

Licensing Committee

Mon 7 Apr
2014
7.00 pm

Committee Room 2
Town Hall
Redditch



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LICENSING COMMITTEE

Agenda

Membership:

Cllrs:	Phil Mould (Chair)	Andrew Fry
	Alan Mason (Vice-Chair)	Pattie Hill
	Joe Baker	Gay Hopkins
	Roger Bennett	Wanda King
	Michael Braley	Brenda Quinney
	Michael Chalk	

<p>1. Apologies</p>	<p>To receive the apologies of any Member who is unable to attend this meeting.</p>
<p>2. Declarations of Interest</p>	<p>To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.</p>
<p>3. Minutes (Pages 1 - 6)</p>	<p>To confirm as a correct record the minutes of the meeting of the Licensing Committee held on 11th November 2013. (Minutes attached)</p>
<p>4. Scrap Metal Dealers Act 2013 - Update on Implementation (Pages 7 - 10) Head of Regulatory Services</p>	<p>To consider a report that provides Members with an update on the local implementation of the Scrap Metal Dealers Act 2013. All Wards</p>
<p>5. Licensing Act 2003 - Review of Statement of Licensing Policy (Pages 11 - 50) Head of Regulatory Services</p>	<p>To consider the draft revised Statement of Licensing Policy and to approve the draft policy for the purpose of consultation with all relevant parties. All Wards</p>
<p>6. Home Office Consultation on Locally Set Fees under the Licensing Act 2003 (Pages 51 - 110) Head of Regulatory Services</p>	<p>To consider the consultation response from Worcestershire Regulatory Services officers, as detailed at Appendix 2, to the Home Office eight week consultation on the implementation of locally set fees under the Licensing Act 2003. All Wards</p>

<p>7. Regulation of Face to Face Direct Debit Charitable Street Collections</p> <p>(Pages 111 - 132)</p> <p>Head of Regulatory Services</p>	<p>To receive an update report on the progress to date towards an agreement with representatives of the Public Fundraising Regulatory Association with a view to establish an agreement to regulate the working days and areas of charity street fundraisers in Redditch Town Centre.</p>
<p>8. Licensing Committee Work Programme 2013/2014</p> <p>(Pages 133 - 134)</p>	<p>To consider the Committee's Work Programme for the current municipal year 2013/2014.</p>
<p>9. Exclusion of the Public</p>	<p>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:</p> <p>“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 (<i>to be specified</i>) of Part 1 of Schedule 12 (A) of the said Act, as amended.”</p> <p>These paragraphs are as follows:</p> <p>Subject to the “public interest” test, information relating to:</p> <ul style="list-style-type: none"> • Para 1 – <u>any individual</u>; • Para 2 – the <u>identity of any individual</u>; • Para 3 – <u>financial or business affairs</u>; • Para 4 – <u>labour relations matters</u>; • Para 5 – <u>legal professional privilege</u>; • Para 6 – <u>a notice, order or direction</u>; • Para 7 – the <u>prevention, investigation or prosecution of crime</u>; <p>may need to be considered as ‘exempt’.</p>



Licensing Committee

Monday, 11 November 2013

MINUTES

Present:

Councillor Phil Mould (Chair), Councillors Joe Baker, Michael Braley, Andrew Fry, Gay Hopkins, Wanda King and Brenda Quinney

Officers:

K Barnett and D Etheridge

Committee Services Officer:

P Ross

25. APOLOGIES

Apologies for absence were received on behalf of Councillors Alan Mason, Roger Bennett, Michael Chalk and Pattie Hill.

26. DECLARATIONS OF INTEREST

There were no declarations of interest.

27. MINUTES

RESOLVED that

the minutes of the meeting of the Licensing Committee held on 1st July 2013 be confirmed as a correct record and signed by the Chair.

28. HACKNEY CARRIAGE AND PRIVATE HIRE - DISABILITY AWARENESS TRAINING

The Committee considered a report detailing the proposal to introduce mandatory disability awareness training for those drivers licenced by the Borough to drive Hackney Carriage and Private Hire Vehicles. Members were asked to consider amending the Council's current policy and to adopt the new draft policy, as detailed at Appendix 1 to the report, to incorporate the mandatory requirement for disability awareness training.

.....
Chair

The Senior Licensing Practitioner introduced the report and in doing so drew Members' attention to the Licensing Committee meeting held on 17th December 2012, where Members received a detailed referral report in relation to the finding of the "Access for Disabled People Task Group"; and the recommendation that Redditch Hackney Carriage and Private Hire Vehicle Drivers be offered suitable disability awareness training to assist them in carrying out their role. At the Licensing Committee meeting held on 11th March 2013, Members resolved that officers undertook a 12 week consultation with the Redditch taxi trade on the proposal to make disability awareness training a mandatory requirement for Hackney Carriage and Private Hire vehicle drivers in the Borough.

At the Licensing Committee meeting held on 1st July 2013, Members considered the responses received during the 12 week consultation period and resolved to proceed with the proposal to make disability awareness training a mandatory requirement for Hackney Carriage and Private Hire vehicle drivers in the Borough; with the exception of those drivers who could demonstrate to the Council's satisfaction that they had undertaken equivalent disability awareness training.

The Senior Licensing Practitioner explained that new applicants would be required to undertake the required mandatory training before they were granted a licence to drive Hackney Carriage and/or Private Hire Vehicles. Licences for existing licensed drivers would not be renewed after 1st July 2014 unless the licence holder had undertaken the required mandatory disability awareness training. This would enable those driver's whose license expired shortly after 1st July 2014 a reasonable opportunity to undertake the required mandatory training in plenty of time before they had to renew their licences.

Members were further informed that the training, from the proposed training provider Worcestershire County Council, was designed to provide Redditch taxi drivers with the knowledge and skills required to transport customers who may have a disability both safely and confidently. The training sessions would accommodate approximately 15 delegates at a cost of £20.00 per delegate. The training sessions would be held every three weeks at the Town Hall. It was anticipated that three sessions would be offered per day as follows:

- 10.00am – 12.30pm
- 1.00pm – 3.30pm
- 4.00pm – 6.30pm

Councillor Braley highlighted the need to ensure that there was the capacity to deal with the number of drivers who would require training so that none of the drivers experienced any delays in receiving the training; and that officers should have a contingency plan in place should the proposed trainer be unable to carry out the training.

In response the Senior Licensing Practitioner agreed to look into a contingency plan. He informed Members that he was confident that the six month period from 1st January 2014 to 1st July 2014 was sufficient time for all required drivers to receive the mandatory training.

Councillor Fry stated that he fully supported the training initiative and, as detailed in the report, the recommendation for disability awareness training had come from a referral report in relation to the finding of the "Access for Disabled People Task Group". Councillor Fry expressed his thanks to the Chair of the Task Group, Councillor Mason, for chairing the Task Group.

Councillor Baker agreed and felt that the Council was setting a good precedent and that it was important for residents to feel safe and secure and that the training added to the professionalism of the taxi trade.

RESOLVED that

the Hackney Carriage and Private Hire Vehicle Driver Licensing Policies, as detailed at Appendix 1 to the report, be adopted with effect from 1st January 2014.

29. LICENSED VEHICLE MILEAGE INFORMATION

The Committee were asked to note information as requested at the Licensing Committee meeting held on 1st July 2013 with regard to the recorded mileage of licensed vehicles in the Borough that were registered with the Driver and Vehicle Licensing Agency (DVLA) as of 1st March 2010.

The Senior Licensing Practitioner explained that the mileage information had been provided as a result of concerns raised by a Member of the Licensing Committee, at the meeting as detailed in the preamble above. His concerns suggested that the twice yearly testing of vehicles within three years of their first registration was a somewhat onerous burden on drivers and operators. Officers had carried out a search of the records kept on licensed vehicles and had been able to provide information on the mileage recorded on the Ministry of Transport (MOT) test certificates received in respect of licensed vehicles that had been registered by the DVLA since 1st

March 2010. The information was detailed at Appendix 1 to the report.

Following further discussion Members highlighted that the information provided was somewhat confusing and questioned the small number of vehicles identified.

The Senior Licensing Practitioner responded to Members' questions with regard to the average yearly mileage of a taxi. He explained that the average mileage for a taxi was 30,000 to 50,000 miles per year. The DVLA information provided the initial registration details it did not detail when the vehicle first became a taxi.

Members agreed that taking into account the average mileage of a taxi the Council's policy was correct in stating that vehicles would undergo two vehicle inspection tests per year. Members questioned if 'spot checks' on taxis were still carried out. The Senior Licensing Practitioner informed Members that 'spot checks' were still carried out with officers working in partnership with the Police and the Vehicle and Operator Services Agency (VOSA).

Members agreed that officers provide further detailed information on mileage data for vehicles tested within three years of their first registration to be submitted to a future meeting of the Committee.

RESOLVED that

- 1) **the contents of the report and Appendix 1 to the report be noted, and**
- 2) **Officers provide further detailed information on mileage data for vehicles tested within three years of their first registration to a future meeting of the Committee.**

30. HACKNEY CARRIAGE VEHICLE POLICY - MULTI SEATED WHEELCHAIR ACCESSIBLE VEHICLES

The Committee considered a report detailing the responses received to a consultation with the taxi trade on the draft Hackney Carriage Vehicle Licensing Policy to bring it in line with the Council's Private Hire Vehicle Licensing Policy, with regard to age extensions for adapted vehicles, which was adopted by the Council on 1st August 2013.

The Senior Licensing Practitioner introduced the report and in doing so referred to the Licensing Committee meeting held on 1st July 2013 where Members had resolved to adopt a new Private Hire Vehicle Licensing Policy. The new Policy provided a higher age criteria for vehicles constructed or adapted to load and convey

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wheelchair bound passengers to be licensed up to 12 years old (143 months) from the date of first registration as new by the Driver and Vehicle Licensing Agency (DVLA).

Members were informed that only one response to the consultation had been received, as detailed in section 3.12 in the report.

The Senior Licensing Practitioner responded to Councillor Baker with regard to item 10 of the Draft Hackney Carriage Licensing Policy, the 'transfer' of an existing hackney carriage vehicle licence to a vehicle of similar type.

RESOLVED that

the draft Hackney Carriage Vehicle Licensing Policy, as detailed at Appendix 1 to the report, be approved to come into effect from 1st December 2013.

31. LICENSING COMMITTEE WORK PROGRAMME 2013/2014

Members noted the Licensing Committee Work Programme for the remainder of the current municipal year.

RESOLVED that

the Licensing Committee Work Programme 2013/2014 be noted.

The Meeting commenced at 7.00 pm
and closed at 7.36 pm

LICENSING COMMITTEE

7th April 2014

SCRAP METAL DEALERS ACT 2013 – UPDATE ON IMPLEMENTATION

Relevant Portfolio Holder	Councillor Rebecca Blake
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 On 9th September 2013, Council received a report in relation to the Scrap Metal Dealers Act 2013 (“the Act”) which was coming into force between 1st October 2013 and 1st December 2013. This report is being provided to the Licensing Committee in order to give an update on the local implementation of this legislation.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

That the contents of the report be noted.

3. KEY ISSUES

Financial Implications

- 3.1 Implementation of the Act has been achieved using existing resources.

Legal Implications

- 3.2 The Scrap Metal Dealers Act 2013 provides the Council with a number of powers and duties in relation to the regulation of scrap metal dealers. Appropriate delegation of these powers and duties by the Council is required to enable the effective implementation of the legislation.

Service / Operational Implications

- 3.3 **Background**

LICENSING COMMITTEE

7th April 2014

On 9th September 2013, Council received a report in relation to the Scrap Metal Dealers Act 2013 which was coming into force between 1st October 2013 and 1st December 2013.

- 3.4 This report has been prepared in order to give Members of the Licensing Committee an update on the implementation of the Act to date in Redditch Borough Council's area.
- 3.5 The first part of the Act came into force on 1st October 2013 and applications were made to Redditch Borough Council from this date onwards for both site and collectors licences.
- 3.6 When all of the provisions of the Act came fully into force on 1st December 2013, press releases were arranged in order to raise awareness amongst the scrap metal industry and the general public about the new licensing requirements.
- 3.7 All of the applications that have been received have been subject to consultation with West Mercia Police and the Environment Agency.
- 3.8 Six site licences have been issued to scrap metal dealers operating sites in the Redditch Borough Council area. Additionally 23 licences have been issued to individual mobile collectors, allowing them to collect scrap metal within the Borough
- 3.9 All of these applications were granted by officers under delegated powers and none required referral to a Licensing Sub-Committee. If the suitability of any licence holder is brought into question, they can be brought before a Licensing Sub-Committee and their licence can be revoked.
- 3.10 Officers from Worcestershire Regulatory Services were involved in an operation with officers from West Mercia Police on Tuesday 17th December 2013. This operation involved visiting sites in respect of which a site licence had been granted. The visits were intended to provide advice on the new law and in particular the record keeping requirements. Officers also took the opportunity to check the records that were being kept at the sites concerned at the time of the visits.
- 3.11 Compliance was generally good, although some improvement was required at one or two sites. Advisory letters were issued to those licence holders whose sites required improvements to their record keeping and the sites are due to be revisited in the near future.
- 3.12 Additionally, officers from Worcestershire Regulatory Services have supported other Police operations throughout the County targeting both mobile scrap metal collectors and scrap metal sites.

Customer / Equalities and Diversity Implications

3.13 There are no specific implications arising from this report.

4. RISK MANAGEMENT

4.1 None

5. APPENDICES

None

6. BACKGROUND PAPERS

Scrap Metal Dealers Act 2013

AUTHOR OF REPORT

Name: Dave Etheridge, Senior Licensing Practitioner

email: d.etheridge@worcsregservices.gov.uk

Tel.: 01527 534121

LICENSING COMMITTEE

7th April 2014

LICENSING ACT 2003 - REVIEW OF STATEMENT OF LICENSING POLICY

Relevant Portfolio Holder	Councillor Rebecca Blake
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 ask Members to consider a draft revised Statement of Licensing Policy and to approve this draft for the purpose of consultation with all relevant parties.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

That the draft revised Statement of Licensing Policy shown at Appendix 1 is approved for the purpose of consultation with all relevant parties.

3. KEY ISSUES

Financial Implications

- 3.1 The cost of the consultation exercise will be met by existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Council has a statutory duty to have a Statement of Licensing Policy and to keep its Policy under review. It is important that the Statement of Licensing Policy provides an open and transparent policy regarding the Council's functions under the Licensing Act 2003. The Statement of Licensing Policy forms an essential part of the decision making process for licensing applications.

LICENSING COMMITTEE

7th April 2014

Service / Operational Implications

- 3.3 Redditch Borough Council's existing statement of Licensing Policy was published on 7th January 2011
- 3.4 Section 5 of the Licensing Act 2003 currently requires Licensing Authorities to review Statements of Licensing Policy every five years, and therefore a reviewed Statement must be approved by Council and published no later than 7th January 2016.
- 3.5 Whilst the Council are not legally required to review the Statement of Licensing Policy for around another two years, it is felt desirable to review the Policy at this stage as a result of the large number of changes to the legislation and statutory guidance since the existing Policy was published in January 2011.
- 3.6 A draft revised Statement of Licensing Policy can be seen at Appendix 1.
- 3.7 The policy has been completely redrafted and is based on a template provided by the Local Government Association. It is intended that a Statement of Licensing Policy based on this template will be adopted by all of the licensing authorities in Worcestershire.
- 3.8 The legislative changes reflected in the policy include:
- The introduction of the Licensing Authority as a Responsible Authority
 - The introduction of the relevant Heath Body as a Responsible Authority
 - The removal of the vicinity test
 - The reduction of the evidential burden on Local Authorities
 - The changes made to Temporary Events Notices
 - The power to suspend licences for non payment of fees
 - The power to introduce Early Morning Restriction Orders and a Late night Levy
 - The Live Music Act 2012
 - Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

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- 3.9 Section 5 (3) of the Licensing Act 2003 also makes it a requirement that before determining or revising its Policy for a three year period, a Licensing Authority must consult:-
- (a) the Chief Officer of Police for the Licensing Authority's area;
 - (b) the Fire Authority for that area;
 - (c) such persons as the Licensing Authority considers to be representative of holders of Premises Licences issued by that Authority;
 - (d) such persons as the Licensing Authority considers to be representative of holders of Club Premises Certificates issued by that Authority;
 - (e) such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that Authority; and
 - (f) such other persons as the Licensing Authority considers to be representative of businesses and residents in its area.
- 3.10 The Committee is asked to approve the draft revised Statement of Policy for the purpose of consultation with all relevant parties.
- 3.11 The consultation will be carried out for a period of twelve weeks and responses received during the consultation will be brought before the Committee during 2014 and considered fully before a revised Statement of Licensing Policy is formally approved.

4. RISK MANAGEMENT

- 4.1 If the Statement of Licensing Policy is not reviewed and updated, the decisions taken by the Council under the Licensing Act 2003 could be subject to legal challenge.

5. APPENDICES

Appendix 1 – Draft Revised Statement of Licensing Policy

6. BACKGROUND PAPERS

Existing Statement of Licensing Policy

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services

LICENSING COMMITTEE

7th April 2014

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LICENSING ACT 2003

STATEMENT OF LICENSING POLICY

Redditch Borough Council,
Town Hall,
Walter Stranz Square,
Redditch,
Worcestershire,
B97 9SB

www.redditchbc.gov.uk

Revised with effect from **DATE**

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1.0 Introduction

- 1.1 Redditch Borough Council (the Council) is a licensing authority under the Licensing Act 2003 and therefore has responsibilities for the administration and enforcement of the Act within the Borough.
- 1.2 These include, among other duties, the granting of premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.3 Redditch Borough is within the County of Worcestershire and borders Warwickshire County to the east and southeast. It is surrounded by Bromsgrove District to the west and north, Stratford District to the east and southeast and Wychavon District to the southwest.
- 1.4 The Borough is situated at the outer edge of the Green Belt boundary for the West Midlands. Redditch offers easy access to the countryside and prominent local areas, including culturally rich areas such as Stratford upon Avon and naturally rich areas such as the Cotswolds.
- 1.5 The Borough lies 15 miles south of the Birmingham conurbation and Birmingham airport is approximately a 25 minute drive away.
- 1.6 Redditch Borough consists of the main town of Redditch, the villages of Astwood Bank and Feckenham and several other hamlets. It covers an area of 5,435 hectares (13,430 acres) with a population of 84,214 (2011 Census).
- 1.7 The Borough is split into the urban area of Redditch in the north, accounting for 50% of the area and 93% of the population; and the rural area to the south with 7% of the population. The rural area consists predominantly of Green Belt land, but also open countryside, as well as the villages of Astwood Bank and Feckenham.
- 1.8 Through considering what really matters to our residents we have produced a set of six strategic purposes, which are:
 - Keep my place safe and looking good
 - Help me run a successful business
 - Provide good things for me to see, do and visit
 - Help me to be financially independent (including education & skills)
 - Help me to live my life independently (including health & activity)
 - Help me find somewhere to live in my locality

This policy statement aims to support the Council in working to these strategic purposes.

2.0 Licensing Objectives and Aims

2.1 The Licensing Act 2003 provides a clear focus on the promotion of four key licensing objectives. As a licensing authority Redditch Borough Council will always seek to carry out its licensing functions with a view to promoting these four objectives.

The licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

2.2 Each objective is of equal importance. There are no other statutory licensing objectives, so the promotion of the four objectives is the paramount consideration at all times.

2.3 However, the licensing authority recognises that the legislation also supports a number of other key aims and purposes. It is recognised that these are also vitally important and should be aims for everyone involved in licensing work.

They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

3.0 Scope of the Licensing Authority's Functions

3.1 As a licensing authority the Council is responsible for the authorisation of 'licensable activities'. The licensable activities that are required to be authorised under the Act are as follows:

- The sale by retail of alcohol,
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- the provision of regulated entertainment, and
- the provision of late night refreshment

3.2 The licensing authority is responsible for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to use premises for qualifying club activities.
- Temporary event notice – to carry out licensable activities on a temporary basis for an event.
- Personal licence – to allow a person to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

4.0 Purpose of the Statement of Licensing Policy

- 4.1 This statement of policy has been prepared and updated in accordance with the latest amended provisions of the 2003 Act and the latest revised guidance issued under section 182 of the Act. The statement sets out the principles the licensing authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 4.2 The main purpose of this policy is to provide clarity to applicants, responsible authorities and other persons on how the licensing authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the licensing authority. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 4.3 This policy sets out the process the licensing authority will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the Council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.
- 4.4 When carrying out its licensing functions the Council will always have regard to this statement of policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 4.5 The licensing authority may depart from this policy or the Guidance if the individual circumstances of any case merit such a decision in the interests of promoting the four licensing objectives. Whenever the licensing authority takes a decision to depart from this policy or the Guidance, clear reasons will be given.
- 4.6 The Licensing Authority has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it can to prevent Crime and Disorder in the Borough.
- 4.7 The statement of policy took effect on **DATE** and will be kept under review. A revised statement of policy will be published no later than **DATE**.

5.0 General Principles

- 5.1 Every application received by the licensing authority will be considered on its own individual merits.
- 5.2 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions.
- 5.3 The licensing authority will aim to carry out its licensing functions in a way that promotes tourism, increases leisure and culture provision and encourages economic development within the Borough.
- 5.4 However the licensing authority will also always try and balance the needs of the wider community, local community and commercial premises, against the needs of those whose quality of life may be adversely affected by the carrying on of licensable activities, particularly within residential areas.
- 5.5 In particular the licensing authority will attempt to control any potential negative impacts from the carrying on of licensable activities, such as increased crime and disorder, anti-social behaviour, noise, nuisance, risks to public safety and harm to children.
- 5.6 The licensing authority's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 5.7 The licensing authority acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the authorisation concerned. As a matter of policy, however, the licensing authority expects every holder of an authorisation to take all reasonable steps to minimise the impact of their activities and anti-social behaviour by their patrons within the immediate surroundings of their premises.
- 5.8 "Need" concerns the commercial demand for another pub, restaurant or hotel and is a matter for the planning authority and for the market. Need is not a matter that the licensing authority can consider in carrying out its licensing functions.

6.0 Applications for Premises Licences and Club Premises Certificates

6.1 The relevant application forms and associated documents can be obtained from the licensing authority's website or from licensing officers during normal office hours.

6.2 Along with the application form, applicants must also submit an operating schedule and plans of the premises to which the application relates. Plans will not be required to be submitted in any particular scale, but they must be in a format which is "clear and legible in all material respects", i.e. they must be accessible and provides sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. The licensing authority does not require plans to be professionally drawn as long as they clearly show all the prescribed information.

6.3 Through their operating schedule, applicants will be expected to demonstrate the positive steps that they will take to promote the four licensing objectives.

Operating Schedules

6.4 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. The licensing authority expects an operating schedule to indicate the positive steps that the applicant proposes to take to promote the licensing objectives.

6.5 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the licensing objectives.

6.6 The licensing authority will provide general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the licensing authority and other responsible authorities prior to submitting them.

6.7 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail.

6.8 The operating schedule must be set out on the prescribed form and include a statement of the following:-

- Full details of the licensable activities to be carried on at and the intended use of the premises;
- The times during which the licensable activities will take place;

- Any other times when the premises are to be open to the public;
- Where the licence is only required for a limited period, that period;
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
- Whether alcohol will be supplied for consumption on or off the premises or both;
- The steps which the applicant proposes to promote the licensing objectives.

6.9 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Guidance on Completing an Operating Schedule

6.10 The following guidance is intended to assist applicants by setting out considerations that they should have in mind when drawing up their operating schedules. The guidance is designed to alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

(a) Prevention of Crime and Disorder

6.11 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes be a source of crime and disorder problems.

6.12 The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

6.13 The licensing authority will normally look to the police as the main source of advice on crime and disorder and therefore applicants are recommended to seek advice from West Mercia Police in relation to what steps they can take to promote the prevention of crime and disorder.

6.14 In addition when planning and preparing operating schedules applicants are advised to take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.

6.15 In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder in the Borough.

6.16 When considering all licence applications the licensing authority will take into account the measures proposed to deal with the potential for, and the prevention of, crime and disorder having regard to all circumstances of the application.

Applicants should include information on these issues within the operating schedule for the premises.

6.17 In particular, the licensing authority will consider the actions, which are appropriate for the premises that the applicant has taken, or is proposing to take with regard to the following:

- i) the ability of the person in charge of the premises to monitor the premises at all times that it is open; although this does not mean that the designated premises supervisor has to be present at all times.
- ii) the training given to staff regarding crime prevention measures for the premises;
- iii) physical security features installed in the premises (e.g. position of cash registers, CCTV, toughened drinking glasses etc.);
- iv) management attitudes (e.g. responsible pricing promotions, willingness to stagger trading, willingness to limit sales of bottles or canned alcohol for immediate consumption and preventing the sale of alcohol to people who are drunk);
- v) any other measure as may be appropriate (e.g. participation in local Pubwatch and/or Shopwatch schemes or 'Behave or be Banned' schemes (BOBS), restrictions on 'happy hours', music wind-down policies);
- vi) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- vii) where the premises are subject to age restrictions, the procedures in place to conduct age verification checks;
- viii) the likelihood of any violence, public order or policing problems if the licence is granted.
- ix) the employment of door safety staff licensed by the Security Industries Association (SIA)

6.18 Applicants for late night entertainment and alcohol premises should show that they can comply with the Home Office Guidance 'Safer Clubbing' in relation to the control of illegal drugs on their premises. They should agree a protocol with the licensing authority and West Mercia Police on the handling of illegal drugs found on their premises.

6.19 The licensing authority in setting its policies and practices considering applications for licensed premises will have due regard to the current Crime and Disorder Strategy for the Area. Regard will be had to the relatively low crime levels in the area and any disproportionate effects likely to be perceived by residents and members of the public due to nuisance, anti-social behaviour and disorder arising or likely to arise as the result of granting a licence.

(b) Public Safety

6.20 The Licensing Act 2003 covers a wide range of premises that require licensing including cinemas, nightclubs, public houses, village and community halls, schools, cafes, restaurants and fast food outlets/takeaways. Each of these types of premises present a mixture of risks, some of which may be common to most premises whilst others will be unique to specific operations. Risk assessments must reflect the local nature of risks applying to each event and or venue.

The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these public safety issues. Applicants are encouraged to

seek advice from licensing authority officers and the Fire Safety Section of Hereford and Worcester Fire and Rescue Service.

6.21 Where an inspection is required for premises the licensing authority will try where possible to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers, as appropriate.

6.22 The identification of a safe capacity limit for premises ensures that persons can be evacuated safely from premises in cases of emergency and may be one means of promoting the Act's public safety objective. The design and layout of premises are important factors when determining a safe occupant capacity. Other factors that may influence safe occupancy limits and may need to be considered when assessing the appropriate capacity for premises or events include:

- the nature of the premises or event
- the nature of the licensable activities being provided
- the provision or removal of such items as temporary structures, such as a stage, or furniture
- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age spectrum of the customers
- the attendance by customers with disabilities, or whose first language is not English
- availability of suitable and sufficient sanitary facilities
- nature and provision of facilities for ventilation

6.23 The licensing authority encourages applicants for premises licences that provide regulated entertainment (or any other premises providing a licensable activity where occupant capacity may be a public safety issue) to seek advice regarding safe occupancy levels from the Fire Safety Section of Hereford and Worcester Fire and Rescue Service.

Where the licensing authority's discretion has been engaged following receipt of a relevant representation and it believes it is appropriate for reasons of public safety to impose a condition identifying an occupancy limit, the licensing authority will not normally seek to impose an occupancy limit different to that identified by the Fire Authority if this differs from the figure set in the applicant's Fire Risk Assessment.

(c) Prevention of Public Nuisance

6.24 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the area surrounding the premises.

6.25 The licensing authority is keen to protect the amenity of residents and businesses within the area surrounding a licensed premises that are affected by the carrying on of licensable activities at that premises.

6.26 In addition, the licensing authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The licensing authority will, therefore, try and work together with all affected parties, statutory agencies and licensed businesses to ensure a mutually beneficial co-existence.

- 6.27 When considering all licence applications, the licensing authority will take into account the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of the application.
- 6.28 In particular the licensing authority will consider the action that is appropriate for the premises that the applicant has taken or is proposing with regard to the following:
- i) prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - ii) The structural suitability of the premises to provide the licensable activities sought including for example matters such as whether the premises benefits from double glazing and lobbied doors.
 - iii) preventing disturbance by customers arriving at or leaving the premises, particularly between 11.00 pm and 7.00 am;
 - iv) preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable, ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
 - v) ensuring staff leave the premises quietly;
 - vi) arrangements for parking by patrons and staff, and the effect of the parking on local residents;
 - vii) provision for public transport (including taxis and private hire vehicles) for patrons;
 - viii) whether licensed taxis or private hire vehicles are likely to disturb local residents;
 - ix) whether routes to and from the premises on foot, by car or other services pass residential premises;
 - x) the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
 - xi) the use of gardens and other open-air areas;
 - xii) the location of external lighting, including security lighting that is installed;
 - xiii) other appropriate measures to prevent nuisance, such as the employment of registered door supervisors or the use of CCTV;
 - xiv) preventing the consumption or supply of illegal drugs, including search procedures;
 - xv) whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises;
 - xvi) the history of previous nuisance complaints proved *to have taken place* at the premises, particularly where statutory notices have been served on the present licensees.
- 6.29 The licensing authority is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:
- planning controls;
 - powers to designate parts of the Borough as places where alcohol may not be consumed publicly and the confiscation of alcohol in

these areas;

- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the law with regard to disorder and anti-social behaviour;
- the power of responsible authorities or interested parties to request a review of the licence;
- enforcement action against those selling alcohol to people who are already drunk.

(d) Protection of Children from Harm

- 6.30 The licensing authority recognises that there are a range of activities for which licences may be sought meaning that children can be expected to visit many of these premises, often on their own, for food and /or other entertainment.
- 6.31 The Licensing Act 2003 does not prevent children having free access to any licensed premises. The licensing authority recognises that limitations may have to be considered where it is deemed necessary to protect children from harm. The following are examples of premises that may raise concerns:
- where there have been convictions for serving alcohol to minors, or with a reputation for under-age drinking;
 - with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises;
 - where entertainment of an adult or sexual nature is provided;
 - where there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).
- 6.32 The licensing authority expects personal licence holders to *seek* to ensure alcohol is not served to children under the age of 18, except in limited conditions allowed for by law. The licensing authority recommends that the only way to verify a person's proof of age is with reference to the following:-
- passport
 - a photocard driving licence issued in a European Union country;
 - a Proof of Age Standards Scheme card;
 - a Citizen Card, supported by the Home Office (details from www.citizencard.net);
 - an official identity card issued by HM Forces or by a European Union country bearing the photograph and date of birth of the bearer.
- 6.33 When deciding whether to limit the access of children to premises the licensing authority will judge each application on its own merits and a range of conditions may be imposed depending on the circumstances. To assist with this the licensing authority will consult with West Mercia Police and the Worcestershire Safeguarding Children Board if practical or other agencies as the licensing authority consider appropriate.
- 6.34 Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted the options available include:

- limitations on the hours when children may be present;
 - age limitations for persons under 18;
 - limitations or exclusion when certain activities are taking place;
 - full exclusion of persons under 18 when certain licensable activities are taking place;
 - limitation of access to certain parts of the premises for under 18s;
 - a requirement for an accompanying adult to be present.
- 6.35 However these options are not exhaustive and other options may be considered as the Council considers appropriate. The licensing authority also commends the adoption of the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks by prospective licensees where the licence applies to the sale of alcohol.
- 6.36 The Licensing Act details a number of offences that are designed to protect children in licensed premises and the licensing authority will work closely with the Police and Trading Standards Services to ensure appropriate and effective enforcement is undertaken, especially in relation to the sale and supply of alcohol to children.
- 6.37 The Licensing Authority will not impose any conditions that specifically require the access of children to the premises.
- 6.38 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs subject to any relevant provisions in law.
- 6.39 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example scenes of horror or violence that may be considered unsuitable for children with certain age ranges. Where a premises is used for film exhibitions, the licensing authority will normally impose conditions restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the licensing authority itself.
- 6.40 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 6.41 In considering applications, the licensing authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed.
- 6.42 Many children attend or take part in an entertainment arranged especially for them, for example children's shows, dance and drama or school productions. Specific additional arrangements may need to be operated to ensure their safety. For example:
- an adult member of staff to be stationed at each and every exit from any level and to the outside and subject to there being a minimum of one member of staff to fifty children or part thereof.
 - no child is to be permitted in the front row of any balcony unless they are supervised by an adult.

7.0 Representations

- 7.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons.
- 7.2 Representations must be made to the licensing authority within the statutory period of 28 days beginning on the day after the relevant application is received by the licensing authority. Representations must be made in writing
- 7.3 Representations can be made either in support of an application or to express objections to an application being granted. However the licensing authority can only accept “relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.
- 7.4 An example of a representation that would not be relevant would be a representation from a local businessperson about the commercial damage that competition from a new licensed premises would do to their own business. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation.
- 7.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives.
- 7.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 7.7 Whilst the licensing authority expects representations to be evidence based, there is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises.

(a) Representations from Responsible Authorities

- 7.8 Responsible authorities are a group of public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities is provided on the licensing authority’s website.
- 7.9 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.
- 7.10 The licensing authority recognises that every responsible authority can make representations relating to any of the four licensing objectives. However the licensing authority would normally expect representations about the promotion of individual licensing objectives to come from the most relevant responsible authority with expertise in that particular area. For example the licensing authority would expect representations about the prevention of crime and disorder to come

primarily from the police and representations about the prevention of public nuisance to come primarily from environmental health.

- 7.11 The licensing authority recognises that the police should be its main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations.
- 7.12 The licensing authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be appropriate for the promotion of the licensing objectives. However the licensing authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing.
- 7.13 The licensing authority recognises Worcestershire Safeguarding Children Board as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 7.14 The licensing authority recognises that, although public health is not a licensing objective, health bodies may hold information which other responsible authorities do not, but which would assist the licensing authority in exercising its functions.
- 7.15 For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information might be relevant to the public safety objective and in some cases the crime and disorder objective.
- 7.16 As a result of the Police Reform and Social Responsibility Act 2011, the licensing authority is also now a responsible authority and can therefore make representations if it deems it appropriate to do so.
- 7.17 However the licensing authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so.
- 7.18 Such parties can make relevant representations to the licensing authority in their own right, and the licensing authority expects them to make representations themselves where they are reasonably able to do so.
- 7.19 The licensing authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 7.20 In cases where a licensing authority is also acting as responsible authority in relation to the same process, the licensing authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities.

(b) Representations from Other Persons

- 7.21 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the licensing authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 7.22 The licensing authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 7.23 Decisions as to the validity of representations will normally be made by officers of the licensing authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 7.24 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the authority's corporate complaints procedure. A person may also challenge such a decision by way of judicial review.
- 7.25 Where a notice of a hearing is given to an applicant, the licensing authority is required to provide the applicant with copies of the relevant representations that have been made.
- 7.26 The licensing authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in exceptional circumstances, where a person satisfies the licensing authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly.
- 7.27 In such circumstances the licensing authority will still provide some details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation.
- 7.28 Alternatively persons may wish to contact the relevant responsible authority or their local Councillor with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations on their behalf if appropriate and justified.
- 7.29 Further guidance on making representations is provided on the licensing authority's website.

8.0 Licensing Hours

- 8.1 The licensing authority recognises the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time.
- 8.2 When determining what licensing hours are appropriate for a premises the licensing authority will always consider each application on its own merits and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application. The licensing authority will take into account requests for licensable hours in the light of:
- environmental quality;
 - residential amenity;
 - the character or function of a particular area; and
 - the nature of the proposed activities to be provided at the premises.
- 8.3 Consideration may be given to imposing stricter restrictions on licensing hours when it is appropriate to control noise and disturbance from particular licensed premises, such as those in mainly residential areas.
- 8.4 In accordance with established practice, the licensing authority encourages applicants, to include measures of good practice in their operating schedules such as a policy of prohibiting new persons from being admitted to their premises after 11.00 pm in order to reduce the risk of disorder and disturbance to members of the public late at night, where this is appropriate to the premises concerned.
- 8.6 Generally the licensing authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance.

9.0 Conditions on Licences and Certificates

9.1 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The licensing authority will ensure any conditions that are imposed on a premises licence or club premises certificate:

- Are appropriate for the promotion of the licensing objectives;
- Are precise and enforceable;
- Are unambiguous and clear in what they intend to achieve;
- Do not duplicate other statutory requirements or other duties or responsibilities placed on the business by other legislation;
- Are tailored to the individual type, location and characteristics of the premises and events concerned;
- Are not standardised and may therefore be unlawful if it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Do not replicate offences set out in the 2003 Act or other legislation;
- Are proportionate, justifiable and capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- Do not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Are written in a prescriptive format.

9.2 Although the licensing authority may use standardised forms of wording in conditions to cover commonly arising situations and circumstances, “blanket conditions” will not be applied to licences and specific conditions may be drawn up and applied to meet local need and circumstances.

10.0 Reviews

- 10.1 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority or any other person, may apply to the licensing authority for a review of the licence or certificate because of a problem arising at the premises in connection with any of the four licensing objectives.
- 10.2 In every case the application for review must relate to particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.
- 10.3 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons.
- 10.4 However, the licensing authority will not normally act as a responsible authority in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so.
- 10.5 The licensing authority also expects other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is expected that environmental health will make the application for review.
- 10.6 Where responsible authorities have concerns about problems identified at premises, the licensing authority considers it good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns.
- 10.7 A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. The licensing authority believes that co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 10.8 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority will first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious.
- 10.9 A review application might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous applications are essentially categorised by a lack of seriousness. Frivolous applications would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 10.10 The licensing authority considers a repetitious ground for review to be one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 10.11 The licensing authority is aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion.
- 10.12 The licensing authority believes that more than one review originating from a person other than a responsible authority in relation to a particular premises should not normally be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 10.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 10.14 Guidance on applying for a review of a licence or certificate, along with the necessary forms, can be found on the licensing authority's website.

11.0 Minor Variations

- 11.1 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications).
- 11.2 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
- 11.3 On receipt of an application for a minor variation, the licensing authority will consider whether the variation could impact adversely on the licensing objectives. Decisions on minor variations will normally be delegated to licensing officers who will look at each application on its own individual merits.
- 11.4 In considering the application, the officer will consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision.
- 11.5 The officer will also carefully consider any relevant representations received from other persons that are received within a period of ten working days from the 'initial day', that is to say, the day after the application is received by the licensing authority.
- 11.6 The officer will then determine the application and will contact the applicant within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.

12.0 Cumulative Impact

- 12.1 The licensing authority recognises that the cumulative impact of a number of late night entertainment premises (including cafes) in some areas may result in an increase of people either walking through, or congregating in, streets during the night. This may in turn have a number of undesirable consequences, for example;
- an increase in crime against property and/or persons;
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking problems;
 - littering and fouling.
- 12.2 This may result in the amenity of local residents in some areas being placed under pressure, as it will not always be possible to attribute a particular problem to customers of particular premises. This means that, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems.
- 12.3 Where there is evidence that a particular area of the Borough is already suffering adverse effects from the concentration of late night premises, when determining any further application for premises within the area identified the licensing authority will take into account:
- the character of the surrounding area;
 - the impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
 - the nature and character of the proposed operation.
- 12.4 There is currently insufficient evidence to adopt a special policy within this statement. The following steps must be followed before a special policy is considered:
- identification of concern about crime and disorder or public nuisance;
 - consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
 - consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
 - subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the statement of licensing policy;
 - publication of the special policy as part of the statement of licensing policy required by the 2003 Act.

13.0 Enforcement and Complaints

- 13.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act 2003. The licensing authority will monitor premises and take any appropriate enforcement action to ensure compliance. Only complaints linked to a licensing objective will be investigated.
- 13.2 The licensing authority's general approach to enforcement will be to target problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. Principles of risk assessment and targeted inspections (in line with the recommendations of the Hampton review) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and are more effectively concentrated on problem premises.
- 13.3 In most cases a graduated form of response will be taken to resolve issues of non-compliance, although it is recognised that in serious cases a prosecution or application for review are the appropriate means of disposal.
- 13.4 All decisions and enforcement actions taken by the licensing authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.
- 13.5 The licensing authority will continue to employ officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with, and will seek to work actively with West Mercia Police and other relevant partners in enforcing licensing legislation.
- 13.6 The licensing authority is happy to investigate complaints against licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.
- 13.7 Where a person has made a complaint then the licensing authority may initially arrange a mediation meeting to try and address, clarify and resolve the issues of concern. This process will not override the right of any person to ask the licensing authority to review a licence or certificate or for any licence/certificate holder to decline to participate in a mediation meeting.

14.0 Integrating Strategies and Partnership Working

- 14.1 The Council regards its licensing function as the most appropriate tool in ensuring that the licensing objectives are promoted and will avoid, as far as is possible, any duplication with other regulatory regimes and legislation.
- 14.2 Licensing Committee, when appropriate, will be informed of relevant county and local strategies. The report may include information relating to:
- Local crime prevention strategies;
 - Needs of the local tourist economy;
 - Any cultural strategy for the area;
 - Employment issues in the area;
 - Any relevant planning matters so as to ensure the clear distinction between licensing and planning functions, and
 - Local relevant partnerships and their objectives.

15.0 Equal Opportunities

- 15.1 The Equality Act 2010 places a legal obligation on the licensing authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 15.2 The licensing authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages. Specific needs will be dealt with on an individual basis.

16.0 Administration, Exercise and Delegation of Functions

- 16.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 16.2 The licensing authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with those matters.
- 16.3 In addition, it is expected that many of the decisions and functions will be largely administrative with no perceived areas of contention and, in the interests of efficiency and effectiveness, these are delegated to officers. Attached at Appendix A to this licensing policy is a table of delegated functions setting out the agreed delegation of decisions and functions to the Council's Licensing Committee, Sub-Committees and officers.
- 16.4 These delegations are without prejudice to officers referring an application to a Sub-Committee or the Licensing Committee if considered appropriate in the circumstances of the case.

17.0 Relationship with Planning

- 17.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 17.2 There is no legal basis for the licensing authority to refuse a licence application because the relevant premises does not have planning permission, or where there are conditions on the relevant planning permission.
- 17.3 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

18.0 Temporary Event Notices

- 18.1 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the licensing authority, police and environmental health. The police and environmental health can only object to a Temporary Event Notice if the event is likely to undermine the licensing objectives.
- 18.2 The law states that for a standard temporary event notice, at least ten working day's notice must be given but the licensing authority recommends that, wherever possible, at least two month's notice be given to hold these events, to allow it to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 18.3 Organisers of temporary events are strongly advised to contact the licensing authority for advice at the earliest opportunity when planning events. Where necessary discussions will be held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 18.4 Since 25 April 2012 it has been possible for individuals to serve a very limited number of "late" temporary event notices each year, providing that these are served on all relevant parties at least five working days before the day on which the event is due to begin.
- 18.5 However event organisers should be aware that a late temporary event notice can be prevented by a single objection from the police or environmental health and there is no right to a hearing in such circumstances.
- 18.6 Therefore late temporary event notices should normally only be served in exceptional circumstances, such as when an event has to be postponed and rearranged at short notice due to adverse weather conditions. The licensing authority does not expect late temporary event notices to be served simply on the basis that the event organiser has been disorganised in addressing the licensing arrangements for their event.

19.0 Live Music Act 2012 and other Entertainment Licensing Deregulation

- 19.1 The Live Music Act 2012 came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:
- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises
 - amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
 - unamplified 'live' music between 8am and 11pm in all venues
 - the provision of entertainment facilities
- 19.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing, conditions following a review.
- 19.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance is live music or not, so organisers are encouraged to check with the licensing authority if in doubt.
- 19.4 There was a further deregulation of entertainment licensing in June 2013 when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 08:00-23:00 on any day:
- a performance of a play in the presence of any audience of no more than 500 people
 - an indoor sporting event in the presence of any audience of no more than 1000 people
 - a performances of dance in the presence of any audience of no more than 500 people

20.0 Sexual Entertainment Venues

- 20.1 The Council may adopt a policy in relation to sex establishments, including sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. This policy may include standard conditions attached to such licences. Where there are similar conditions attached to licences under both regulatory regimes, the more onerous will apply.
- 20.2 There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Any concerns related to the provision of occasional sexual entertainment may still lead to a review of the relevant premises licence or club premises certificate and the imposition of conditions.
- 20.3 Any premises that wants to provide sexual entertainment under the exemption must still be authorised under the Licensing Act 2003 for the performance of dance and the playing or recorded music.

21.0 Early Morning Alcohol Restriction Orders (EMROs)

- 21.1 The power to introduce an EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 21.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 21.3 Before introducing an EMRO the licensing authority must be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement will be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.
- 21.4 The licensing authority will normally only consider the use of EMROs as a last resort in dealing with recurring problems and will always consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.
- 21.5 It is recognised that there are other measures that could be taken instead of making an EMRO which include:
- introducing a special policy on cumulative impact;
 - reviewing licences of specific problem premises;
 - encouraging the creation of business-led best practice schemes in the area; and
 - using other mechanisms set out in the Secretary of State's Guidance to Licensing Authorities under Section 182 of the Licensing Act 2003.
- 21.6 The licensing authority is not currently satisfied that it is appropriate to make any EMROs.

22.0 Late Night Levy

- 22.1 The late night levy is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 22.2 The levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.
- 22.3 At the present time this licensing authority does not have a large number of premises which are licensed to sell alcohol during the late night supply period. Therefore, at this stage, the licensing authority does not believe that the levy will generate enough revenue to make it an appropriate option in its area.
- 22.4 The decision to introduce the levy is for the licensing authority to make. However the licensing authority will keep the need for a levy under review in consultation with the chief officer of police and police and crime commissioner ("PCC") for the police area.
- 22.5 When considering whether to introduce a levy the licensing authority notes that any financial risk (for example lower than expected revenue) rests at a local level and this will be fully considered prior to making any decision about local implementation.
- 22.6 The licensing authority will decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process.
- 22.7 If the licensing authority decides to give further consideration to the introduction of a levy in the future, it will do so in accordance with the relevant regulations and with reference to any relevant guidance issued by the Home Office.
- 22.8 Any decision to introduce, vary or end the requirement for the levy will be made by the full Council. Other decisions in relation to the introduction and administration of the levy would be delegated to the Licensing Committee.

23.0 Suspension of Licences and Certificates for Non-Payment of Annual Fees

- 23.1 As a result of powers introduced under the Police Reform and Social Responsibility Act 2011, the licensing authority must suspend premises licences and club premises certificates if the holder of the relevant authorisation fails to pay their annual fee.
- 23.2 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 will be used by the licensing authority to contact the licence or certificate holder in attempt to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence or certificate will be suspended.
- 23.3 When suspending a licence or certificate a notice of suspension will be given in writing to the licence or certificate holder. The police and any other relevant responsible authorities will also be notified of the suspension at the same time.
- 23.4 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.
- 23.5 Once payment has been received a written acknowledgement will be given to the licence/certificate holder and the suspension will be lifted. The police and any other relevant responsible authorities will be notified that the suspension has been lifted at the same time.

Appendix A - Table of Delegated Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If the police give an objection notice	If no objection notice is given by the police.
Application for premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made
Application for provisional statement		If relevant representations are made	If no relevant representations are made
Application to vary premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made
Application to vary designated personal licence holder		If the police give an objection notice	If no objection notice is given by the police.
Application for the mandatory alcohol condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disapplied		If a police representation is made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If the police give an objection notice	If no objection notice is given by the police.
Application for interim authority		If the police give an objection notice	If no objection notice is given by the police.

Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc			All cases
Decision for licensing authority to act in their capacity as a responsible authority			All cases
Acknowledgement of receipt of a temporary events notice			All cases
Determination of a police or environmental health objection to a temporary event notice		All cases	
Decision to suspend a licence or certificate for non-payment of the annual fee.			All cases

LICENSING COMMITTEE

7th April 2014

HOME OFFICE CONSULTATION ON FEES UNDER THE LICENSING ACT 2003

Relevant Portfolio Holder	Councillor Rebecca Blake
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 On 13th February 2014, the Home Office launched an eight week consultation on the implementation of locally set fees under the Licensing Act 2003. Officers from Worcestershire Regulatory Services have drafted a response to this consultation on behalf of the six licensing authorities in Worcestershire.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

That the consultation response at Appendix 2 is noted and that approval is given to the Licensing and Support Services Manager of Worcestershire Regulatory Services to submit this response on behalf of Redditch Borough Council.

3. KEY ISSUES

Financial Implications

- 3.1 The centrally set fees under the Licensing Act 2003 have remained unchanged since 2005. The implementation of locally set fees will enable licensing authorities to achieve full cost recovery in delivering their functions under the Licensing Act 2003.

Legal Implications

- 3.2 The existing fees under the Licensing Act 2003 were set centrally by the Government in the Licensing Act 2003 (Fees) Regulations 2005, which came into force on 7th February 2005. Section 121 of the Police Reform and Social Responsibility Act 2011 introduced a power for the Home Secretary to prescribe in regulations that these fee levels should instead be set by individual licensing authorities.

Service / Operational Implications

3.3 Background

- 3.4 Since the implementation of the Licensing Act 2003, Redditch Borough Council has been responsible for a number of duties and functions in its capacity as a licensing authority. These duties and functions include the processing of applications and granting of authorisations in relation to the provision of licensable activities.
- 3.5 The Licensing Act 2003 and associated regulations provided that the fees payable by applicants were set centrally by Government. Fees were initially set by the Secretary of State in the Licensing Act 2003 (Fees) Regulations 2005, which came into effect on 7th February 2005. These regulations have not been amended by any Secretary of State subsequently and therefore the fees payable today are the same as they were nine years ago when the Act came into force.
- 3.6 As part of the Coalition Government's commitment to "rebalance the Licensing Act" the Government recognised arguments from some licensing authorities that they face significant deficits in carrying out their licensing functions, given that fee levels have been unchanged since they were set in 2005. The Government therefore introduced provisions in the Police Reform and Social Responsibility Act 2011 to enable locally-set fees based on cost recovery.
- 3.7 The Government could have set fees centrally, but recognised that costs vary for legitimate reasons in different areas, so that raising fees to recover costs in one area would mean fee payers paying too much in another.
- 3.8 Locally-set fees cannot be used to raise extra revenue, nor are they tools to tackle crime. Fees must be based on recovering the costs that licensing authorities incur in carrying out their licensing functions. Fee payers need to know that locally-set fees will be set transparently and be based on evidence.
- 3.9 Additionally, the Government intends to introduce caps on the level of each fee to reassure fee payers. The Government are consulting on the level of each cap, which is intended to represent the maximum costs of licensing authorities. They will not be a "guide" to fee levels. Nor should they prevent licensing authorities from recovering legitimate costs.
- 3.10 The Home Office is now moving towards the implementation of locally set fees and on 13th February 2014, launched a consultation on the issue. The consultation paper can be seen at Appendix 1. The consultation runs for eight weeks and responses have to be submitted by 10th April 2014.
- 3.11 Officers from Worcestershire Regulatory Services have drafted a response to this consultation on behalf of the six licensing authorities in Worcestershire. The response can be seen at Appendix 2.

- 3.12 Members are asked to note the response that has been drafted and to give approval to the Licensing and Support Services Manager of Worcestershire Regulatory Services to submit this response on behalf of Redditch Borough Council.

Customer / Equalities and Diversity Implications

- 3.13 There are no specific implications arising from this report.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

Appendix 1 – Consultation Paper
Appendix 2 – Draft Response

6. BACKGROUND PAPERS

Licensing Act 2003
Licensing Act 2003 (Fees) Regulations 2005
Police Reform and Social Responsibility Act 2011

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Home Office

A consultation on fees under the Licensing Act 2003

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Ministerial foreword

The Coalition Government is committed to cutting red tape in the licensing regime for responsible businesses. For example, we have already significantly reduced the burden of licensing regulation on live music, and have recently brought forward further proposals for the further deregulation of entertainment. We are also giving local government powers to remove licensing burdens on late night refreshment providers and reducing the burden of the personal licence regime.

However, the Coalition Government is very clear about its commitment to curbing excessive drinking and the problems it causes, especially the alcohol-related crime and disorder that costs around £11 billion annually in England and Wales. We have legislated to rebalance the Licensing Act in favour of local communities, ensuring that local authorities have significantly enhanced powers to tackle alcohol-related crime and disorder. For example, we have introduced the late night levy, giving licensing authorities the power to ensure that businesses selling alcohol late at night contribute to the police costs and wider council spending it causes. We have enabled licensing authorities to prevent alcohol sales late at night in problem areas through Early Morning Alcohol Restriction Orders (EMROs). We have also lowered the evidence threshold for decision-making, making it easier for licensing authorities and the police to refuse, revoke or impose conditions on licences.



Norman Baker

As part of our proposals to rebalance the Licensing Act, we also recognised arguments from some licensing authorities that they face significant deficits in carrying out their licensing functions, given that fee levels have been unchanged since they were set in 2005. We therefore introduced provisions in the Police Reform and Social Responsibility Act 2011 to enable locally-set fees based on cost recovery. We could have set fees centrally, but we recognise that costs vary for legitimate reasons in different areas, so that raising fees to recover costs in one area would mean fee payers paying too much in another.

Locally-set fees cannot be used to raise extra revenue. Nor are they tools to tackle crime. The late night levy, EMROs, and other strengthened licensing powers can be used for these purposes. Fees must be based on recovering the costs that licensing authorities incur in carrying out their licensing functions. Fee payers need to know that locally-set fees will be set transparently and be based on evidence. However, we do not wish to impose excessive duties or complex processes that will increase the costs of the licensing system for everyone. Therefore, we are seeking views on how to create a proportionate system of fees that follows these principles.

Additionally, we will introduce caps on the level of each fee to reassure fee payers. We are consulting on the level of each cap. I emphasise that the caps are intended to represent the maximum costs of licensing authorities. They will not be a “guide” to fee levels. Nor should they prevent licensing authorities from recovering legitimate costs.

Alongside this consultation, we are conducting a survey of the costs incurred by licensing authorities in performing each licensing function. The information will be important to us in developing the details of the regime. In addition, the information required to complete the survey will form a vital part of the calculations necessary to set fees locally in due course. I therefore urge all licensing authorities to complete and return the survey.

We look forward to hearing the views of all those with an interest as part of this consultation.

A handwritten signature in black ink that reads "Norman Baker". The signature is written in a cursive, flowing style.

Norman Baker MP
Minister of State for Crime Prevention

1. Introduction

- i. The regulatory regime of the Licensing Act 2003 (“the 2003 Act”) affects hundreds of thousands of businesses and many millions of us as workers, residents and consumers. It regulates the sale of alcohol, the provision of late night refreshment and regulated entertainment in England and Wales, and therefore influences activities that are central to many people’s lives. For instance, community pubs are often at the heart of neighbourhoods, providing employment and a focus for community engagement and social life. Licensable activities also support profitable industries which enhance the economy and promote growth. The majority of people who take part in regulated activities do so in an entirely responsible way. Nevertheless, these activities can sometimes have a less positive side, from which the licensing regime is designed to protect the public. Many agencies, such as the police, have a role. However, licensing functions under the 2003 Act are primarily implemented by local authorities – in their capacity as “licensing authorities” - and this role is funded through fees.
- ii. Licensing fees are intended to recover the costs that licensing authorities incur in implementing the 2003 Act, within the context of the transparency and accountability mechanisms to which licensing authorities are subject (see Chapter 8). Fees levels were set nationally in 2005, but have not been revised since then¹. The Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) introduced a power for the Home Secretary to prescribe in regulations that these fee levels should instead be set by individual licensing authorities.
- iii. Fees are payable to licensing authorities by holders of licences and certificates, and those making applications or issuing notices². Those paying fees, therefore, come from a wide variety of groups. They include businesses that sell alcohol and provide late night refreshment, not-for-profit organisations (including private members’ clubs, such as political or British Legion clubs) and individuals (such as personal licence applicants). In addition over 120,000 Temporary Event Notices (TENs) are given each year by a variety of businesses, not-for-profit groups and individuals to authorise licensable activities on an occasional basis.

Scope of this consultation

- iv. This consultation invites views on a number of specific aspects of the regulations that will introduce locally-set fees under the 2003 Act. These are:
 - The future of the current variable fee “bands” based on the national non-domestic rateable value (NNDR) of the premises.
 - Whether the basis on which fees are determined should include new discretionary mechanisms to apply different fee amounts depending on whether or not premises are:
 - authorised to provide licensable activities until a late terminal hour and/or
 - used exclusively or primarily for the sale of alcohol for consumption on the premises.
 - If licensing authorities are able to apply different fee amounts, whether they should have further discretion to exclude certain classes of premises from liability for the higher amount.

1 Licensing Act 2003 (Fees) Regulations 2005 (S.I. 2005/79). The only substantive amendment has been the addition of new fees for new processes, such as for an application for a “minor variation”.

2 A full list of the fees is available in Chapter 7.

- The proposed cap levels that will apply to each fee category.
 - What guidance will be needed on setting fees and on efficiency and the avoidance of “gold-plating” (by which we mean activities that go beyond the duties of the 2003 Act and are not justified by proportionality).
 - Whether there should be a single annual fee date.
 - The transition process to locally set fees.
- v. This consultation is primarily aimed at fee payers and licensing authorities, although we welcome responses from all those who have an interest.

Legal context

- vi. The power to make fees regulations is set out in primary legislation³. These provisions are designed to reflect wider Government policy on fees, in particular, the need to distinguish “fees” from “taxation”. The primary legislation enables licensing authorities to charge different amounts for different “classes of case” (or criteria) specified in the regulations, but does not enable them to introduce new “classes of case” themselves.
- vii. In other words, the legislation enables the Home Secretary to prescribe that licensing authorities set fee levels, but not that they determine their own fee structure. This will be specified in regulations and will therefore remain the same across England and Wales. This fee structure is one of the issues on which we are consulting.
- viii. The primary legislation enables the Home Secretary to apply constraints on licensing authorities’ power to determine the amount of any fee. The Government has signalled its intention to use this power to set caps on fee levels. Chapter 7 seeks views on proposed caps.
- ix. It should also be noted that these regulations cannot introduce new circumstances where a fee becomes payable⁴. For example, they cannot add a fee for applications for review.
- x. There are a number of objectives that have shaped our approach to the consultation. These are set out below.

Cost recovery

- xi. As described above, licensing authorities should, as nearly as possible, achieve cost recovery for the discharge of functions under the 2003 Act⁵. Cost recovery is best achieved by setting fees locally because the variations in actual costs between licensing authority areas make it difficult to achieve a close approximation to cost recovery with nationally-set fees. Locally-set fees should remove unintended public subsidy of the administration of the 2003 Act when a licensing authority’s costs are higher than current fee income. This should benefit tax payers. It should also mean that fee payers do not pay more than the licensing authority’s costs in areas with lower costs.
- xii. Alongside this consultation, the Government is seeking further evidence on variations in costs between licensing authority areas. An estimate of licensing authority costs, based on a small initial survey, is reflected in the accompanying Impact Assessment. We would welcome estimates of the costs of administering the 2003 Act from all licensing authorities to fully

³ This will be sections 197A and 197B of the 2003 Act (see Appendix A).

⁴ A list of fee categories is contained in Chapter 7.

⁵ Chapter 8 of this consultation contains a description of licensing authority costs.

assess the likely impact of locally-set fees and to ensure that costs reported are nationally representative. This will enable the Impact Assessment to be revised at final proposal stage, taking into account evidence received from the consultation. Further information about the cost survey is available at www.gov.uk/government/consultation/locally-set-licensing-fees.

Avoiding cross-subsidisation

- xiii. Fees (unlike taxes) must avoid “cross-subsidisation”. This is where one class (or type) of fee payer is charged at higher than cost-recovery so that another class can be charged less. An example might be charging big firms more as an economic deterrent, or so that charities or small firms can be charged less. This could be regarded as an unfair form of taxation on those that are charged more.
- xiv. Evidence suggests that the current sources of fee income are not properly aligned to licensing authority costs, either in terms of categories of fees (such as TENs or annual fees) or between the ‘classes’ of fee payers (for example at present the fee amount charged for an application for a premises licence is higher for premises with higher non-domestic rateable value, but the evidence does not support such variations in costs within licensing authority areas). This is discussed further in the impact assessment published alongside this consultation at www.gov.uk/government/consultation/locally-set-licensing-fees and in Chapter 5.
- xv. This consultation therefore contains proposals to change the basis on which variable fee amounts may be chargeable locally, with the intention that licensing authorities can reduce cross-subsidisation in their areas in efficient and practical ways.

Caps

- xvi. As mentioned above, the Government has signalled its intention to set a “cap” (or highest permitted fee level) for each fee category. The caps are intended to reassure fee payers that locally-set fees are not a blank cheque for local government. They should not prevent licensing authorities in areas with the highest actual costs from recovering these costs, and should not be treated as indicative fee levels. It is expected that, in all but the most exceptional cases in the highest cost areas, fee levels set by licensing authorities will be well below the caps. This consultation invites views on the levels of the caps. This consultation also seeks views on the other potential mechanisms by which fee payers could be reassured that the fee levels they are paying are fair.

Single national payment date for annual fees

- xvii. Annual fees for premises licences and club premises certificates are currently paid on the anniversary of the date on which the licence or certificate was granted. Holders of premises licences, particularly operators who hold multiple licences granted at different times, have argued that it would be more efficient for them to be able to pay all their annual fees on the same date.
- xviii. This consultation therefore seeks views on whether there should be a single national payment date for annual fees. However, it is not proposed to implement this change at the same time as the regulations governing locally-set fees are introduced, because it would increase the complexity of the forthcoming change to the fees regime.

Out of scope

Additions to or exemptions from fees

- xix. The only basis on which licensing authorities will be able to charge fees is cost recovery. The regulations cannot enable fees to be charged for processes or activities for which fees are not already chargeable, nor can they exempt premises or activities from the licensing regime. The Government is looking more widely at how to reduce the burdens on businesses and not-for-profit groups affected by the 2003 Act. Recent Government consultations on its Alcohol Strategy and on regulated entertainment have invited views on a number of de-regulatory proposals, alongside proposals to tackle alcohol-related harms.
- xx. In the case of regulated entertainment, the Government has proposed changes that will see many activities removed from the scope of licensing entirely⁶. This will mean, for example, that many temporary events that formerly required a TEN (such as community concerts) will not require one in future. Likewise, many licences or certificates that authorise regulated entertainment only will not be required in the future. The Government intends to align the introduction of locally-set fee levels locally with these changes, so that operators whose activities are set to be de-regulated (subject to Parliamentary approval) will not be subject to locally-set fees in the interim.
- xxi. Following the consultation on the Alcohol Strategy, the Government has brought forward proposals to:
- simplify the system of personal licences;
 - introduce a new form of authorisation, the “community and ancillary sales notice” (CAN), which will reduce the burdens on community groups that sell small amounts of alcohol and on businesses, such as small accommodation providers, that only sell limited amounts of alcohol alongside a wider services; and
 - enable licensing authorities to de-regulate late night refreshment in their area⁷.

These proposals (as in the case of the CAN) are expected to result in new lighter touch processes with correspondingly low fees or (in the case of late night refreshment) exemptions from the licensing regime.

- xxii. As a consequence of the principles of cost recovery and the avoidance of cross-subsidisation, this consultation does not propose any nationally-imposed exemptions from the requirement to pay fees where activities remain within the licensing regime. Therefore, exemptions from fees such as those currently applicable to community premises and similar premises that hold a licence only for regulated entertainment, are not proposed. It should be emphasised that the Government’s de-regulatory proposals for entertainment will exempt the types of premises and activities that the fee exemption is currently intended to benefit from the requirement to hold a licence.

6 E.g. “Consultation on a proposal to use a Legislative Reform Order to make changes to entertainment licensing”: <https://www.gov.uk/government/consultations/legislative-reform-order-changes-to-entertainment-licensing>

7 “Consultation on delivering the Government’s policies to cut alcohol fuelled crime and anti-social behaviour”. The Government’s response was published on 17 July 2013: <https://www.gov.uk/government/consultations/alcohol-strategy-consultation>

Large events

xxiii. The “additional fees” for large event fees are not addressed in the current consultation. The Government intends to revisit this topic after licensing authorities have developed expertise in setting fees under the 2003 Act. In the meantime, fees for large events will remain as they are.

Impact Assessment

xxiv. An Impact Assessment has been prepared to accompany this consultation, available at www.gov.uk/government/consultations/locally-set-licensing-fees. In addition to seeking views on the proposals, the Government is also seeking views on the Impact Assessment.

2. About this consultation

Geographical Scope

This consultation applies to England and Wales. We continue to work with the Welsh Government on these proposals.

Impact Assessment

A consultation stage impact assessment is published alongside this consultation document.

Who is this consultation aimed at?

We are particularly keen to hear from everyone who will be affected by these measures, especially those who pay licensing fees (such as those who own or work in pubs, clubs, supermarkets and shops, or issue Temporary Event Notices); and licensing authorities, although we will welcome responses from all those with an interest.

Duration

The consultation runs for eight weeks from 13 February 2014 until 10 April 2014.

Enquiries:

AlcoholStrategy@homeoffice.gsi.gov.uk

How to respond:

Information on how to respond to this consultation can be found on the Home Office website at www.gov.uk/government/consultations/locally-set-licensing-fees

All responses will be treated as public, unless the respondent states otherwise.

Responses can be submitted online through the Home Office website. Alternatively you can submit responses by email at AlcoholStrategy@homeoffice.gsi.gov.uk or by post by sending responses to:

Alcohol Fees Consultation,
Drugs and Alcohol Unit,
Home Office,
4th Floor Fry Building,
2 Marsham Street,
London,
SW1P 4DF

If responding by email or by post, please follow the word limits in the consultation for each question. If you wish to provide additional information, please do so in an annex to your response, which can be emailed to the address above.

Additional ways to become involved:

Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to both offer, and provide on request, these formats under the Equality Act 2010. We can also offer a version of the consultation in Welsh on request.

After the consultation:

Responses will be analysed and a 'Response to the Consultation' document will be published. This will explain the Government's final policy intentions.

Background**Getting to this stage:**

The Government published its "Rebalancing the Licensing Act" consultation in July 2010. Following this, the Police Reform and Social Responsibility Act 2011 introduced the necessary power for the Home Secretary to prescribe that the level of fees under the 2003 Act are set by the authority to which they are payable, based on cost recovery.

3. Information about you

The following questions ask for some information about you. The purpose of these questions is to provide some context on your consultation responses and to enable us to assess the impact of the proposals on different groups of people. By providing these responses you are giving your consent for us to process and use them in accordance with the Data Protection Act 1998.

Company Name or Organisation (if applicable):

Which of the following best describes you or the professional interest you represent? Please select one box from the list below:

Individual involved in licensed premises	<input type="checkbox"/>
Individual involved in or managing club premises	<input type="checkbox"/>
Small or medium sized enterprise involved in licensed premises (up to 50 employees)	<input type="checkbox"/>
Large business involved in licensed premises (more than 50 employees)	<input type="checkbox"/>
Business or trade body involved in the production of alcohol	<input type="checkbox"/>
Trade body representing licensed premises	<input type="checkbox"/>
Association representing club premises	<input type="checkbox"/>
Person or organisation specialising in licensing law	<input type="checkbox"/>
Voluntary or community organisation	<input type="checkbox"/>
Licensing authority <i>[If you are from a licensing authority please specify which licensing authority in the box below:]</i>	<input type="checkbox"/>
Licensing authority officer	<input type="checkbox"/>
Local Government (other)	<input type="checkbox"/>
Police and Crime Commissioner	<input type="checkbox"/>
Police force	<input type="checkbox"/>
Police officer <i>[If you are from a police force specify which police force in the box below]</i>	<input type="checkbox"/>
Bodies representing public sector professionals (e.g. Local Government Association, Institute of Licensing)	<input type="checkbox"/>
Central Government	<input type="checkbox"/>
Member of the public	<input type="checkbox"/>
Other <i>[specify in the box below]</i>	<input type="checkbox"/>

4. Consultation principles, confidentiality and disclaimer

Consultation Principles

- 4.1 The Government has recently introduced a more proportionate and targeted approach to consultation, so that the type and scale of engagement is proportionate to the potential impacts of the proposal. The emphasis is on understanding the effects of a proposal and focusing on real engagement with key groups rather than following a set process. The key Consultation Principles are:
- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
 - departments will need to give more thought to how they engage with and consult with those who are affected;
 - consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and the principles of the Compact between Government and the voluntary and community sector will continue to be respected.

The full consultation guidance is available at:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Responses: Confidentiality & Disclaimer

- 4.2 The responses you send us may be passed to colleagues within the Home Office, the Government or related agencies. The Department will process your personal data in accordance with the Data Protection Act 1998 (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
- 4.3 Responses to this consultation may be published as part of the analysis of the consultation, or subject to publication or disclosure in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.
- 4.4 Please tick the box below if you want your response to be treated as confidential. Please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, among other things, with obligations of confidence.
-
- 4.5 If you have ticked the box, it would be helpful if you could explain to us why you regard your response as confidential. If we receive a request for disclosure of your response we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
-

5. Variable fee amounts: the national non-domestic rateable value “bands”

Introduction

- 5.1 It is the Government's intention that cost recovery is achieved without cross-subsidisation. Therefore, unless there is evidence that one class (or type) of fee payer leads to higher average costs to the licensing authority than others, everyone should pay the same.
- 5.2 The current fee regulations prescribe different fee amounts for the “main fees”⁸ depending on the national non-domestic rateable value (NNDR) “band” of the premises (see the existing fees at Appendix B). NNDR represents the open market annual rental value of a business or non-domestic property - the rent the property would let for if it were offered on the open market.
- 5.3 The “bands” are:
- Band A: no NNDR to £4,300;
 - Band B: £4,301 to £33,000;
 - Band C: £33,001 to £87,000;
 - Band D: £87,001 to £125,000; and
 - Band E: £125,001 and above.
- 5.4 The fee amounts charged increase substantially for premises in higher bands. For example, the fee for an application for a premises licence is £100 for premises in Band A and £635 for premises in Band E. The only basis on which the Government would propose retaining the use of such bands under a system of locally-set fees would be if the higher bands were, on the basis of local evidence, related to higher costs to the licensing authority.
- 5.5 As described in the Impact Assessment, a study of licensing authority costs by the Home Office (referred to as the LA Sample survey) did not support NNDR as a criterion for variable costs because the costs incurred by premises within each band in an area were not significantly linked to cost differences for the licensing authority. This means, therefore, that retention of the bands would not assist in reducing cross-subsidisation. As noted in the Impact Assessment, however, it would add marginally to the cost of setting fees because of the need to determine costs for the members of each NNDR band.

⁸ The “main fees” are the fees paid in respect of: applications for new premises licences and club premises certificates; applications for full variations to premises licences and club premises certificates; and annual fees in respect of premises licences and club premises certificates.

The Government therefore proposes to abandon the use of NNDR as a criterion for variable fee amounts.

Consultation Question 1:

Do you agree or disagree that the use of national non-domestic rateable value bands as a criterion for variable fee amounts should be abandoned?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 2:

If you disagree, please provide evidence that higher national non-domestic rateable value is consistently linked to higher average costs to the licensing authority within individual licensing authority areas, keeping your views to a maximum of 200 words.

6. Variable fee amounts: alternative classes

- 6.1 This chapter focuses on alternative classes (or types) of premises in respect of which licensing authorities may be able to apply different fee amounts across their area for the “main fees”⁹, if the Government does move away from the use of NNDR bands. There are a number of different options to consider. The Government could prescribe that there be a ‘flat’ fee for the main fees in each area. However, some licensing authorities may consider that this would neither reflect costs nor reduce cross-subsidisation. For example, they may have evidence that, in their area, licensed restaurants or premises that close early consistently result in lower costs than premises used mostly for drinking or those which open until late.

Principles of alternative classes

- 6.2 The proposed discretion to charge different fee amounts for different classes of premises should enable licensing authorities to more closely achieve the objective of the avoidance of cross-subsidisation in their respective areas. These ‘classes’ would only be implemented locally as the basis for variable fee amounts if there was evidence that (and to the extent that) they were linked to costs in that area. They would apply throughout the licensing authority’s area.
- 6.3 Any classes proposed must of course be compatible with the fees provisions in the 2003 Act. In addition, they should also be practical and efficient to implement locally so that they do not significantly increase licensing authority costs.

Alternative classes proposed in pre-consultation discussions

- 6.4 During pre-consultation discussions, local government representatives and fee payers proposed a variety of different approaches. These included methods that seek to place a larger proportion of the fee burden on existing premises perceived as problematic or high risk. Proposals include basing the “main fees” on
- risk assessment of each premises; and
 - “polluter pays” approaches, with payments for interventions (such as inspections) or different amounts dependent on whether there were problems during the year.
- 6.5 A common feature of these methods is that they would require classification of premises in categories that are currently not a formal part of the licensing regime. They would therefore be likely to result in additional costs and burdens (for example, in conducting a risk assessment). They may also increase the likelihood of dispute between licensing authorities and fee payers about the classification that emerged or whether premises were at fault for an incident that led to the assessed risk increasing. Furthermore, they may involve retrospective decisions that could not apply to applications or variation applications. For these reasons, the Government is not proposing these mechanisms.

⁹ The “main fees” are the fees paid in respect of: applications for new premises licences and club premises certificates; applications for full variations to premises licences and club premises certificates; and annual fees in respect of premises licences and club premises certificates.

- 6.6 The proposed criteria on which we are consulting are whether or not premises are:
- authorised to provide licensable activities until a late terminal hour and/or
 - used exclusively or primarily for the sale of alcohol for consumption on the premises.

These are described in more detail below. However, in Question 18 below, we invite evidence in support of other alternative classes (or types) of premises that are consistently linked to higher or lower average costs to the licensing authority within individual licensing authority areas.

Inter-relationship between the classes

- 6.7 Subject to local evidence of costs, the intention is that a licensing authority will be able to apply neither, only one, or both of the criteria cumulatively; or both of the criteria in combination:
- If neither criterion were applied, there would be a flat rate for all premises.
 - If one was applied (for example, late terminal hour), then this would divide premises into two classes, those that were and were not authorised to provide licensable activities at that hour. Those that were authorised to open later would pay an additional amount.
 - If both criteria were applied, premises that had a late terminal hour and were used primarily for drinking would pay each additional amount cumulatively.
 - To provide additional flexibility for licensing authorities, we also propose that licensing authorities would be able to specify that a higher fee amount would apply only to premises to which both criteria applied in combination. This option is explained in more detail below.

Relationship with caps

- 6.8 We intend that the cap (see Chapter 7) is the highest permitted fee for that fee category. Premises subject to any higher fee amount will still be subject to the cap.

Discretion to vary fee amounts on the basis of late terminal hour

- 6.9 Premises could be charged more or less for the main fees dependent on whether or not the latest time that they are authorised to carry on licensable activities is beyond a set time in the evening. (The exact time is considered further below, paragraph 6.12).
- 6.10 Discussions with licensing authorities suggest that it is likely that premises open late may, in some areas, give rise to higher costs to the licensing authority. This could be as a result of, for example, heightened concern about noise nuisance (which may lead to more representations and applications for review) or the increased costs of inspection late at night.

Consultation Question 3:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is linked to costs?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 4:

If you agree, please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

6.11 “Late terminal hour” is a readily understood concept in the current regime, therefore making dispute less likely and implementation relatively simple. It is important that any class that is specified in the regulations does not itself risk incurring costs (such as those arising from a dispute about liability to pay a fee or its amount).

Consultation Question 5:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is sufficiently practical to implement?

Agree	
Disagree	
Don't know	

Consultation Question 6:

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

6.12 We intend that the terminal hour which triggers the higher fee amount would be set locally but within prescribed criteria set out in regulations. We propose that it should be within the period midnight to 6am. (This is the same time period to which the Late Night Levy and Early Morning Alcohol Restrictions Orders may apply).

Consultation Question 7:

Do you agree or disagree that the licensing authority should be able to determine the hours during which the higher fee is payable within the boundaries of midnight to 6am?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 8:

If you disagree, please state the hours during which you think licensing authorities should be able to determine that a higher fee is payable.

	From	To
Select hours	<input type="text"/>	<input type="text"/>

6.13 We propose that licensing authorities that impose higher fees for premises that open later have discretion to exclude premises that are authorised to open late only on certain nights per year from the class of premises with a late terminal hour. This could mean that premises that are only authorised to open late on special occasions, such as, for example, New Year's Eve or St. Patrick's Day, would be excluded from the class of premises paying a higher fee amount.

Consultation Question 9:

Do you agree or disagree that licensing authorities that impose higher fees for premises which open later should have discretion to exclude premises that are authorised to open late only on certain nights per year?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 10:

Please state your reasons, keeping your views to a maximum of 200 words.

Discretion to vary fee amounts dependent on whether the premises is primarily used for drinking

- 6.14 Premises could be charged more or less depending on whether or not they are exclusively or primarily used for the sale of alcohol for consumption on the premises. This proposal is similar to the “multiplier”, used as part of the current fee structure, except that it would not be restricted to premises with high rateable value. Also, the amount by which the fee differed would not be a prescribed multiple of the standard fee, but would be determined by the licensing authority to reflect cost differences.
- 6.15 It is likely that premises that operate in this way, in some areas, give rise to higher costs to the licensing authority, given, for example, heightened concern about crime and disorder (which may lead to more representations and applications for review).

Consultation Question 11:

Do you agree or disagree that the criterion of whether or not a premises is used primarily for the sale of alcohol for consumption on the premises is linked to costs?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 12:

Please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

- 6.16 “Whether a premises is used exclusively or primarily for the consumption of alcohol for consumption on the premises” is an existing concept in the current regime, used in both the fees regulations, and in relation to whether unaccompanied children are allowed on premises.¹⁰ However, there are mixed views on whether this criterion presents practical challenges. Some licensing officers report that all the premises in their area that should pay the current “multiplier” do so, other licensing officers report that there is significant difficulty in applying the definition. For example, they report that there are premises which they consider should pay it, but which (for example) also provide some degree of refreshment or entertainment. It is important that any criterion which is set down in the regulations does not itself result in costs (such as those arising from a dispute about liability to pay a fee).

¹⁰ Section 145 of the 2003 Act.

Consultation Question 13:

Do you agree or disagree that the criterion of whether or not premises are exclusively or primarily used for the sale of alcohol for consumption on the premises is sufficiently practical to implement?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Consultation Question 14:

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

Relationship between the criteria: a combined class

6.17 As set out in paragraph 6.7, the Government proposes to give licensing authorities flexibility in the application of these two criteria. This includes the proposal that licensing authorities should additionally have discretion to apply higher amounts only to premises where the two criteria are both applicable. If this discretion were exercised, premises would only be charged a higher amount in that area if they were used primarily for the sale of alcohol for consumption on the premises and open to a late terminal hour. This would, in effect, enable licensing authorities to divide premises into two classes – those that were in the combined class and those that were not.

6.18 The benefit of this combined class would be that licensing authorities could exclude from any higher fee amount premises that were open late or used primarily for drinking, but which local evidence shows were not associated with higher average costs. This is an alternative solution to the problem described in paragraph 6.19 and 6.20 below. For example, premises such as accommodation providers, theatres and cinemas and community premises, as well as other relevant premises, could be excluded from any higher amount if this option were exercised in a locality. This alternative approach could be considerably simpler to implement than discretionary exclusions, as estimates of costs would not need to be made for each class of potentially excluded premises.

Consultation Question 15:

Do you agree or disagree that there should be discretion to apply higher fee amounts only where both criteria apply in combination?

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Discretionary exclusions from classes of premises subject to a higher fee amount

6.19 Alternatively, it has been suggested that licensing authorities that introduce different fee amounts should be able to exclude certain types of premises from the higher amount, if these types are not associated with higher costs¹¹. The types of premises could potentially be similar to those available to licensing authorities as discretionary exemptions from the late night levy, such as: accommodation providers; theatres and cinemas; bingo halls; community amateur sports clubs; and community premises.

6.20 This would require the regulations to specify each premises type that could be excluded. As with the other proposed classes, the only basis on which a licensing authority would be able to exclude these classes of premises from higher fee amounts would be evidence linking them to lower costs. Therefore, licensing authorities would need to classify premises into these classes and estimate costs for each one. Given the possibility of dispute about classification, and increased complexity in determining costs, the “combined” criterion proposed above (see paragraph 6.17-6.18) may achieve the intended objective in a simpler and more cost-efficient way.

Consultation Question 16:

Do you agree or disagree that, if a licensing authority has determined that different fee amounts should apply, it should have discretion to exclude certain types of premises from that higher fee amount?

Consultation Question 17:

If discretion to exclude certain types of premises from a higher fee amount were available, what types of premises should be specified in the regulations as potentially excluded classes? Please give reasons for your answer, keeping your views to a maximum of 200 words.

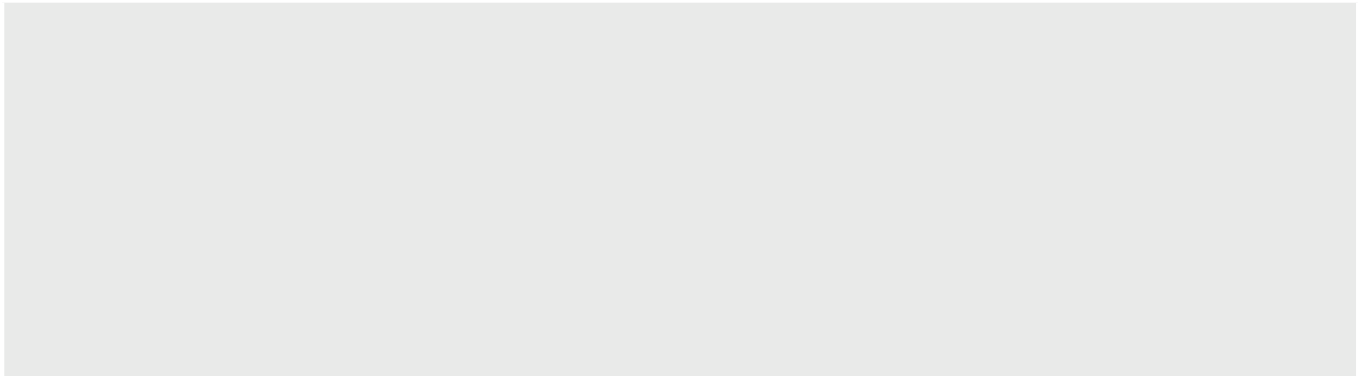
¹¹ Premises excluded from the higher fee amount would instead be subject to the lower fee amount. They would not be exempt from paying a fee at all.

Other Alternative Options

6.21 As discussed above, a range of different approaches to variable fees have been proposed during pre-consultation discussions. Subject to any proposals meeting the constraints imposed by the fees provisions in the 2003 Act and being practical, efficient and cost effective to implement locally, we are interested in what alternative options should be available for licensing authorities to apply different fee amounts in their area.

Consultation Question 18:

Are there alternative options that should be available to licensing authorities to apply different fee amounts in their area? Please specify and set out your evidence in the box below, keeping your views to a maximum of 200 words.



7. Caps

Introduction

- 7.1 The Government has committed to set “caps” (the highest permitted fee level) for each fee category. The consultation invites views on proposed cap levels. These caps will provide reassurance to fee payers that fees cannot be set at excessive levels to, for example, generate income or be used as an economic deterrent to the undertaking of licensable activities. The Government does not intend to set caps at levels that will prevent cost recovery, however, as costs that are incurred in the discharge of functions under the 2003 Act ought to be recovered. The implementation and level of the cap will be subject to periodic review, in consultation with licensing authorities, and to exceptional review, if there is a case to do so.
- 7.2 It is important to note that the caps are not recommended fee levels: locally-set fee levels should be based on local evidence of what is required for cost recovery in that fee category, and it would be unlawful to merely set them at the level of the cap or at a proportion of the cap, without regard to costs. The caps represent, therefore, an upper limit on the highest costs of licensing authorities in exceptional circumstances. As described in Chapter 8, licensing authorities should continually drive efficiency, whilst ensuring effective delivery of the licensing regime.
- 7.3 The evidence from the LA Sample Survey (described in the Impact Assessment published alongside this consultation) and discussions with licensing authorities indicates that the costs of particular fee categories vary greatly in different licensing authorities. This is particularly true of processes, such as applications for new licences, which can result in hearings. (This could be due, for example, to a greater likelihood of residents’ concerns in one area than another). Similar considerations apply to other duties of licensing authorities that can result in a hearing, such as how often they have received objection notices from the police to an application to vary a licence to specify a new Designated Premises Supervisor, or how often they have received representations on applications to vary licences¹².
- 7.4 Variable costs can apply to other processes. For example, in the case of applications for a minor variation, licensing authorities may decide to invite views from responsible authorities, and be required to consider residents’ representations. The case of TENs is addressed separately below.
- 7.5 The result of these variations in average costs is that areas with the highest costs in any fee category deviate very greatly from the mean. The caps proposed in the consultation are therefore much higher than the estimated average future fee levels and are expected to far exceed cost recovery fee levels in most areas. Chapter 8 provides more information on mechanisms that will guard against “gold plating” and excessive costs, and invites views on practical ways to improve efficiency.

¹² The processes that can potentially result in the need for a hearing (or, in the case of an annual fee, a review) administered by the licensing authority are 19(a) to 19(l) in the list below.

- 7.6 The caps proposed in Table 1 below are based upon the highest reported costs in each fee category¹³ in the LA Sample Survey (see the Impact Assessment accompanying this consultation). Outliers were excluded where, after discussion with licensing authorities that provided data, it appeared that the high estimates may not have been related to legitimate high costs. Outliers¹⁴ were, therefore, excluded for data quality purposes (for example, to exclude calculation errors or anomalies caused by the small sample size), and not to exclude high cost authorities.
- 7.7 For some rare processes, such as applications for a provisional statement and for the grant of a certificate; and applications to remove the requirement for a designated premises supervisor, insufficient information was available to estimate average costs to licensing authorities. In these cases, it was assumed that highest average costs are similar to related processes¹⁵. The costs survey that accompanies this consultation will seek further data on licensing authority costs to augment the LA Sample Survey.

Consultation Question 19:

Do you agree or disagree that the proposed cap levels will enable your licensing authority to recover costs?

Table 1: proposed cap levels

Question	Fee Category	Proposed cap	Current fee or maximum fee (for information only)	Agree/ disagree/ don't know
processes that can result in hearings or include review hearings				
19 (a)	Application for the grant of a premises licence	£2,400	£1,905*	
19 (b)	Application for a provisional statement	£2,400	£315	
19 (c)	Application to vary a premises licence	£2,400	£1,905*	
19 (d)	Application to vary premises licence to specify designated premises supervisor	£105	£23	
19 (e)	Application to vary a premises licence to remove requirement for a designated premises supervisor	£105	£23	
19 (f)	Application for the transfer of a premises licence	£65	£23	
19 (g)	Interim authority notice	£114	£23	
19 (h)	Annual fee payable by premises licence holder	£740	£1,050*	

13 That is, they are based on the licensing authorities whose reported average cost over the year was highest for each process. They do not reflect the highest possible cost of administering a single application or notice.

14 Outliers are defined here as those falling outside two standard deviations from the mean.

15 Application for the grant of a licence and application to vary a licence to specify a designated premises supervisor, respectively.

19 (i)	Application for the grant of a certificate	£2,400	£635*	
19 (j)	Application to vary a certificate	£2,400	£635*	
19 (k)	Annual fee payable by club premises certificate holder	£720	£350*	
19 (l)	Application for grant or renewal of a personal licence	£114	£37	
other processes under the 2003 Act				
19 (m)	Application to replace stolen, lost etc. premises licence	£46	£10.50	
19 (n)	Notification of change of name or address of premises licence holder	£46	£10.50	
19 (o)	Application for minor variation of a licence	£244	£89	
19 (p)	Application to replace stolen, lost etc. certificate	£46	£10.50	
19 (q)	Notification of change of name or change of rules of club	£46	£10.50	
19 (r)	Notification of change of address of club	£46	£10.50	
19 (s)	Application to replace stolen, lost etc. temporary event notice	£38	£10.50	
19 (t)	Application to replace stolen, lost etc. personal licence	£59	£10.50	
19 (u)	Notification of change of name or address of personal licence holder	£59	£10.50	
19 (v)	Notification of interest of freeholder etc. in premises	£50	£21	

*denotes current maximum fee, where fee level is variable

Consultation Question 20:

Do you have any other comments on the proposed cap levels? Please specify them in the box below, keeping your views to a maximum of 200 words.

Temporary Event Notices (TENs)

- 7.8 Setting a cap level for TENs presents a particular challenge for two reasons. Firstly, TENs are used by a wide variety of organisations and individuals. For example, commercial operators may use a TEN to go beyond the terms of their current licence, individuals may wish to sell alcohol to the public at members' clubs, and community or charity groups may wish to sell alcohol at one-off events.
- 7.9 The Government is keen to ensure that the licensing regime is cost-efficient for all, and it is particularly important that costs are kept as low as possible for those working to improve their local community. As described paragraphs xx-xxi above, the Government is already reducing regulation for such groups.
- 7.10 Secondly, reports from licensing authorities suggests that TENs costs vary widely. Our best evidence indicates that the average TENs fee will be approximately £80¹⁶. Most authorities that responded to the LA Sample Survey reported costs below this level, whilst a small number of outliers reported costs significantly above £100. Analysis suggests that setting the cap at £100 would allow cost recovery in at least the significant majority of authorities.
- 7.11 Subject to further evidence, the Government therefore proposes a cap of £100, as this is appropriate for the generality of authorities and will encourage the remainder to keep their costs as low as possible. Although some authorities currently report higher costs, it should be noted that, with the present fee of £21, some operators may risk giving a TEN even though they are aware that it may result in an objection notice and therefore be wasted. We consider that an increase in the TEN fee to recover legitimate costs is likely to have an unintended consequence of deterring this practice and thereby lowering costs in the current highest cost areas. As set out in paragraph 7.1 above, the Government will retain the power to conduct an exceptional review of a cap if a case is made to do so.
- 7.12 We therefore invite evidence from all interested parties on the appropriate level for the TEN fee cap. The local authority cost survey that accompanies this consultation also seeks to strengthen our evidence base further on the average cost of a TEN, the degree of variation between areas, and the reasons for this variation, and we would encourage all licensing authorities to complete it.

16 See the Impact Assessment published alongside this consultation, Table 7 (page 34) and paragraphs 36 to 44 (page 13).

Consultation Question 21:

Do you agree or disagree that the proposed cap of £100 will enable your licensing authority to recover costs?

 Agree Disagree Don't know**Consultation Question 22:**

Please set out evidence for your answer in the box below, keeping your views to a maximum of 200 words.

8. Licensing authority costs, transparency, consultation with fee payers and guidance on setting fees

- 8.1 This chapter considers the costs that licensing authorities incur in discharging functions under the 2003 Act and the mechanisms of transparency and accountability to which licensing authorities are subject. It seeks views on the extent of local consultation on fee levels and how best to provide guidance to licensing authorities so as to ensure that high costs and “gold-plating” (exceeding the requirements of the 2003 Act) are avoided and efficiency encouraged.

Introduction – licensing authority functions and drivers of variable costs

Applications and notices

- 8.2 In administering the 2003 Act, licensing authorities must perform an administrative task of checking and processing a number of different types of application and notice. In respect of many of these processes, representations made by, for example, the police or residents may trigger a hearing, which is held by the licensing authority, so that the application or notice can be considered in more detail in the context of the licensing authority’s duty to promote the licensing objectives. In such cases, licensing officers may conduct an inspection of the premises to which the application relates. In particular, hearings occur in respect of a significant proportion of applications for premises licences and full variation applications. In other cases, such as an application to vary the Designated Premises Supervisor in relation to a premises licence, hearings are less common, but still occur. In rare cases, hearings may lead to appeal procedures involving the licensing authority. Licensing authorities are also responsible for advertising certain licensing applications on their website or by notices and for updating the licensing register.

Existing premises licences and club premises certificates

- 8.3 Licensing authorities must hold hearings to determine applications for the review of existing licences and certificates. A necessary component of fulfilling these responsibilities is the monitoring of compliance with the terms of licences and certificates in their areas. This may comprise inspections of premises, liaison with bodies with whom they work in partnership (such as the police, other departments of local authorities, or licensed premises) and conciliation between parties to avert the need for a review.
- 8.4 Licensing authorities must also carry out other functions under the 2003 Act for which no fee is specifically chargeable. For example, they must determine and periodically update their statements of licensing policy and they are responsible for maintaining a register of licensing information. Under these proposals for locally-set fees, they will also be responsible for setting fee levels. Under section 197A of the 2003 Act, the “general costs” arising from these functions are to be recovered through fees, with a “reasonable share” of these costs included in fee levels.

Responsible authority costs

- 8.5 Fees under the 2003 Act are intended to recover the costs of licensing authorities, and not of other bodies. This entirely excludes the recovery of police costs, for example. However, it includes the costs of the licensing authority exercising functions under the 2003 Act in its capacity as a responsible authority. This can include the environmental health authority, the planning authority; and the weights and measures authority, for example. The Government intends that the marginal costs of administering the 2003 Act (such as the costs of considering applications and making representations) can be recovered through licensing fees, but not other costs. In particular, the costs of inspection, monitoring of compliance or enforcement that arise in respect of the wider duties of responsible authorities under other legislation should not be recovered by fees under the 2003 Act.
- 8.6 It is important that costs that arise in respect of regimes that are funded by tax-payers or through their own fees regimes should not be passed onto licensing fee payers or double-funded.

The Provision of Services Regulations 2009

- 8.7 The fees provisions of the 2003 Act should be read in light of the requirements set out in the Provision of Services Regulations 2009 (the 2009 Regulations), as indeed should the 2003 Act as a whole. The 2009 Regulations provide that: “Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities”. The Government will provide guidance to licensing authorities on the application of this provision to fees under the 2003 Act.

Transparency and local consultation

- 8.8 There are already a number of safeguards in place to ensure that local authorities take a fair, reasonable and transparent approach when developing policies, and this would also be the case when setting fees. Local government is, of course, subject to democratic accountability through councillors and the electorate. Decisions are also subject to challenge through judicial review. Additionally, local authorities are subject to a robust external audit. For example, the Audit Commission Act 1998 places a duty on auditors to ensure that they have made “proper arrangements for securing economy, efficiency and effectiveness in its use of resources”. Licensing authorities should also expect scrutiny from fee payers, particularly on inflationary pressures and the extent to which anticipated efficiency gains are reflected in fee levels. The Government considers, therefore, that these existing mechanisms should reassure fee payers that fees will be set properly, at cost.
- 8.9 However, some fees regimes, such as that which applies to taxi licensing, require local consultation with interested parties when fees are set (especially if they are due to increase). The Government is therefore recommending that licensing authorities should also be required to publish their proposed fees, and the basis on which they have been calculated, and invite comments from interested parties, before they are implemented

Consultation Question 23:

Do you agree or disagree that licensing authorities be required, before locally-set fees are implemented, to:

23a: publish their proposed fee levels?;

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23b: publish the basis on which they have been calculated?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23c: publish the measures they have taken to keep costs down?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23d: invite comments from interested parties?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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8.10 As well as the accountability mechanisms outlined above, local government is subject to existing duties with regard to freedom of information. The Government is not minded to specify any further specific requirements on local government with regard to publishing the basis on which they have set fees. However, the Government will give consideration to making data on licensing authority fee levels available centrally to assist fee payers in making comparisons.

Principles of regulation, efficiency and the avoidance of gold-plating

8.11 Licensing authorities are subject to various duties, in addition to the provisions of the 2003 Act, to ensure that they do not impose excessive burdens on those subject to regulatory regimes or incur excessive costs. Democratic accountability and external audit has been mentioned above. Paragraph 13.17 of the Guidance issued to licensing authorities by the Home Secretary under section 182 of the 2003 Act emphasises that:

“The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. Principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton review) should prevail and inspections should not be undertaken routinely but when and if they are judged necessary.”

8.12 The Provision of Services Regulations 2009 requires that powers exercised under an authorisation scheme (including the 2003 Act) must be based on criteria that are:

- a. non-discriminatory,
- b. justified by an overriding reason relating to the public interest,
- c. proportionate to that public interest objective,
- d. clear and unambiguous,
- e. objective,
- f. made public in advance, and
- g. transparent and accessible.

- 8.13 Additionally, provisions under the Legislative and Regulatory Reform Act 2006¹⁷ require that any person exercising a regulatory function, including functions under the 2003 Act, must have regard to the principles that
- a. regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
 - b. regulatory activities should be targeted only at cases in which action is needed.
- 8.14 The Government considers that, subject to these existing duties, licensing authorities are best-placed to determine the scope of their own activities in support of the licensing objectives. Therefore, we consider that additional guidance provided alongside regulations on locally-set fees should avoid adding to these duties. We nevertheless seek views on what further guidance is required on the application of these principles to functions under the 2003 Act so as to encourage efficiency and safeguard against gold-plating.

Encouraging economy and efficiency

- 8.15 As stated above, licensing authorities are already under a duty to show that they have secured economy and efficiency in their use of resources. Setting fees on a cost recovery basis will bring new focus on the importance of keeping licensing costs as low as possible, reinforced by the priority importance of growth. Licensing bodies should set fees on the basis of estimates of actual costs, taking into account efficiencies to be achieved. It must be recognised that, for example, businesses that make licensing applications are seeking to start or grow their business.
- 8.16 The Government therefore intends to work with the Local Government Association and other partners to encourage innovation and best practice in securing economy and efficiency in the delivery of licensing functions. This could include changes to existing processes and procedures, potentially using the freedoms and flexibilities provided under the Localism Act 2011. Suggested mechanisms include the sharing of back-office functions between authorities and the use of partnership working and mediation to avoid the need for hearings or review. Licensing authorities should review their costs regularly (it is good practice to review these at least once a year) and, if appropriate, revise fee levels to take into account any changes to their costs, including from efficiencies that they have achieved or plan to achieve in the coming year. It is not good practice to simply assume that costs will increase due to inflation.

Consultation Question 24:

What practical steps can licensing authorities take to secure efficiency? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

¹⁷ The provisions apply by virtue of the Legislative and Regulatory Reform (Regulatory Functions) Order 2007

Safeguards against excessive costs and gold-plating

8.17 In addition to encouraging efficiency, we intend to ensure that the guidance guards against excessive costs and “gold-plating” (by which we mean that activities that go beyond the duties of the 2003 Act and are not justified by proportionality). Particular activities have been suggested where there may be a risk of excessive costs or gold-plating, as set out below.

Consultation Question 25:

Do you agree or disagree that the Guidance should suggest that these areas present a particular risk of excessive costs or gold-plating?

 Agree

 Disagree

 Don't know

25a: Notification of residents individually of licensing applications in their area by letter (given that the existing duties to advertise on the premises and on the licensing authorities' website enable the involvement of local residents, and that more cost efficient methods of further engagement may be available);

 Agree

 Disagree

 Don't know

25b: Central re-charges, such as payments from the licensing budget to legal services or external communications. These should relate to costs actually incurred in the delivery of functions under the 2003 Act and not, for example, a standard percentage of central costs.

 Agree

 Disagree

 Don't know

25c: The costs of discharging the statutory functions of licensing authorities that arise under other legislation, such as the duties arising under the Environmental Protection Act 1990. (Given that these functions are funded through taxation, and should not be funded by fees under the 2003 Act merely because they arise in respect of premises that hold an authorisation under the 2003 Act, see paragraph 8.5 above).

 Agree

 Disagree

 Don't know

Consultation Question 26:

Do you think that there are other activities that may present a particular risk of excessive costs or gold-plating? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

9. A single national payment date for annual fees

- 9.1 Annual fees for premises licences and club premises certificates are currently paid on the anniversary of the date on which the licence or certificate was granted. Holders of premises licences, particularly operators who hold multiple licences granted at different times, have argued that it would be more efficient for them to be able to pay all their annual fees on the same date.
- 9.2 On the other hand, some licensing authorities consider that it would increase their costs, by creating a peak period in their work. In any case, there would certainly be a transitional cost in the first year. Under locally-set fees aimed at recovering costs, any increased costs would be passed on to fee payers.
- 9.3 This consultation therefore seeks views on whether there should be a single national payment date for annual fees. However, it is not proposed to implement this change at the same time as the regulations governing locally-set fees are introduced, because it would increase the complexity of the forthcoming change to the fees regime. For example, it would strongly imply a date by which licensing authorities would have to have set their own fees. Please note that this topic is therefore not assessed in the Impact Assessment.

Consultation Question 27:

Do you agree or disagree that there should be a single national payment date for annual fees in England and Wales?

 Agree Disagree Don't know

10. Impact assessment

10.1 The impact assessment for the proposals in this consultation has been published alongside this document. Consultation respondents are encouraged to comment on this document.

Consultation Question 28:

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposal to move to locally-set fees (including, in particular, the costs of setting fees locally)?

 Agree Disagree Don't know

Consultation Question 29:

Do you have any comments on the methodologies or assumptions used in the impact assessment? If so, please detail them in the box below, referencing the page in the impact assessment to which you refer. Please keep your views to a maximum of 200 words.

11. List of questions

Consultation Question 1:

Do you agree or disagree that the use of National Non-domestic Rateable Value bands as a criterion for variable fee amounts should be abandoned?

 Agree Disagree Don't know

Consultation Question 2:

If you disagree, please provide evidence that higher National Non-domestic Rateable Value is consistently linked to higher average costs to the licensing authority within individual licensing authority areas, keeping your views to a maximum of 200 words.

Consultation Question 3:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is linked to costs?

 Agree Disagree Don't know

Consultation Question 4:

If you agree, please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 5:

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is sufficiently practical to implement?

 Agree Disagree Don't know**Consultation Question 6:**

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

Consultation Question 7:

Do you agree or disagree that the licensing authority should be able to determine the hours during which the higher fee is payable within the boundaries of midnight to 6am?

 Agree Disagree Don't know**Consultation Question 8:**

If you disagree, please state the hours during which you think licensing authorities should be able to determine that a higher fee is payable.

Consultation Question 9:

Do you agree or disagree that licensing authorities that impose higher fees for premises which open later should have discretion to exclude premises that are authorised to open late only on certain nights per year?

 Agree Disagree Don't know

Consultation Question 10:

Please state your reasons, keeping your views to a maximum of 200 words.

Consultation Question 11:

Do you agree or disagree that the criterion of whether or not a premises is used primarily for the sale of alcohol for consumption on the premises is linked to costs?

<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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Consultation Question 12:

Please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 13:

Do you agree or disagree that the criterion of whether or not premises are exclusively or primarily used for the sale of alcohol for consumption on the premises is sufficiently practical to implement?

<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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Consultation Question 14:

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

Consultation Question 15:

Do you agree or disagree that there should be discretion to apply higher fee amounts only where both criteria apply in combination?

 Agree Disagree Don't know**Consultation Question 16:**

Do you agree or disagree that, if a licensing authority has determined that different fee amounts should apply, it should have discretion to exclude certain types of premises from that higher fee amount?

 Agree Disagree Don't know**Consultation Question 17:**

If discretion to exclude certain types of premises from a higher fee amount were available, what types of premises should be specified in the regulations as potentially excluded classes? Please give reasons for your answer, keeping your views to a maximum of 200 words.

Consultation Question 18:

Are there alternative options that should be available to licensing authorities to apply different fee amounts in their area? Please specify and set out your evidence in the box below, keeping your views to a maximum of 200 words.

Consultation Question 19:

Do you agree or disagree that the proposed cap levels will enable your licensing authority to recover costs?

 Agree Disagree Don't know

Consultation Question 20:

Do you have any other comments on the proposed cap levels? Please specify them in the box below, keeping your views to a maximum of 200 words.

Consultation Question 21:

Do you agree or disagree that the proposed cap of £100 will enable your licensing authority to recover costs?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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Consultation Question 22:

Please set evidence for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 23:

Do you agree or disagree that licensing authorities be required, before locally-set fees are implemented, to:

23a: publish their proposed fee levels?;

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23b: publish the basis on which they have been calculated?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23c: publish the measures they have taken to keep costs down?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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23d: invite comments from interested parties?

<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Don't know
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Consultation Question 24:

What practical steps can licensing authorities take to secure efficiency? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 25:

Do you agree or disagree that the Guidance should suggest that these areas present a particular risk of excessive costs or gold-plating?

25a: Notification of residents individually of licensing applications in their area by letter (given that the existing duties to advertise on the premises and on the licensing authorities' website enable the involvement of local residents, and that more cost efficient methods of further engagement may be available);

25b: Central re-charges, such as payments from the licensing budget to legal services or external communications. These should relate to costs actually incurred in the delivery of functions under the 2003 Act and not, for example, a standard percentage of central costs.

25c: The costs of discharging the statutory functions of licensing authorities that arise under other legislation, such as the duties arising under the Environmental Protection Act 1990.

Consultation Question 26:

Do you think that there are other activities that may present a particular risk of excessive costs or gold-plating? Please state and give reasons for your answer in the box below, keeping your views to a maximum of 200 words.

Consultation Question 27:

Do you agree or disagree that there should be a single national payment date for annual fees in England and Wales?

 Agree Disagree

Consultation Question 28:

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposal to move to locally-set fees (including, in particular, the costs of setting fees locally)?

 Agree Disagree**Consultation Question 29:**

Do you have any comments on the methodologies or assumptions used in the impact assessment? If so, please detail them in the box below, referencing the page in the impact assessment to which you refer. Please keep your views to a maximum of 200 words.

12. Appendix A: Sections 197A and 197B of the Licensing Act 2003

197A Regulations about fees

- (1) Subsection (2) applies where the Secretary of State makes regulations under this Act prescribing the amount of any fee.
- (2) The Secretary of State may, in determining the amount of the fee, have regard, in particular, to--
 - (a) the costs of any licensing authority to whom the fee is to be payable which are referable to the discharge of the function to which the fee relates, and
 - (b) the general costs of any such licensing authority;

and may determine an amount by reference to fees payable to, and costs of, any such licensing authorities, taken together.

- (3) A power under this Act to prescribe the amount of a fee includes power to provide that the amount of the fee is to be determined by the licensing authority to whom it is to be payable.
- (4) Regulations which so provide may also specify constraints on the licensing authority's power to determine the amount of the fee.
- (5) Subsections (6) and (7)--
 - (a) apply where, by virtue of subsection (3), regulations provide that the amount of a fee is to be determined by a licensing authority, and
 - (b) are subject to any constraint imposed under subsection (4).
- (6) The licensing authority--
 - (a) must determine the amount of the fee (and may from time to time determine a revised amount),
 - (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases), and
 - (c) must publish the amount of the fee as determined from time to time.
- (7) In determining the amount of the fee, the licensing authority must seek to secure that the income from fees of that kind will equate, as nearly as possible, to the aggregate of--
 - (a) the licensing authority's costs referable to the discharge of the function to which the fee relates, and
 - (b) a reasonable share of the licensing authority's general costs;

and must assess income and costs for this purpose in such manner as it considers appropriate.

197B Regulations about fees: supplementary provision

- (1) Subsections (2) and (3) apply for the purposes of section 197A.
- (2) References to a licensing authority's costs referable to the discharge of a function include, in particular--
 - (a) administrative costs of the licensing authority so far as they are referable to the discharge of the function, and
 - (b) costs in connection with the discharge of the function which are incurred by the

licensing authority acting--

(i) under this Act, but

(ii) in a capacity other than that of licensing authority (whether that of local authority, local planning authority or any other authority).

- (3) References to the general costs of a licensing authority are to costs of the authority so far as they are referable to the discharge of functions under this Act in respect of which no fee is otherwise chargeable and include, in particular--
- (a) costs referable to the authority's functions under section 5;
 - (b) costs of or incurred in connection with the monitoring and enforcement of Parts 7 and 8 of this Act;
 - (c) costs incurred in exercising functions conferred by virtue of section 197A.
- (4) To the extent that they prescribe the amount of a fee or include provision made by virtue of section 197A(3) or (4), regulations may--
- (a) make provision which applies generally or only to specified authorities or descriptions of authority, and
 - (b) make different provision for different authorities or descriptions of authority.
- (5) Subsection (4) is not to be taken to limit the generality of section 197.

13. Appendix B: Current fee levels under the Licensing Act 2003

Table 1: Main fee levels (as they currently stand)

Band	A	B	C	D	E
Non domestic rateable value	No rateable value to £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 plus
Premises licences					
Application for grant and variation	£100	£190	£315	£450	£635
Multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D & E only)	N/A	N/A	N/A	X2 (£900)	X3 (£1,905)
Annual fee	£70	£180	£295	£320	£350
Annual charge multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D&E only)	N/A	N/A	N/A	X2 (£640)	X3 (£1,050)
Club premises certificates					
Application for grant and variation	£100	£190	£315	£450	£635
Annual fee	£70	£180	£295	£320	350

Table 2: Other fees in the Act (as they currently stand)

Application for the grant or renewal of a personal licence	£37
Temporary event notice	£21
Theft, loss, etc. of premises licence or summary	£10.50
Application for a provisional statement where premises being built etc.	£315
Notification of change of name or address	£10.50
Application to vary licence to specify individual as premises supervisor	£23
Application for transfer of premises licence	£23
Interim authority notice following death etc. of licence holder	£23
Theft, loss etc. of certificate or summary	£10.50
Notification of change of name or alteration of rules of club	£10.50
Change of relevant registered address of club	£10.50
Theft, loss etc. of temporary event notice	£10.50
Theft, loss etc. of personal licence	£10.50
Application to vary premises licence to include alternative licence condition	£23
Application for a minor variation to a licence or certificate.	£89
Duty to notify change of name or address	£10.50
Right of freeholder etc. to be notified of licensing matters	£21

Table 3: Current additional fees for “large events” (premises licences where more than 5,000 people are expected in non-purpose built premises)

Number in attendance at any one time	Additional Premises licence fee	Additional annual fee payable if applicable
5,000 to 9,999	£1,000	£500
10,000 to 14,999	£2,000	£1,000
15,000 to 19,999	£4,000	£2,000
20,000 to 29,999	£8,000	£4,000
30,000 to 39,999	£16,000	£8,000
40,000 to 49,999	£24,000	£12,000
50,000 to 59,999	£32,000	£16,000
60,000 to 69,999	£40,000	£20,000
70,000 to 79,999	£48,000	£24,000
80,000 to 89,999	£56,000	£28,000
90,000 and over	£64,000	£32,000

A consultation on fees under the Licensing Act 2003

Variable fee amounts: the national non-domestic rateable value “bands”

Consultation Question 1

Do you agree or disagree that the use of national non-domestic rateable value bands as a criterion for variable fee amounts should be abandoned?

- Agree

If you agree skip to question 3

Consultation Question 3

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is linked to costs?

- Agree

Consultation Question 4

If you agree, please provide evidence for your answer, keeping your views to a maximum of 200 words.

- The majority of complaints relate to noise and disturbance late at night. Paying people to work out of hours – additional costs – double manning – out of hours log ons. Costly committee hearings more likely with applications for late terminal hours

Consultation Question 5

Do you agree or disagree that the criterion of whether or not a premises is authorised to provide licensable activities to a late terminal hour is sufficiently practical to implement?

- Agree

If you agree, skip to question 7.

Consultation Question 7

Do you agree or disagree that the licensing authority should be able to determine the hours during which the higher fee is payable within the boundaries of midnight to 6am?

- Disagree

Consultation Question 8

If you disagree, please state the hours during which you think licensing authorities should be able to determine that a higher fee is payable.

- 11pm to 6am

Consultation Question 9

Do you agree or disagree that licensing authorities that impose higher fees for premises which open later should have discretion to exclude premises that are authorised to open late only on certain nights per year?

- Agree

Consultation Question 10

Please state your reasons, keeping your views to a maximum of 200 words

- Those that only open late on a limited number of special occasions per year are unlikely to generate the same costs for the licensing authority as a premise that opens late all year round.

Consultation Question 11

Do you agree or disagree that the criterion of whether or not a premises is used primarily for the sale of alcohol for consumption on the premises is linked to the costs?

- Agree

Consultation Question 12

Please provide evidence for your answer in the box below, keeping your views to a maximum of 200 words.

- For example high volume vertical drinking establishments tend to generate more costs for authority than restaurants with alcohol sales being as an ancillary to food.

Consultation Question 13

Do you agree or disagree that the criterion of whether or not premises are exclusively or primarily used for the sale of alcohol for consumption on the premises is sufficiently practical to implement?

- Disagree

Consultation Question 14

If you do not agree, please state your reasons in the box below, keeping your views to a maximum of 200 words.

- It needs to be clear as most pubs/clubs tend to provide food and would argue that provision of alcohol for consumption on premises is not their primary use.
- This would need to be clearly defined to ensure that time and expense was not incurred by licensing authorities and the trade arguing as to whether they fall within the definition or not.
- It would be a matter of degree therefore you and be asking licensing officers to judge degree, this may cause confusion.

Consultation Question 15

Do you agree or disagree that there should be discretion to apply higher fee amounts only where both criteria apply in combination?

- Agree

Consultation Question 16

Do you agree or disagree that, if a licensing authority has determined that different fee amounts should apply, it should have discretion to exclude certain types of premises from that higher fee amount?

- Agree

Consultation Question 17

If discretion to exclude certain types of premises from a higher fee amount were available, that types of premises should be specified in the regulations as potentially excluded classes? Please give reasons for your answer, keeping your views to a maximum of 200 words.

- Community premises operated on a 'not for profit' basis such as village halls, church halls and community halls. (those that can dis-apply the DPS requirements)

Consultation Question 18

Are there alternative options that should be available to licensing authorities to apply different fee amounts in their area?

- The likelihood of costs being incurred. Complaints/hearings rises in line with late terminal hours.
- A premises closing at 11pm should therefore pay less than one opening until midnight and so bands could be set based on terminal hour for licensable activities – for example
 - Band A – up to 11pm £200
 - Band B - 11pm to 1am £ 500
 - Band C - later than 1am (up to 24 hours) £1000
 - 50% discount for certain classes such as Community Premises.

Consultation Question 19

Do you agree or disagree that the proposed cap levels will enable your licensing authority to recover costs?

Question	Fee Category	Proposed Cap	Current or maximum fee (for information only)	Agree/disagree/don't know
19(a)	Application for the grant of a premises licence	£2,400	£1,905*	Agree
19(b)	Application for a provisional statement	£2,400	£315	Agree
19(c)	Application to vary a premises licence	£2,400	£1,905*	Agree
19(d)	Application to vary premises licence to specify designated premises supervisor	£105	£23	Agree
19(e)	Application to vary a premises licence to remove requirement for a designated premises supervisor	£105	£23	Agree
19(f)	Application for the transfer of a premises licence	£65	£23	Disagree – should be as DPS (£105)
19(g)	Interim authority notice	£114	£23	Agree
19(h)	Annual fee payable by premises licence holder	£740	£1,050*	Agree
19(i)	Application for the grant of a certificate	£2,400	£635*	Agree
19(j)	Application to vary a certificate	£2,400	£635*	Agree
19(k)	Annual fee payable by club premises certificate holder	£720	£350*	Agree
19(l)	Application for grant or renewal of a personal licence	£114	£37	Agree
Other processes under the 2003 act				
19(m)	Application to replace stolen, lost etc. premises licence	£46	£10.50	Agree
19(n)	Notification of change of name or address of premises licence holder	£46	£10.50	Agree
19(o)	Application for minor variation of a licence	£244	£89	Agree

19(p)	Application to replace stolen, lost etc. certificate	£46	£10.50	Agree
19(q)	Notification of change of name or change of rules of club	£46	£10.50	Agree
19(r)	Notification of change address of club	£46	£10.50	Agree
19(s)	Application to replace stolen, lost etc. temporary event notice	£38	£10.50	Agree
19(t)	Application to replace stolen, lost etc. personal licence	£59	£10.50	Agree
19(u)	Notification of change of name or address of personal licence holder	£59	£10.50	Agree
19(v)	Notification of interest of freeholder etc. in premises	£50	£21	Agree

*Denotes current maximum fee, where fee level is variable

Consultation Question 20:

Do you have any other comments on the proposed cap levels?

- No other comments

Consultation Question 21

Do you agree or disagree that the proposed cap of £100 will enable your licensing authority to recover costs?

- Agree

Consultation Question 22

Please set out evidence for your answer in the box below, keeping your views to a maximum of 200 words.

- Hearings for TENs are relatively rare and are usually an admin procedure only, £100 should cover costs.

Licensing authority costs, transparency, consultation with fee payers and guidance on setting fees

Consultation Question 23

Do you agree or disagree that licensing authorities be required, before locally-set fees are implemented, to;

- 23a Publish their proposed fee levels?
 - Agree
- 23b Publish the basis on which they have been calculated?
 - Agree
- 23c Publish the measures they have taken to keep costs down?
 - Agree
- 23d Invite comments from interested parties?
 - Agree

Consultation Question 24

What practical steps can licensing authorities take to secure efficiency?

- The licensing authorities in Worcestershire have already taken steps to efficiency by bringing together their licensing functions which are delivered by a shared service “WRS”
- Mediation is always attempted to avoid unnecessary costs from hearings and reviews.

Consultation Question 25

Do you agree or disagree that the Guidance should suggest that these areas present a particular risk of excessive costs or gold-plating?

- Agree

- 25a Notification of residents individually of licensing applications in their area by letter (given that the existing duties to advertise on the premises and on the licensing authorities’ website enable the involvement of local residents, and that more cost efficient methods of further engagement may be available);
 - Agree
- 25b Central re-charges, such as payments from the licensing budget to legal services or external communications. These should relate to costs actually incurred in the delivery of functions under the 2003 Act and not, for example, a standard percentage of central costs.
 - Agree
- 25c The costs of discharging the statutory functions of licensing authorities that arise under other legislation, such as the duties arising under the Environmental Protection Act 1990. (Given that these functions are funded through taxation, and should not be funded by fees under the 2003 Act merely because they arise in respect of premises that hold an authorisation under the 2003 Act)
 - Agree

Consultation Question 26

Do you think that there are other activities that may present a particular risk of excessive costs or gold-plating?

- No

A single national payment date for annual fees**Consultation Question 27**

Do you agree or disagree that there should be a single national payment date for annual fees in England and Wales?

- Agree

Impact assessment**Consultation Question 28**

Do you think that the impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposal to move to locally-set fees (including, in particular, the costs of setting fees locally)?

- Agree

LICENSING COMMITTEE

7th April 2014

REGULATION OF FACE-TO-FACE DIRECT DEBIT CHARITABLE STREET COLLECTIONS IN REDDITCH

Relevant Portfolio Holder	Councillor Rebecca Blake
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 Officer's from Worcestershire Regulatory Services and Redditch Borough Council have been engaging with representatives of the Public Fundraising Regulatory Association with a view to establish an agreement to regulate the working days and areas of charity street fundraisers in Redditch Town Centre.
- 1.2 This report provides an update to the Licensing Committee on progress to date towards this agreement.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

That the contents of the report on the implementation of the Council's Site Management Agreement with the Public Fundraising Regulatory Association, in relation to the control of Face to Face Direct Debit Charitable Street Collectors are noted.

3. KEY ISSUES

Financial Implications

- 3.1 Engagement with the Public Fundraising Regulatory Association has been carried out using existing resources from within Redditch Borough Council and Worcestershire Regulatory Services.

Legal Implications

- 3.2 The regulation of charitable street collections within Redditch falls under the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, which empowers the licensing authority to make regulations with respect to the place where and the conditions under which street collections may be permitted within its area.

There is no legislation which specifically regulates the activities of Face-to-Face Direct Debit Charitable Street Collectors. In the absence of any formal regulation

what is being proposed is an agreement to establish guidelines for voluntary regulation through the Council working with the Public Fundraising Regulatory Association (PFRA).

Service / Operational Implications

3.3 Background

On 12th March 2013, the Executive Committee received the final report of the Redditch Market Task Group. This group was commissioned to carry out a review by the Council's Overview and Scrutiny Committee in November 2011. The review was precipitated by concern that the market was not performing to its full potential. This in turn was having a negative impact to the town centre economy and its general image.

One of the recommendations contained in the Redditch Market Task Group's final report was that the Council should engage with the Public Fundraising Regulatory Association with a view to reaching an agreement to regulate the working days and areas of charity street fundraisers in Redditch Town Centre.

One of the major concerns raised by market traders who had been consulted by the Group regarded the operation of charity street fundraisers, often termed 'chuggers', in the very near vicinity of the market. Members heard that the presence of the fundraisers in Alcester Street and Market Place was often having a detrimental impact on trade as this was clearly deterring potential shoppers from entering the market area in the knowledge that they would likely be approached by street fundraisers.

Furthermore, the traders reported that, on a number of occasions, the fundraisers had encroached upon the market trading area that was supposedly off-limits. Altogether, this was believed to be having a damaging impact on trade, especially as the adjacent Kingfisher Shopping Centre had already imposed a ban on charity fundraisers, offering another incentive for would be shoppers to head elsewhere from the market.

Members of the Group acknowledged that street fundraising is a crucial method for many charities in raising money for very worthwhile causes. The Group did not therefore propose that a byelaw, which would require the approval of the Secretary of State, was developed that would ban street fundraisers from operating in the town centre altogether. However, they felt that a fairer balance can and should be reached that would preserve the various charities ability to raise donations in Redditch town centre yet not at the expense of market trade.

Given that one of the Group's main recommendations was to reduce the number of general retail market operating days to no more than three days a week, the Members felt that this provided sufficient scope for street fundraisers to operate in the town centre yet outside of the market's trading days.

The Public Fundraising Regulatory Association is the charity-led membership body that self-regulates all forms of direct debit face-to-face fundraising. This would be a voluntary arrangement which was not legally binding and could not be upheld through formal enforcement action. However they had been implemented by a number of local authorities throughout the UK and had been proven to work well in minimising problems.

More than sixty local authorities across the country have already developed agreements with the Public Fundraising Regulatory Association which restricts the operation of street fundraisers to specific days and/or areas. Local examples include Worcester, Coventry, Cheltenham, Gloucester, Hereford, Rugby, Sandwell and Wolverhampton.

Members of the Redditch Market Task Group proposed that the Council replicates the action of these local authorities elsewhere in establishing an agreement with the Public Fundraising Regulatory Association that would restrict street fundraisers from operating in the town centre during market days.

This would reassure members of the public that they can freely enter the market area without fear that they might be stopped and asked for their bank details, likely increasing footfall and potential trade for the market as a consequence.

The Executive Committee, having considered the final report of the Redditch Market Task Group, agreed with this recommendation and resolved that the Council should engage with the Public Fundraising Regulatory Association with a view to reaching an agreement to regulate the working days and areas of charity street fundraisers in Redditch Town Centre.

Since the Executive Committee meeting on 12th March 2013, officers from both Worcestershire Regulatory Services and Redditch Borough Council have been engaging with representatives of the Public Fundraising Regulatory Association with a view to establishing such an agreement and a number of meetings have now taken place.

At a meeting on the 10th September 2013 a site visit was undertaken by officers, elected members and the then Head of Policy at the Public Fundraising Regulatory Association Dr Toby Ganley in order to establish suitable locations for collectors within the Town Centre. Following this meeting a draft Site Management Agreement was prepared and sent to Redditch Borough Council for consideration.

At a further meeting a number of additional requirements were also discussed and a summary of these requirements was sent to the Public Fundraising Regulatory Association. It is now anticipated that the final agreement will soon be agreed and made available for all parties to sign within the coming weeks.

This agreement will clearly set out the parameters in relation to where, when and how Direct Debit collectors will be able to operate. It is therefore anticipated that it will go some way in relieving the perceived problems associated with the

activities of face to face direct debit street collectors operating in Redditch Town Centre.

The Public Fundraising Regulatory Association has produced best practice guidance for face to face direct debit street fundraisers, comprising of rules and also a fines system. Their compliance team is responsible for issuing notices to fundraising organisations who are found to be in breach of these rules. The rules, which will build on the "Institute of Fundraisings code of practice", are contained in the Public Fundraising Regulatory Association rule book. A copy of the Public Fundraising Regulatory Association's street face-to-face fundraising rule book is attached at "**Appendix A**".

Customer / Equalities and Diversity Implications

3.4 There are no specific implications arising from this report.

4. RISK MANAGEMENT

4.1 None

5. APPENDICES

Appendix A – PFRA Rule Book

6. BACKGROUND PAPERS

Draft Site Management Agreement

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May 2013

Policy and Standards

PFRA Rule Book

Street face-to-face fundraising

Prepared by: **Standards and Policy Departments**

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1.1 PFRA Rule Book and the IoF Code of Fundraising Practice

The Public Collections section of the Institute of Fundraising's *Code of Fundraising Practice* details the required and recommended best practice for all fundraisers. The Fundraising Standards Board (FRSB) will adjudicate any complaint against the Code. Members of the public are encouraged to direct complaints about charity fundraising to the Fundraising Standards Board.

While this *Rule Book* interprets aspects of the *Code* and presents additional rules that go beyond the *Code* that are binding on PFRA members, the final arbiter of breaches of the *Code* is the FRSB. So, while we have provided guidance on, for example, 'immediate termination', it is always possible that, should a complaint require FRSB adjudication, this adjudication might disagree with the PFRA guidance.

The purpose of this *Rule Book* is to provide PFRA interpretation of the terminology contained in the *Code* and codify our own rules that are binding on PFRA members.

This *Rule Book* should always be read in conjunction with the *Code*: It does NOT replace the *Code* and fundraisers will not be able to gain a full understanding of their responsibilities from reading the *Rule Book* alone. PFRA members must be fully cognisant with the *Code of Fundraising Practice*.

This rule book contains three types of rules. First, there are those that arise directly out of our interpretation of relevant parts of the Code. Second, there are 'additional rules' that are specific to the PFRA and its members that are not contained in the Code. Finally, there are 'administrative rules' – relating to the PFRA's diary allocations systems and other logistical issues.

These are grouped into three categories of rules that pertain to:

- Conduct Rules, relating to the conduct of fundraisers (prefixed C, e.g. C1, C2)
- Operating Rules, relating to the operation of the fundraising process (prefixed O, e.g. O1, O2)
- Administrative rules, relating to various PFRA procedures (prefixed A, e.g. A1, A2)

Throughout this *Rule Book*, the PFRA adopts the same traffic light system adopted by the Institute of Fundraising in its *Code of Fundraising Practice*:

MUST denotes a requirement that is mandatory at law

OUGHT denotes a requirement that is mandatory for PFRA members and their subcontractors

SHOULD denotes a course of action that is recommended best practice.

1.2 Penalties and sanctions regime

The PFRA Rule Book will be enforced through a regime of penalties and sanctions, designed in order to encourage best practice and raise standards within face-to-face fundraising.

Employers or contractors of fundraisers will accrue penalty points as rules are broken. Where the employer or contractor is not a User member the User member being represented when rules are broken will be notified of the points accrued.

20 point penalty – for a discretion that is considered minor.

50 point penalty – for a discretion that is considered major.

100 point penalty – for a discretion that undermines the PFRA's regulatory regime or causes severe public distress or anxiety.

In addition, penalty points will be multiplied for repeat violations of the same rule. In any given period, every third repeat infringement will incur a penalty which is twice the normal sum. In a case where a fundraiser has made multiple rule transgressions, each of a different severity during one observation by any of the nominated persons set out below, each breach will be included as a separate transgression.

Where possible and practical members will be informed “live” of additions to their points record to aid compliance.

Penalty points will only be issued by the PFRA, in consultation, where applicable, with the following nominated persons:

- **PFRA staff**
- **Contracted mystery shoppers**
- **Officers from local authorities, town centre management and business improvement districts where there is a site management agreement in place**
- **Or where otherwise substantiated.**

To impose penalties the PFRA will use the civil standard of proof (i.e. on a balance of probabilities, or “more probable than not that”).

Each point accrued has an equivalent value of £1. A monetary bill will only be issued when an organisation’s annual points total exceeds 1000 points.

Members that accrue penalty points will receive points-statements for each period (where the member is a provider the relevant points-statement will also be copied to the user represented when the points were accrued). Where the 1000-point threshold is breached the points-statement will be replaced by an invoice for those points and any further points accumulated each period.

Members, therefore, have the opportunity every period to consider operational changes to avoid continuing to accumulate points.

At the end of each financial year (31 March) and when their balance for those who have accrued more than 1000 points is cleared, all members’ points will return to zero.

Should a member accrue a yearly total that is less than the 1000 point threshold, their points total will be erased without any payment being required.

1.3 Appeals Process

Appeals will be heard by:

1. PFRA head of standards. If s/he is unable to resolve the appeal, it will be heard at the next scheduled meeting of the
2. Standards and Practices committee. If the appealing member remains unsatisfied, the appeal will be considered by
3. the independent chair of the PFRA’s board of directors, whose decision will be final.

A deposit of 25% of the cost of the penalty is required to make an appeal to cover the administrative costs of processing the appeal. In the event that:

- an appeal is instigated without a deposit being received, the appeal will be deemed to be abandoned.
- the penalty is upheld, the deposit is forfeit.
- the appeal is upheld, the deposit is returned

Appeals MUST be made within one calendar month of the penalty points being issued. This will help facilitate any information gathering and ensure that appeals are made in a timely manner.

1.4 PFRA *Rule Book* and legal requirements

Obviously, all members must comply with any legal requirements (including employment law), whether they are included in the IoF's *Code of Fundraising Practice* or not.

This stipulation includes, but is not limited to:

- Requirement not to collect cash without a license to do so (Police, Factories Etc (Miscellaneous Provisions Act 1916))
- Appropriate care and protection of confidential data (various data protection acts).

Breaches of legal requirements that already carry legal sanctions, have no further PFRA sanction included in the *Rule Book*.

Approach

The PFRA defines “approach” as attempting to engage with a member of the public with the intention of soliciting Direct Debit donations or contact details.

“Bringing into disrepute”

The PFRA understands “disrepute” to mean: loss or lack of reputation. The PFRA understands “bringing into disrepute” to mean ‘conduct unbecoming’: i.e. conduct on the part of a fundraiser while on duty that is contrary to the interests of the public served by that person¹, or that harms the standing of the fundraising profession or the commissioning charity in the eyes of the public. Examples include (but are not limited to):

- smoking and/or drinking alcohol in branded clothing
- being inappropriately dressed
- taking or being under the influence of illegal drugs
- lewd or aggressive behaviour
- exploiting their position for personal gain (for instance soliciting a job offer, propositioning someone for a date, or seeking a discount on a good or service).

Charity

In this document ‘charity’ is used as shorthand for any registered charity, not-for-profit organisation, or other ‘good cause’ that fundraises.

“Deliberately”

The PFRA understands “deliberately” to mean considered, studied or intentional, as opposed to accidental, or caused by the actions of others over which the fundraiser has no control (e.g. a street trader deliberately moving their stall towards the team thus reducing their operating space, for instance).

Fundraiser

By ‘fundraiser’ the PFRA means an individual who works to raise money or collect details of members of the public (‘prospects’) for a charity.

“Obstruct”

“Obstruction” is a technical and legal term relating to an offence under the *Highways Act 1980* that causes the “permanent or temporary removal of the whole or part of the highway from public use”. As fundraisers are mobile, there is little chance that they would meet this definition and we do not infer this intended use in the code. However, the code is clear that fundraisers should not impede the motion or progress of pedestrians or passersby. The PFRA therefore interprets ‘obstruction’ as any deliberate action that causes a person to:

- involuntarily stop
- suddenly change direction in order to get past the fundraiser and continue their journey.

Obstruction does not apply to people who choose to alter their direction of travel (by crossing the road, for instance) so as not to engage with a fundraiser.

¹ Used here in both the individual and the legal (corporate) sense.

On duty

Throughout this document, PFRA uses the phrase ‘on duty’. We take this to mean any occasion in which an individual is identifiable as working – e.g. any time a fundraiser appears to be working for/representing a charity, through wearing branded clothing, proclaiming they work for a specific charity or any other means that identifies them as a charity representative. Fundraisers can, therefore, be guilty of bringing their charity into disrepute outside of normal working hours, and at times when they are not actually working as a fundraiser, if they fulfil any criteria that identify them as charity representatives.

Prospecting

‘Prospecting’ is an activity similar to fundraising but where only the contact details of members of the public are collected, for subsequent contact by the charity, rather than the bank details necessary to set up a Direct Debit mandate (or similar committed gift). Prospecting and prospectors are included where this document refers to fundraising or fundraisers.

Provider

By ‘provider’ the PFRA means the organisation that provides the fundraising service. This includes professional fundraising organisations (PFOs) as well as charities that employ their own staff as fundraisers (‘in-house’ operations). Where the code refers to ‘project managers’, the PFRA takes this to refer to staff employed by providers.

Solicitation Statements

At the point a donor agrees to make a donation, F2F fundraisers **MUST** make a ‘solicitation statement’ (also known as ‘disclosure’) – a declaration of the fee the company they work for will be paid and how this was worked out, verbally or in writing.

A disclosure statement **MUST** be made for any kind of financial ask through any medium – such as, but not limited to, Direct Debits, SMS, QR Code, credit cards and near field communication (NFC, contactless card payments).

Fundraisers working for a provider **MUST** also disclose the ‘notifiable amount’: the actual amount that is being paid to the fundraising company for carrying out this particular piece of fundraising (or best estimate if the actual figure is not known), as accurately as possible.

Examples of solicitation statements that comply with the requirements of the Charities Act 2006 are:

I work for fundraising company x and we are working for the benefit of charity y. My organisation is being paid £w to recruit supporters like yourself to make regular donations to charity y. This fee was determined in the following way [method z].

Or

I work for fundraising company x on behalf of charity y. We expect to be paid £w in connection with this particular appeal, and the method used to determine our payment was [method z].

Fundraisers employed directly by a charity are not required to disclose the notifiable amount.

The required accuracy of ‘Contextualising Information’ offered in connection with Solicitation (‘Disclosure’) Statements

While the law clearly states that required information (such as the “notifiable amount”) MUST be “as accurate as possible”, it is technically silent on any additional contextualising information that fundraising organisations may choose to offer donors.

It is the view of the PFRA that if additional information is to be offered at the **same time** and in the same context as the legally-required information, it OUGHT to be of the same quality – that is, it should be as accurate as possible. Therefore, if users or providers wish to make reference to total net income, anticipated returns on investment, etc., they OUGHT to have regard to all the relevant factors of which a competent operator (and/or member of the PFRA) ought to be aware – such as, but not limited to, attrition, VAT, lifetime value estimates, upgrades etc.

Subcontractor

A company undertaking work according to a secondary contract agreed with the main contractor.

Team Leader

The team leader is the person within the fundraising organisation who has immediate and on-site supervision of the activity (e.g. manages the team, ensures sites are appropriately and safely used, ensures appropriate conduct of fundraisers/agents and understands the charities complaints process). Alternatively, the team leader can be the person within the Provider or the fundraising organisation who supervises the activity for door-to-door but may not be on site. The team leader might not always be actively fundraising.

User

By ‘user’ the PFRA means the charity that is using a fundraising service. A charity that does its own fundraising ‘in-house’ is, therefore, both a ‘user’ and a ‘provider’.

Where the code refers to ‘campaign managers’, PFRA takes this to refer to staff employed by users.

RULE C1: Best Behaviour

While on duty, fundraisers **OUGHT** not behave:

- in any way that might reasonably cause members of the public to be or become excessively startled or anxious
- in any way that might reasonably cause other passersby in the immediate vicinity to be or become excessively startled or anxious
- dishonestly, manipulatively or deliberately use guilt
- in any other way that a reasonable person might judge brings the charity they are representing into disrepute².

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

RULE C2: Deliberate Obstruction

While on duty, fundraisers **OUGHT** not deliberately obstruct members of the public.

Sanction

The penalty imposed for “deliberate obstruction” is 100 points per incident.

RULE C3: Immediate Termination

If a person clearly and obviously indicates – by words or gestures – that they do not wish to be engaged by a fundraiser – either at the initial approach or during a conversation/engagement – the fundraiser **OUGHT** to desist from the engagement and make no further attempt to engage that person.

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

RULE C4: Managing Vulnerability

No fundraiser **OUGHT** knowingly sign up any person under 18 years of age, except with the expressed and demonstrable consent of a parent, guardian or carer physically present at the time. (The code of practice (s5.3.1) says fundraisers should employ “all best efforts” not to sign up anyone under 18. This PFRA rule therefore strengthens that prohibition.)

No agent or fundraiser **OUGHT** knowingly sign up any person at any time who they reasonably conclude is or may be incapable of informed consent for any reason (including but not exhaustively):

- intoxication through drugs or alcohol
- incapacity due to illness or disability
- age-related confusion (except with the expressed consent of a close relative, guardian or carer physically present at the time)
- learning difficulties (except with the expressed consent of a close relative, guardian or carer physically present at the time)
- language competence

² For the purposes of this rule the mere presence of a fundraiser or fundraisers in a location, operating in all other respects in accordance with the code and any other relevant regulations, cannot be construed as ‘bringing into disrepute’.

- any other circumstance where capacity is in doubt

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

RULE C5: The ‘Three-Step’ Rule

Once an approach has been made to a member of the public a fundraiser **OUGHT** not take more than three steps alongside or in pursuance of that member of the public, even when asked to do so.

In no case **OUGHT** any of these ‘three steps’ involve fundraisers deliberately placing themselves directly in the path of a member of the public in such a way that they or any casual observer may reasonably construe ‘obstruction’ (see Rule C2).

If the member of the public has not come to a halt within the three number of steps allowed for, the attempted engagement **OUGHT** to be discontinued.

Sanction

The penalty imposed for breach of this rule is 50 points per fundraiser per incident.

RULE C6: Members of the public who are ‘on duty’

Fundraisers **OUGHT** not intentionally approach members of the public who are ‘on duty’ and going about their business, such as: uniformed officials, tour guides, street vendors, carers, teachers, etc.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

RULE C7: Seated members of the public

Fundraisers **OUGHT** not approach members of the public who are seated on street furniture or are seated in the outdoor seating area of a private business.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

RULE C8: Proximity to street features

No fundraiser **OUGHT** position themselves within 3 metres of a:

- shop doorway
- pedestrian crossing
- cashpoint machine
- station entrance
- street traders

This rule also includes fundraisers not working or positioning themselves near other legitimate users of the public highway including:

- members of the public in queues e.g for tourist attractions, tour guide groups, bus queues etc
- big issue and newspaper sellers
- buskers

Sanction

The penalty imposed for breach of this rule is 50 points per fundraiser per incident.

RULE C9: Unattended bags

Bags **OUGHT** not be left unattended on the public highway, a team member **OUGHT** always remain within 3 metres and line-of-sight of a 'team bag' (where one is used).

PFRA members **SHOULD** provide identification for the team bag where practical to do so.

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

RULE C10: Solicitation Statements

Fundraisers **MUST** make legally compliant solicitation statements. (See also **Rule O1.**)

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

Disclosures where they not legally required (Prospecting, etc)

It is best practice to give members of the public sufficient information about relevant costs and returns to allow them to make an informed decision including the fundraiser's paid status. Prospecting and conventional F2F are largely indistinguishable to the casual observer, who, possibly having received a formal disclosure in another interaction, may well be wary or suspicious if they do not receive one.

RULE C10a: Accuracy of Contextualising Information

If additional information is to be offered at the same time and/or in the same context as the legally-required solicitation statement, it **OUGHT** to be of the same quality – i.e. as accurate as possible.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

RULE C11: Committed Giving

No fundraiser **OUGHT** to proactively suggest to any member of the public that the engagement they are attempting to initiate is 'without commitment'. By definition all engagements covered by the code are ultimately 'about long-term commitment' and to suggest otherwise would be a contravention of the FRSB Fundraising Promise.

Sanction

The penalty imposed for breach of this rule is 50 points per incident.

RULE C12: Financial Ask Transparency

No fundraiser **OUGHT** to suggest to any member of the public that the engagement they are attempting to initiate is "not about money". Similarly they should not claim to not be fundraising and should clearly explain the next steps in the donor journey e.g. follow up communication with the donor. By definition all engagements covered by the F2F Code are likely to be ultimately 'about money', and to suggest otherwise would be a contravention of the FRSB Fundraising Promise.

Sanction

The penalty imposed for breach of this rule is 50 points per incident.

RULE C13: Distance Visibility

An ordinary member of the public should be able to clearly identify a person as a fundraiser working on behalf of a charity from a distance of 5 metres.

Charitable branding **OUGHT** to be visible and identifiable, both front and back.

Branded clothing **OUGHT** not be tied around waists or covered by unbranded clothing or other property, or in any other way be obscured.

Branded clothing **OUGHT** to be clean and in good condition to facilitate equality and brand integrity.

Sanction

The penalty imposed for breach of this rule is 50 points per fundraiser per day.

RULE C14: I.D. Visibility

ID badges **MUST** comply with applicable law. A member of the public should be able to clearly verify the identity of a fundraiser, whom they are working for (the user and, if applicable, provider) and contact details for the project and/or campaign manager(s), upon inspection of the fundraiser's ID.

In order to facilitate this, ID **OUGHT** to:

- be in the form of a badge secured about the upper front part of the fundraiser's torso by clip, chain, or lanyard
- be of not less than credit-card size
- be signed or in some other way authorised (embossing seal etc) by the employing provider and/or commissioning user
- carry a contact phone number via which a member of the public can verify the *bona fides* of the fundraiser at any time the fundraiser is on duty
- be robust enough to withstand normal wear and tear and exposure to the elements in the context of outdoor work in busy situations/circumstances

In addition, ID **SHOULD** conform to best practice guidance on producing print materials for visually impaired people.

Sanction

The penalty imposed for breach of this rule is 50 points per fundraiser per day.

RULE C15: Team Leader Visibility

Team Leaders must be present and easily identifiable to a member of the public in any given fundraising team, so that they can ask a question or make a comment or complaint. To this end the team leader **OUGHT** to wear a PFRA-approved form of additional visual identification (e.g. a PFRA badge) on the upper front part of the Team Leader's torso. This should be worn at all times while on duty, whether or not actively 'fundraising'. If at any point the Team Leader needs to leave the fundraising site they will not give the Team Leader badge to another member of the team unless they are also a Team Leader.

Sanction

The penalty imposed for breach of this rule is 20 points per team per day.

RULE 01: Solicitation Statement Compliance

Before commencement of a new campaign, members **OUGHT** submit their planned solicitation statement (including the notifiable amount, where required) to the PFRA to have its compliance reviewed and confirmed.

Sanction

The penalty imposed for failing to submit a solicitation statement for review is 100 points per campaign.

RULE 02: Confirmed Access

Where a PFRA agreement is in place fundraisers **OUGHT** always comply with its conditions scrupulously and without reservation or deviation.

In any location where a PFRA agreement is not yet in place fundraisers **OUGHT** to make the fullest possible efforts to observe the relevant section of the Code, in which, for the purposes of PFRA members, all “**SHOULD**S” are to be read as “**OUGHT**S”. In other words, PFRA is making mandatory for PFRA members the relevant parts of the Code that the IoF regards as recommended best practice only.

This rule applies equally to all forms of face-to-face activity including prospecting.

Sanction

The penalty imposed for deploying more fundraisers than the site conditions allow for is 100 points per additional fundraiser per day.

The penalty imposed for fundraisers working outside the site delineation is 100 points per team per incident.

The penalty imposed for a team being positioned in an area that is not a delineated site, which is within an area covered by a PFRA agreement, is 100 points per team per day.

RULE 03: Site Management agreements

Fundraisers **OUGHT** to adhere to any local conditions contained within a Site Management Agreement that are not included under the Rule Book. Examples of these conditions could include, but are not limited to:

- cities that do not allow bags
- carrying check lists and briefings

Sanction

The penalty imposed for breach of this rule is 50 points per team per day.

RULE 04: Standard Operating Hours

No form of initial F2F activity **OUGHT** normally commence before 9am Monday-Saturday or 10am Sunday and public holidays, or after 7pm, any day or date; or as otherwise provided for in a PFRA agreement.

Sanction

The penalty imposed for breach of this rule is 50 points per team per day.

RULE 05: Understanding site use conditions

To ensure that fundraisers understand and adhere to the SMA and are able to comply with any conditions associated with the site they are deployed to work on (such as delineations etc), Team Leaders **OUGHT** to carry information regarding site use conditions where relevant.

Sanction

The penalty imposed for breach of this rule is 20 points per team per day.

RULE 06: Site clashes

No branded fundraiser **OUGHT** be present on a site that has been allocated to, or has otherwise been booked by, another team. Where two teams are present at any given fundraising site, they **OUGHT** both cease working until the site clash has been resolved. Similarly, no staff recruitment team **OUGHT** to work on or immediately adjacent to a site that has been allocated to, or is otherwise being worked by, another team.

Sanction

The penalty imposed for breach of this rule is 100 points per fundraiser per incident.

“Site agreements”

The IoF code says that “wherever possible”, a site agreement **OUGHT** to be in place between F2F activity organisers and relevant access authorities.

RULE 07: New Site Testing

Site Management Agreements (SMAs) describe the specific conditions within which fundraising can take place in a particular location. They can be obtained from the PFRA upon request. In any location where a PFRA SMA is not yet in place and there are no clear customary practices to follow for use of the site (for instance where a local authority has previously or traditionally been restrictive or obstructive) fundraisers are permitted to operate in order to test its productivity, establish its optimum capacity, and establish relationships with the relevant ‘gatekeeper’ for later PFRA engagement.

Prior to commencing operations in any such location, providers **OUGHT** to make the fullest possible efforts to observe the relevant section of the IoF *Code of Fundraising Practice*, in which, for the purposes of PFRA members, all “**SHOULD**S” are to be read as “**OUGHT**S”. In other words, PFRA is making mandatory for PFRA members those parts of the code that the IoF regards as recommended best practice only.

When a location has been identified, and access secured in accordance with the code and the paragraph above, and prior to activity commencing, providers **OUGHT** to inform the PFRA of the full and precise terms of the access agreement.

For the purposes of PFRA diarising, ‘new’ sites opened up in this way may be operated by the originating provider(s) with ‘test exclusivity’ for up to 3 months. This period is calculated as running from the date of the first fundraising visit, or from 14 days from the date that access permission was granted, whichever is the sooner. At the conclusion of the ‘test period’ a full and precise report of the site’s viability **OUGHT** to be presented to the PFRA in order that the site can be incorporated into a formal SMA and/or normal diary procedures, and fair and equitable access can be granted to all members in the normal way.

Every part of this rule applies equally to all forms of face-to-face activity including prospecting, etc.

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

EXTRA GUIDANCE: Exclusivity for new site testing

“Exclusivity” for the purposes of establishing new capacity by ‘testing’ means that the PFRA will not broadcast the existence of operations in a relevant site or offer use of that site to other providers, nor is the provider obliged to publicly declare such operations, unless and until any of these criteria are satisfied:

- the test period is concluded

- the test operations engender a formal complaint from the gatekeeper that requires the intervention of the PFRA³
- another member becomes aware of the activities in the course of their own operations
- for any other reason the activity becomes public (including but not exclusively media interest, critical blogging etc.) to a degree which, in the absolute discretion of the PFRA, the matter requires PFRA intervention.

RULE O8: Optimal Site Use

Where a PFRA SMA or any other form of site access agreement is in place, face-to-face activity **OUGHT** not to take place more frequently than that agreement allows for, unless special circumstances/exceptions have been negotiated and confirmed in advance with the PFRA or the site access controller.

Sanction

The penalty imposed for breach of this rule is 100 points per fundraiser per day.

RULE O8a: Optimal Site Use

Providers **OUGHT** never book, reserve or retain capacity that they knowingly do not intend to use (or come to know they will not be able to use before the time and date concerned), in such a way that another provider is deprived of a viable fundraising opportunity. Such capacity **OUGHT** always be returned to the PFRA or other relevant site access controller for redistribution at their absolute discretion, in as timely a manner as possible to allow for such redistribution, unless special circumstances/exceptions have been negotiated and confirmed in advance with the PFRA or the site access controller.

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

RULE O9: Poaching of Staff

No agent or member of staff in whatever capacity of one PFRA member **OUGHT** solicit another member's agents/staff to enter the first member's employment, while those other agents/staff are on duty. Further, no agent or member of staff in whatever capacity of one PFRA member **OUGHT** use any PFRA contact list to solicit another member's agents/staff to enter the first member's employment.

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

RULE O10: Sub-Contractors

All provider members that employ sub-contractors to deliver any part of their F2F contractual volumes via subcontractors' interaction with the public **OUGHT** to:

- provide the PFRA with the name and location of each and every such sub-contractor throughout the entire supply-chain, so that the PFRA can reliably confirm their status, and refer matters accordingly, in the event of quality comments or complaints
- include in their contractual arrangements a clear requirement for each and every such sub-contractor throughout the entire supply-chain to comply with the Institute of Fundraising's *Code of Fundraising Practice*, and any and all PFRA rules, in the same manner as if they were the lead member contracting them.

Sanction

The penalty imposed for breach of this rule is 100 points per incident.

³ By definition all complaints from viable and authorised gatekeepers 'require' the intervention of the PFRA

5 Administrative rules

RULE A1: Levy submission

All levy submissions deadline dates for the year are included on the levy return form, which is sent by email at the beginning of the year (if you are a current member). All levy submissions must be made by the stipulated deadline and time as prescribed.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

RULE A2: Accreditation submission

Accreditation forms must be returned by the agreed deadline.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

RULE A3: Notification of visits

Where required by a SMA, local authority gatekeepers are to be notified of intended visits by the stipulated deadline.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

RULE A4: Diary changes

All changes to online diaries must be made by the agreed deadline.

Sanction

The penalty imposed for breach of this rule is 20 points incident.

All changes to non-online visits must be notified before the agreed deadline.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

RULE A5: Bidding deadlines

Bids for National Site Diaries (NSDs), London Site Management system (LSM) and LSM Pool diary must be made before the relevant deadlines.

Sanction

The penalty imposed for breach of this rule is loss of fundraising capacity.

RULE A6: Overbidding

Members are not to overbid by more than 20% of the total number of staff they plan to field.

Sanction

The penalty imposed for breach of this rule is 20 points per incident, which will double with each consecutive failure to comply.

RULE A7: NSD deadlines

All NSD deadlines must be complied with.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

All relevant rotas to be submitted before the relevant deadlines.

Sanction

The penalty imposed for breach of this rule is 20 points per incident.

**LICENSING
COMMITTEE**

7th April 2014

LICENSING COMMITTEE WORK PROGRAMME 2013/14

7th April 2014

- Scrap Metal Dealers Act 2013 - update on implementation
- Review of Statement of Licensing Policy under Licensing Act 2003
- Home Office Consultation on Locally Set Fees under the Licensing Act 2003
- Face to Face Fundraising – Site Management Agreement (PRFA)
(Charity Street Fundraisers, progress report)
- Licensing Committee Work Programme

To Be Allocated To Suitable Available Dates

- Licensing Annual Report to include:-
 - mileage data for vehicles tested within three years of their first registration.
 - an overview of the broad scope of Licensing activities undertaken by the Council.
- Face to Face Fundraising – Site Management Agreement (PRFA)
(Charity Street Fundraisers, Final report)

