consultees comprise of:

- The Chief Officer of Police for the area
- The Fire Authority
- Bodies representing local holders of premises licences
- Bodies representing local holders of club premises certificates
- Bodies representing local holders of personal licences
- Bodies representing business and residents in its area.

### 2.2.7 Newmarket Cumulative Impact Area

The public will be consulted on the Newmarket CIA in parallel, alongside targeting key stakeholders with an interest in the locality such as:

- Statutory consultees above
- Town and parish councils
- Newmarket BID
- Newmarket Chamber of Commerce
- Trade associations
- Residents of the Newmarket CIA and surrounding area.

## 2.3 **Equality and Diversity**

Equality impact assessments will be drafted for each policy ahead of consultation. Impact on groups with protected characteristics will be identified and representative groups will be included in our targeted engagement as part of the consultations.

## Appendix A: Policy decision-making timetable

FORUM AND DATE (EXCLUDING PH SIGN-OFF*)				POLICY AREA/PUBLICATION/DECISION
FOR CONSIDERATION	APPROVAL TO CONSULT (decision taker)	CONSULTATION PERIOD	SIGN OFF	
19 June L&R Cttee Joint Workshop				<ul style="list-style-type: none"> <li>Taxi</li> <li>Street Trading and Vending</li> <li>Newmarket CIA</li> <li>Enforcement</li> <li>Statement of Licensing</li> </ul>
		July/August		<ul style="list-style-type: none"> <li>Statement of Licensing (statutory consultees only)</li> <li>Newmarket CIA</li> </ul>
	24 July Joint Cabinet			<ul style="list-style-type: none"> <li>Taxi</li> <li>Enforcement</li> <li>Street Trading and Vending</li> <li>Newmarket CIA</li> </ul>
Proposed L&R joint Cttee following consultation		August/September		<ul style="list-style-type: none"> <li>Enforcement</li> </ul>
		September/October		<ul style="list-style-type: none"> <li>Taxi</li> <li>Street Trading and Vending</li> </ul>
			18 September Shadow Executive (conditional adoption, see paragraph 1.1.5)	<ul style="list-style-type: none"> <li>All policies to be 'rolled forward' to the new single council</li> <li>Recommend Statement of Licensing policy and Newmarket CIA are adopted by the shadow (subject to FHDC adoption before January 2019)</li> </ul>
			6 November Joint Cabinet	<ul style="list-style-type: none"> <li>Statement of Licensing</li> <li>Newmarket CIA</li> </ul>
			19 December FHDC Council	<ul style="list-style-type: none"> <li>Statement of licensing</li> <li>Newmarket CIA</li> </ul>
			22 January 2019 Shadow Cabinet	<ul style="list-style-type: none"> <li>Taxi</li> <li>Street Trading and Vending</li> <li>Enforcement</li> </ul>

## Appendix B: Summary of proposals for harmonisation

### Taxi Licensing

Area	Current Position	Harmonisation Proposal	Impact
<b>Hackney vehicle Livery</b>	FHDC: black and yellow vehicles (yellow bonnet and boot lid/tailgate) and council licence plate SEBC: no livery NB: all vehicles have council plate, roof sign and council licence plate	No change for FHDC or existing licensed SEBC vehicles. Black vehicle body colour to be recommended for new or replacement vehicles.	<b>Liability:</b> no requirement to enforce a livery <b>Cost:</b> minimal limitation imposed on choice of vehicle <b>Safety:</b> small risk of confusion
<b>Vehicle age</b> NB: vehicle safety is primarily enforced through annual vehicle testing by garages	Licensing maximum age: FHDC: 3 years 3 months upon initial licensing or replacement of any vehicle SEBC: <ul style="list-style-type: none"> <li>Wheelchair accessible hackneys: brand new upon first licensing, 3 years 3 m upon replacement</li> <li>Saloon hackneys: 7 years</li> <li>Private Hire Vehicles: 7 years</li> <li>(exemption introduced in 2017 for vehicles in exceptional condition)</li> </ul>	Minimum consistent standard: Initial/replacement licensing maximum: Private Hire Vehicles: 5 yrs Hackneys: 3 yrs 3 m Wheelchair accessible hackneys: 1 year initial and 3 yrs 3 m on replacement Saloon vehicles (pre-2008): 5 yrs Exemption for PHVs: keep until later review and update criteria in the meantime	<b>Liability:</b> alignment with neighbouring authorities <b>Cost:</b> cost to business to purchase younger vehicles <b>Safety:</b> assurance for public and council that we provide same standard for all licensees across West Suffolk Service level agreement with garages recommended to ensure further vehicles are only passed if safe
<b>Byelaws</b>	Currently included as part of the handbooks. They are location specific, differ in length and repeat surrounding guidance	Apply to revoke byelaws. (All policy requirements duplicated in surrounding policy)	No policy change
<b>Telephone operator policy</b>	New benchmarking guidance includes additional requirements to ensure operators handle customer data safely and respond to complaints	Additional requirement for private hire operators to report any complaints from the public the council and log it.	<b>Liability:</b> obligation to investigate complaints <b>Cost:</b> minimal - administrative <b>Safety:</b> ensuring all complaints are investigated giving the public a higher standard of safety

## Street Trading

Area	Current Position	Harmonisation Proposal	Impact
<b>Application: Health &amp; Safety documents</b>	FHDC: extensive list of certificates/proof documents required for application SEBC: limited requirements	Adopt FHDC requirements for health and safety information as part of the application process	<b>Liability:</b> gives additional assurance <b>Additional resources required:</b> none <b>Cost to business:</b> small - extra certification applications <b>Safety:</b> increased assurance of compliance with health and safety standards
<b>Specification of pitch location on licence</b>	FHDC: not specified on licence but licence holder must inform council of intended pitch location(s) SEBC: location specified on licence and enforced in consent areas NB: Businesses already required to inform council about changing pitch location	Specify and enforce current pitch location across West Suffolk consent areas	<b>Liability:</b> no impact <b>Additional resources required:</b> small increase in enforcement time <b>Cost to business:</b> none <b>Safety:</b> easier for council to track
<b>Consent areas</b>	FHDC: Brandon (Market Hill), Mildenhall (Market Place), Newmarket (Sun Lane, Wellington St, Birdcage Walk) and all council car parks SEBC: Bury St Edmunds: (Angel Hill, Station Hill) Haverhill (High St, Hamlet Rd, Camps Rd, Queen St)	Retain current consent areas until there is sufficient time to conduct a wider review	<b>Liability:</b> no impact <b>Additional resources required:</b> none <b>Cost to business:</b> none <b>Safety:</b> no change