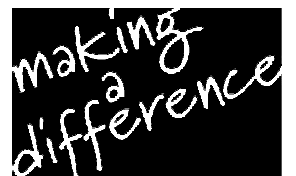


Licensing Committee

Wed 11 Jul
2012
7.00 pm

Committee Room 2
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:
www.redditchbc.gov.uk

If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact

**Pauline Ross
Committee Support Services**

**Town Hall, Walter Stranz Square, Redditch, B98 8AH
Tel: 01527 881406 Fax: (01527) 65216
e.mail: p.ross@bromsgroveandredditch.gov.uk**

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on Walter Stranz Square.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



Licensing

11th July 2012

7.00 pm

Committee

Committee Room 2 Town Hall

Agenda

Membership:

Cllrs: Andrew Fry (Chair) Pattie Hill
Luke Stephens (Vice-Chair) Roger Hill
Joe Baker Gay Hopkins
Juliet Brunner Wanda King
Michael Chalk Alan Mason
Carole Gandy

1. Apologies	To receive the apologies of any Member who is unable to attend this meeting.
2. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
3. Minutes (Pages 1 - 4)	To confirm as a correct record the minutes of the meeting of the Licensing Committee held on 9th January 2012. (Minutes attached)
4. Street Trading - Amendment (Pages 5 - 16)	To consider a report on the amendment of the Street Trading Policy for the Borough and the application process. (Report Attached) All Wards;
5. The Licensing Act 2003 as Amended by the Police Reform and Social Responsibility Act 2011 (Pages 17 - 24)	To consider a report on The Police Reform and Social Responsibility Act 2011 amendments to the Licensing Act 2003 with the power to suspend Premises Licences and Club Premises Licences on non payment of fees. (Report Attached) All Wards;
6. Taxi Rank Redditch Town Centre - Short Stay Car Parking (Pages 25 - 28)	To consider a report on the Unicorn Hill Hackney Carriage rank. (Report Attached) All Wards;

7. Exclusion of the Public

Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting in relation to any items of business on the grounds that exempt information is likely to be divulged, it may be necessary to move the following resolution:

“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (*to be specified*) of Part 1 of Schedule 12 (A) of the said Act, as amended.”



Licensing Committee

9th January 2012

MINUTES

Present:

Councillor Michael Braley (Chair), Councillor Gay Hopkins (Vice-Chair) and Councillors Peter Anderson, Andrew Brazier, Michael Chalk, Anita Clayton, Andrew Fry, Bill Hartnett, Alan Mason, Phil Mould, Jinny Pearce and Brenda Quinney

Also Present:

Councillor Juliet Brunner – Portfolio Holder for Community Safety & Regulatory Services

Officers:

C Flanagan, S Garratt and M Kay

Committee Services Officer:

Denise Sunman

13. APOLOGIES

Apologies for absence were received on behalf of Councillors Hill and R King.

14. DECLARATIONS OF INTEREST

There were no declarations of interest.

15. MINUTES

RESOLVED that

the minutes of the Licensing Committee held on 11th August 2011 be confirmed as a correct record and signed by the Chair.

16. STREET TRADING POLICY - REVIEW

The Committee received a report on a review of the Redditch Borough Council's Street Trading Policy following a consultation exercise that had taken place between 3rd September and 30th November 2011.

.....
Chair

Members agreed that Ravensbank Drive and Mount Pleasant be added to the list of Prohibited Streets in the Street Trading - Policy Statement and that any further omissions be reported to Officers.

RESOLVED that

- 1) **the wording of the Street Trading Policy Statement (Appendix 1), Information Pack (Appendix 2) and Street Trading Standard Conditions (Appendix 3) be approved, and that these three documents be adopted to form the Council's Street Trading Policy;**
- 2) **that an amendment be made to the list of Prohibited Streets to include Ravensbank Drive and Mount Pleasant following which a Public Notice be placed in a local newspaper for a period of two weeks to advertise the making of a resolution to designate Consent Streets and Prohibited Streets for the purpose of Street Trading within the district ; and**

to RECOMMEND that

- 3) **the fees and charges as set out at Part 5 and Part 7 of the Information Pack (Appendix 2) be approved by full Council.**

17. TAXI INSPECTIONS - FEES AND ENFORCEMENT

The Committee received a report on the implementation of six monthly taxi inspections, fees and enforcement that had been agreed at the meeting of the Licensing Committee on 11th August 2011.

Officers reported that of 208 tests carried out between September and December 2011, 96 vehicles had failed. Of these 96 failures, 78 had qualified for a free re-test and 18 had been charged for a further test.

Members were informed that the actual income for the first three months of operation versus predicted income had shown a deficit of £1, 102.75. However, Officers anticipated that the original predicted costs would be met over a full year.

Officers reported that a joint enforcement exercise had been carried out on Friday, 2nd December by Officers from Worcestershire Regulatory Services Licensing Team in partnership with Officers from the Vehicle Operator Services Agency (VOSA) and West Mercia Police. Feedback from partner agencies had indicated that

the event had proved useful and that similar exercises would be carried out in the future.

Members expressed concern about the number of defects identified ranging from minor to very serious ones and confirmed that there could be no compromise on public safety.

The Council would continue to work with the Redditch Taxi Forum to encourage drivers to inspect and maintain their vehicles to the highest standard.

RESOLVED that

- 1) **the report be noted and the current regime of two vehicle tests per year for the Hackney Carriage and Private Hire Vehicle fleet be continued; and**
- 2) **the fees agreed for Hackney Carriage and Private Hire Vehicle tests and retests at the Licensing Committee meeting of the 11th August 2011 be confirmed as constituting cost recovery for the service provided.**

18. LICENSING ACT - ANNUAL REPORT

The Committee received a report on the work carried out under the Licensing Act 2003 by the Worcestershire Regulatory Services (WRS) Enforcement and Licensing Team for Redditch during 2011.

Members were informed that working practices and procedures had been developed, in partnership with responsible authorities, to ensure that licence holders comply with all relevant legislation and the licence trade in Redditch contributes to a safe and successful night time economy.

Officers reported that Central Government are looking to 'Rebalancing the Licensing Act' which will identify changes that may or will need to be implemented. Officers will report to this Committee once more detailed information is available and provide training for members on the impact of the new provisions.

RESOLVED that

the annual report on the Licensing Act 2003 be noted.

The Meeting commenced at 7.00 pm
and closed at 7.55 pm

.....
Chair

**LICENSING
COMMITTEE**

11th July 2012

STREET TRADING – AMENDMENT

Relevant Portfolio Holder	Councillor Rebecca Blake, Community Safety & Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan, Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To receive a report on the amendment of the Street Trading Policy for the Borough and the application process.

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

applicants for Street Trading Consents be no longer required to undertake a Standard/Basic Criminal Records Bureau Check (CRB).

3. KEY ISSUES

Financial Implications

- 3.1 Removes an extra financial burden upon the applicant as the fee for a Standard/Basic Criminal Records Bureau check is £31.00.

Legal Implications

- 3.2 For legal implications please see paragraphs 3.3 and 3.4

Service / Operational Implications

- 3.3 Redditch Borough Council (The Council) pursuant to Section 3 of The Local Government (Miscellaneous Provisions) Act 1982 has resolved to adopt Schedule 4 of the Act to control Street Trading in the Borough.
- 3.4 The Council has resolved that every street within the area of the Borough of Redditch should be designated as Consent Street, under the Act, (LGMPA)

**LICENSING
COMMITTEE**

11th July 2012

- 3.5 The Application process for a Street Trading Consent currently requires the applicant to provide the officers with a CRB, as per the application process agreed by this committee on 14th July 2011 **Appendix 1**.
- 3.6 This is also stated in the FAQ's (Frequently asked Questions) form **Appendix 2** and also on the checklist of the Application form **Appendix 3**.
- 3.7 Although currently a CRB is required, the question that has been asked is, what do we do with it? And is there any justifiable reason for requesting it? Significantly, there is no standard set or guidance given to identify if an offence/caution/conviction justifies review or refusal of a Consent.
- 3.8 An applicant would not have periods of time with unattended children or vulnerable adults and it must therefore raise the question as to whether the Licensing Authority has justification in requesting a CRB check.
- 3.9 An analogy would be that no other shopkeeper is required to undertake a CRB check and it is therefore arguable that there is no difference in a child purchasing an ice cream from an ice cream van or from a corner shop.

4. RISK MANAGEMENT

None.

5. APPENDICES

- Appendix 1 - Application Process
Appendix 2 - FAQ's – frequently asked questions
Appendix 3 - Application Form

AUTHOR OF REPORT

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Worcestershire Regulatory Services
E Mail: andy.fox@worcestershire.gov.uk
Tel: (01527) 548205

STREET TRADING - POLICY STATEMENT

UNDERLYING PRINCIPLES

1. Street Trading is regarded as an acceptable activity in Redditch within the consented areas (Appendix A), provided that it is located where it can make a positive contribution to add interest, vibrancy, and diversity to the area and does not give rise to problems associated with Crime and Disorder.
2. The Council is the responsible authority for granting Street Trading Consents in Redditch and will ensure that traders operate in accordance with conditions attached to such Consents (Appendix B).
3. The Council accepts that Redditch comprises distinct areas with differing historic and commercial characters, and varying streetscape qualities, which should be individually developed and promoted.
4. The Council will consult with the following agencies:
 - The Highways Authority – Worcestershire County Council;
 - The Chief Officer of Police;
 - Worcestershire Regulatory Services – Compliance Team;
 - The Councils Street Scene and Community Services Team;
 - The Council's Community Safety Team;
 - Trading Standards;
 - The Parish Council (if any) in which the Trading Unit is to be located;
 - The Ward Councillors; and
 - The owners/occupiers of any properties near to the proposed location of trading site.
 - Any other relevant agency
5. The Crime and Disorder Act (1998) stresses the need to take positive action to combat crime and the fear of crime. Therefore, prior to granting any Street Trading Consent the Council will pay particular attention to any potential crime and disorder arising directly or indirectly from the Consent and will give significant weight to the views of the Police and Community Safety Officer.
6. The Council may issue Consent for up to one year or a lesser period where appropriate if the trading activity is seasonal or of a temporary nature.
7. Applications will only be considered where an applicant has completed an application form and will not be granted unless an applicant has paid the appropriate Consent fee.

8. Applications for a Street Trading Consent will be considered and determined under the Council's Scheme of Delegation by the Head of Worcestershire Regulatory Services, or otherwise by the Council's Licensing Sub-Committee.
9. Where more than one trader applies for Consent to trade from an approved site, the applications will be referred to the Council's Licensing Sub-Committee.

CRITERIA FOR CONSIDERING APPLICATIONS FOR STREET TRADING CONSENTS

When considering an application for a Street Trading Consent, the Council will take into account the following matters when reaching its decision:

1. Responses from Consultees and other interested parties.
2. The proposed siting and design of the street trading vehicle and whether or not it enhances the area within the immediate vicinity.
3. Any potential obstruction to the free flow of pedestrians or of vehicles in the street, with special regard for the visually impaired.
4. Road safety, either arising from the siting of the street trading vehicle or as a result of customer visiting or leaving the site, including existing traffic orders and waiting restrictions.
5. The nature of the proposed goods to be traded and whether this will create conflict with the trade of adjacent, established shops.
6. Whether the proposed siting of the street trading vehicle obstructs the frontage of adjacent established shops.
7. The numbers, distribution and location of existing street trading consents.
8. The likelihood of excessive noise, odour and litter being generated.
9. Whether the proposal would conflict with any other policies of the Council.

CONSENTED STREETS	PROHIBITED STREETS
<p>ALL STREETS WITHIN REDDITCH DISTRICT EXCEPT THOSE DESIGNATED AS PROHIBITED STREETS AND THE TOWN CENTRE USED FOR MARKET PURPOSES.</p>	<p>All 'A' and 'B' roads in the Borough:-</p> <p>Bromsgrove Highway Warwick Highway Alvechurch Highway Alcester Highway Coventry Highway Birmingham Road Dagnell End Road Redditch Ringway Windmill Drive/Middle Piece Lane Salters Lane/Hewell Road Windsor Road/Middle House Lane Papermill Drive Lower Common Lane Alders Drive Far Moor Lane</p> <p>Claybrook Drive Icknield Street Drive Battens Drive Old Forge Drive Holloway Drive</p> <p>Greenlands Drive Rough Hill Drive Woodrow Drive Washford Drive Coldfield Drive Birchfield Road Windmill Drive Headless Cross Drive Evesham Road Callow Hill Lane Icknield Street</p> <p>Droitwich Road, Feckenham Alcester Road, Feckenham Saltway, Feckenham High Street , Feckenham Church Road, Astwood Bank.</p>

STREET TRADING

INFORMATION PACK

What is a Street Trader?

A Street Trader is someone who:-

- i. Trades on any road, footways, highways, and other adjacent areas to which the public have access without payment. Traders must obtain land owners' permission when trading on private land.
- ii. Sells or exposes or offers for sale any article, whether food or non-food, including a living thing, whether with or without a stall or vehicle.
- iii. Trades from a fixed location.

Does the Control apply to all Traders?

No, there are various exemptions to the requirement to hold a Street Trading Consent:-

- i. Trading as a pedlar with a valid Pedlar's certificate issued under the Pedlars Act 1871. A pedlar is a person who travels and trades on foot and goes from town to town or from house to house carrying goods to sell. A pedlar cannot trade from a fixed spot. Pedlar's certificates are obtained from any main Police Station.
- ii. A roundsman, who is a person who delivers orders to the customer's door. This is a trader who calls by prior arrangement with the customer and sells at the customer's premises. Ice cream sellers or mobile food sellers are not deemed to be "roundsmen" and require a licence to trade in the street.
- iii. News vendors selling only newspapers and periodicals, unless the stall exceeds one metre in length or width, or two metres in height.
- iv. Trading from the forecourt of a petrol filling station.
- v. Trading from a stall outside a shop as an extension of that business.

How is Street Trading Controlled in Redditch?

Redditch Borough Council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982 so that it can effectively control street trading.

- i. All streets within Redditch District have been designated as consented streets apart from those specifically prohibited (see Appendix A of the Council's Street Trading Policy).
- ii. This means that it is an offence to trade without Consent in any street, road, footway, highway, or adjacent area to which the public have access without payment, other than those prohibited where no trading at all can take place.

- iii. Trading without consent may result in prosecution.
- iv. If a trader has been granted a consent the Council has the right to vary or revoke the Consent at any time if the trader fails to comply with the conditions attached to the Consent.
- v. If you wish to trade outside of the Redditch District you should contact the appropriate District Council for that area. Please note that different Councils may have different procedures and rules regarding street trading.
- vi. If you wish to trade within the Redditch District an application should be made to the Worcestershire Regulatory Services, Licensing, Town Hall, Walter Stranz Square, Redditch, B98 8AH

How do I apply for Consent?

- i. Complete the appropriate application form – for a “static trader” if you wish to trade from a pitch, or for a “mobile” trader if you sell from street to street.
- ii. Attach to the application form the required documents, including a Basic Criminal Records Bureau Disclosure as listed on the application form.
- iii. Post or bring to the Council Offices at Town Hall the completed application form, and original copies of any supporting documents (these will be copied and returned to you).

What Are the Fees Payable for Consent?

- i. Fees are payable for each unit or site. The fee is payable once a decision has been made on an application for a Consent. Fees should be sent with the completed application form.
- ii. Fees may be payable in instalments, by agreement with the Council.
- iii. Fees are reviewed annually and are applicable from 1st April each year.
- iv. Fees payable for static traders who trade from a fixed pitch are:-

	Food		Non Food	
	<i>Initial</i>	<i>Renewal</i>	<i>Initial</i>	<i>Renewal</i>
Single Unit up to 12m ² (max 5m length)	£1418	£1301	£1183	£1064
For every additional 12m ² or part thereof or length more than 5m	£600			
Mobile traders	£575 per vehicle, per annum			

How Long Does Consent Last for?

- i. Consent can be issued for any period up to a maximum of 12 months but will expire on 31st March next, unless surrendered earlier.
- ii. Renewals will take place on receipt of a completed renewal application form and payment of the appropriate fee.

Are Consents Transferable?

- i. No, they are not.
- ii. The Consent holder is entitled to a refund of part of the fee paid if the Consent is surrendered part way through the year.
- iii. Refunds may be made on a pro rata basis, subject to an administration charge of £35.
- iv. If you do not renew the Consent on the expiry or surrender it before then, then any other person will be able to apply to trade from the same site.

What are the Responsibilities of a person granted consent?

Such a person is responsible for ensuring that:-

- i. The consent conditions are complied with.
- ii. All relevant certificates are produced to the Council with any application for Consent.
- iii. The vehicle or stall is registered with the Council if selling food of any description.
- iv. The Council will not be held responsible for any acts or omissions arising from the grant of Consent.
- v. Where trading is on private land, to which the public has access without restriction, permission to trade must be obtained from the owner/occupier as well as the Council

Does the Grant of Consent by the Council give any other entitlement?

- i. No - It only permits trading within the terms of the Consent as specified. The Consent does not override any parking restriction or other traffic regulation.
- ii. The Consent to trade does not imply approval from any other person or authority.

Consideration and Determination of your Application

- i. When received by the Licensing Section your application form will be checked. Provided there are no queries arising from the application form, your application will be acknowledged in writing within 5 working days of receipt. If there is a query then you will be contacted in writing and/or by telephone and given the opportunity to respond.
- ii. The complete application form will be copied for comment to various parties.

Usually these are the Police, Worcestershire County Council Highways Partnership Unit Manager, Ward Councillors, the Parish or Town Council, Economic Regeneration & Tourism Manager, Community Development Control Manager, Operational Services Manager and local businesses within the vicinity of the proposed site of operation.

- iii. We aim to complete this process within 20 working days but may take longer if a Licensing Sub-Committee hearing is necessary.
- iv. If queries are raised at this stage then you will be contacted in writing and/or by telephone and given the opportunity to address them.
- v. Having received all comments/recommendations and taking into account the Council's adopted Street Trading Policy, the Head of Worcestershire Regulatory Services or one of his nominated officers, under the Council's Scheme of Delegation, may then determine applications where there are no objections and where the application is to be granted. Where your application cannot be granted, or where objections are received, your application will be referred to the Council's Licensing Sub-Committee for consideration and determination.
- vi. You will be informed in writing of the recommendation to the Licensing Sub-Committee and the date of the meeting to which you will also be invited to attend.
- vii. If your application is granted, the Consent will be issued, together with a copy of the Standard Conditions applicable to street trading Consents plus any Special Conditions deemed necessary by the Council.
- viii. If the Committee refuses your application you will be notified in writing of the reasons for refusal.
- ix. There is no right of appeal in the case of refusals or against the application of conditions.

Is there an Independent Body which represents Street Traders?

There is a body which offers advice on all aspects of outside catering. This body is called MOCA (Mobile and Outside Catering Association Ltd.) and is located at:-

Centre Court
1301 Stratford Road
Hall Green
Birmingham
B28 9HH

Tel 0121 693 7000
Fax 0121 693 7100
Website www.moca.co.uk

Redditch Borough Council
Town Hall, Walter Stranz Square,
Redditch, Worcs. B98 8AH

01527 534100

Worcestershire
Regulatory Services
Supporting and protecting you

Application for Street Trading Consent

Full Name:

Full Address:

Telephone:

E-mail:

<input type="text"/>	<input type="text"/>
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National Insurance Number:

I hereby apply for GRANT / RENEWAL of a Street Trading Consent to sell goods in the street as a mobile trader.

Hours / Days of Operation:

Monday		Friday	
Tuesday		Saturday	
Wednesday		Sunday	
Thursday			

Description of Goods to be Sold:

Proposed Trading Location:

Where is the mobile unit to be kept when not trading?

--

Description of mobile unit, including dimensions:

--

If you are selling food or beverages, please state which local authority, if any, you are registered with:

--

I understand that any vehicle may be inspected prior to the start of trading.

I enclose the following items with this application:

Copies of Food Hygiene training certificates if applicable	
Certificate of inspection of any fire extinguishers	
Certificate to show electrical / gas installations have been tested and approved	
Public liability insurance to five million pounds	
Consent fee £84 +VAT per day – cheque made payable to Redditch Borough Council	
CRB Basic Disclosure	

Signed:

--

Date:

--

Please return this form and any supporting documents *at least two weeks before the proposed date of trading* to the Licensing Section (Worcestershire Regulatory Services) at The Town Hall, Walter Stranz Square, Redditch, Worcestershire, B98 8AH

Telephone 01527 534100

e-mail licensing@redditchbc.gov.uk

LICENSING COMMITTEE

11th July 2012

THE LICENSING ACT 2003 AS AMENDED BY THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

Relevant Portfolio Holder	Councillor Rebecca Blake, Community Safety & Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan, Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003. The purpose of this report is to ask Members of the Committee to delegate to Officers the power to suspend Premises Licenses and Club Premises Licenses on non payment of fees.

2. RECOMMENDATIONS

The Committee is asked to **RESOLVE** that

- 1) **the report be noted and;**

RECOMMEND that

- 2) **the Scheme of Delegation be amended to authorise the Head of Worcestershire Regulatory Services to suspend Premises and Club Premises Licenses following non payment of fees.**

3. KEY ISSUES

Financial Implications

- 3.1 Currently non payment of the annual fee is only recoverable as a civil debt and the licence itself still remains in force and premises could legitimately continue to trade year after year whilst owing the Licensing Authority money. This change will enable the Licensing Authority to suspend those unscrupulous licence holders until the debt is paid; once paid the licence will automatically be re-instated.

LICENSING COMMITTEE

11th July 2012

Legal Implications

- 3.2 The Licensing Act 2003 as amended by the Police and Social Responsibility Act 2011 affects the Council's role as a Licensing Authority.

Service / Operational Implications

- 3.3 On 25th April 2012 the Police Reform and Social Responsibility Act amended the Licensing Act 2003.
- 3.4 On 25th April 2012 the power to suspend a premises licence if the annual fee is not paid was introduced.
- 3.5 Section 55A of the Licensing act states "A licensing authority must suspend a premises licence if the holder of the licence has failed to pay the authority an annual fee that has become due under section 55(2)".
- 3.6 Premises Licence holders are sent an invoice from the finance department annually, in future the invoice will hold a statement reminding licence holders of their duty to pay the invoice in a timely manner and consequences of failure to do so.
- 3.7 Finance will then provide WRS Licensing Officers with a monthly debtors list and Licensing Officers will ensure that if payment has not been made then a suspension notice will be issued; once paid the licence will automatically be re-instated.

4. RISK MANAGEMENT

None.

5. APPENDICES

- Appendix 1 - Home Office guidance for Suspension for non-payment of fees.
- Appendix 2 - copy of Section 14 of Section 182 guidance of the Licensing Act 2003 (April 2012).

AUTHOR OF REPORT

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Police Reform and Social Responsibility Act 2011

Suspension for non-payment of fees

Preliminary guidance: April 2012

Introduction

The content of this document is provisional, and its publication at this stage is intended to assist licensing authorities in their preparation for changes to the Licensing Act 2003 being introduced by Part 2 of the Police and Social Responsibility Act 2011. The content of this document broadly reflects, but is not the statutory guidance (or a revised version of it) issued by the Secretary of State under section 182 of the Licensing Act 2003; as such, there should be no reliance upon it for any purpose. Revised statutory guidance will be laid in Parliament and available on the Home Office website on 25 April 2012, the date on it will come into force.

What is the policy aim?

The Government is committed to reducing the burden and bureaucracy of licensing, as well as striking the right balance between the requirements on businesses and the costs to the taxpayer. The aim of this policy is to ensure that licensing authorities do not face additional costs as a result of licence holders not paying their annual fees.

What are the key changes being made the Licensing Act 2003?

The 2011 Act has amended the 2003 Act to require the licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

How should licensing authorities prepare for these changes?

Licensing authorities should note that the requirement does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence will be suspended.

The 2003 Act describes a dispute as one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder

must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

There is no definition of “administrative error” in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, “administrative error” will be given its plain, ordinary meaning. An example might be where post has been misdirected.

If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. It should be noted that this is the minimum period only, and licensing authorities should consider applying longer periods. The authority may wish to inform the police and other responsible authorities that the licence or certificate has been suspended.

A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:

- a) If payment was received on a working day, no later than the end of the next working day, or;
- b) If payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.

Licensing authorities may wish to consider requesting, in the notice of suspension mentioned above, that subsequent payment of the outstanding fee may be made in such manner as would most expeditiously bring it to the attention of the authority. The licensing authority may also wish to inform the police and other responsible authorities that the licence or certificate has been reinstated.

A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment.

In the case of a licence or certificate where more than one payment year has been missed (since the coming into force of sections 55A and 92A of the 2003 Act) payment of the outstanding fee in relation to each year will be required to reinstate the licence.

How should businesses prepare for these changes

Businesses which are licence holders under the 2003 Act should be aware of these changes. They should be aware of the incentive to pay licensing fees in a timely manner and save licensing authorities the time and cost of pursuing non-payment. This new measure will not impact on responsible businesses that pay their licence fees on time.

14. Suspension for non-payment of fees

14.1 The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence will be suspended.

DISPUTE

14.2 The 2003 Act describes a dispute as one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

ADMINISTRATIVE ERROR

14.3 There is no definition of "administrative error" in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, "administrative error" will be given its plain, ordinary meaning. An example might be where post has been misdirected.

SUSPENSION

14.4 If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. It should be noted that this is the minimum period only, and licensing authorities should consider applying longer periods. The authority may wish to inform the police and other responsible authorities that the licence or certificate has been suspended.

14.5 A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:

- a) If payment was received on a working day, no later than the end of the next working day, or;
- b) If payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.

14.7 A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment. In the case of a licence or certificate where more than one payment year has been missed (since the coming into force of sections 55A and 92A of the 2003 Act) payment of the outstanding fee in relation to each year will be required to reinstate the licence.

EFFECTS OF SUSPENSION

14.6 Licensing authorities may wish to consider requesting, in the notice of suspension mentioned above, that subsequent payment of the outstanding fee may be made in such manner as would most expeditiously bring it to the attention of the authority. The licensing authority may also wish to inform the police and other responsible authorities that the licence or certificate has been reinstated.

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COMMITTEE**

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TAXI RANK REDDITCH TOWN CENTRE – SHORT STAY CARPARKING

Relevant Portfolio Holder	Councillor Rebecca Blake, Community Safety and Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To receive a report on the Unicorn Hill Hackney Carriage rank and whether Officers undertake a 12 week consultation with the trade.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

whether or not Officers conduct a 12 week consultation on proposed amendments to the Unicorn Hill Hackney Carriage rank to reduce the spaces by four during the day, but in the evening the rank to remain in its present state.

3. KEY ISSUES

Financial Implications

- 3.1 If the rank needs to be amended, costs will be incurred in advertising the proposed changes, remarking and signing of the rank.

Legal Implications

- 3.2 LG(MP)A 1976 s63 is for establishing and amending Hackney Carriage Ranks.

Service / Operational Implications

History

- 3.3 A petition was received by Overview and Scrutiny Committee on the 24th May 2011 from the Business Owners/traders located in Unicorn Hill, Redditch, whose concern was the detrimental effect on trade

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which has arisen since the siting of a taxi rank on the left side of Unicorn Hill (looking down the hill from the Churchyard).

- 3.4 The Overview and Scrutiny Committee on the 24th May 2011 referred the petition to the Council's Licensing Committee for further consideration.
- 3.5 The petitioners requested that the rank either be moved or the hours of operation restricted. Following receipt of the petition licensing staff conducted a short consultation exercise with the relevant agencies including West Mercia Police, West Mercia Road Traffic Management Police, Redditch Taxi Association (the trade) and the County Council.
- 3.6 The consensus amongst those consulted was that the current position/location of the Hackney Carriage rank on Unicorn Hill was the most ideal location to service travellers that side of the town. In a previous consultation during 2003/2004 the Highways Department advised that it was not legally possible to provide road markings for short term parking in the day time and a taxi rank at night due to the different road markings required.

The Committee RESOLVED that

- 1) the Petition and the report be noted; and
- 2) no further action be taken.

Current Petition

- 3.7 A further petition was then received through the Town Centre Partnership regarding the provision of short stay parking in the Town Centre on the 29th November 2011.
- 3.8 The Overview and Scrutiny Committee considered the petition on 24th January 2012 and made the following two recommendations to the Executive Committee:

RECOMMENDED that

- 1) the Executive Committee refer the issue of short-stay car parking in Redditch town centre for consideration to the Worcestershire County Council's Highways Forum; and
- 2) the Executive Committee ask Officers to facilitate a meeting with relevant agencies and stakeholders, including the petitioners, to obtain further information on proposals for short-stay car parking in the town centre prior to its consideration at the Highways Forum.

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- 3.9 The Executive Committee considered the petition at their meeting on 31st January 2012, they decided to drop the first recommendation, and amended the second recommendation slightly to RESOLVE that:

Officers facilitate a meeting with relevant agencies and stakeholders, including the petitioners, to discuss proposals for short stay car parking in the town centre.

- 3.10 This meeting was facilitated on 1st March 2012. Please see attached minutes, in summary:

County Councillor Clayton supported alterations to the following Traffic Orders. These Orders will be done on a 12 month experimental basis first.

1. Unicorn Hill – The 4 Taxi Rank spaces nearest the traffic signals be changed to limited waiting in the day, times to be the same as those on Bates Hill, and a Hackney Carriage rank at night. WCC to incur costs for lines and signs associated with this.

- 3.11 A member of staff from Licensing was unable to attend the meeting held on 1st March to highlight the implications and problems in creating and amending the rank, but also to highlight the outcome of the previous petition held less than six months ago and that any proposed changes to the rank would need to be subject to a full 12 week consultation with those affected including the taxi trade. Licensing therefore asked for a meeting between all Officers to be held to discuss these issues.
- 3.12 On 9th May 2012 a meeting was held with all parties present where the issues of consultation with the taxi trade, the costs to be incurred of amending the rank such as remarking, new signage and advertising the rank were discussed and it was suggested at that meeting that a report be brought back before the Licensing Committee for discussion.

RISK MANAGEMENT

- 4.1 None.

APPENDICES

None.

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