



Licensing Committee

26 March 2014

Time 10.00am **Public meeting?** YES **Type of meeting** Regulatory

Venue Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

Room Committee Room 1 (3rd floor)

Membership

Chair Cllr Bishan Dass (Lab)
Vice-chair Cllr Alan Bolshaw (Lab)
Shadow-Chair Cllr Mark Evans (Con)

Labour

Cllr Harman Banger
Cllr Ian Claymore
Cllr Craig Collingswood
Cllr Susan Constable
Cllr Keith Inston
Cllr Rita Potter
Cllr John Rowley

Conservative

Cllr Neville Patten
Cllr Patricia Patten

Liberal Democrat

Quorum for this meeting is 3 Councillors.

Information for the Public

If you have any queries about this meeting, please contact the democratic support team:

Contact Linda Banbury
Tel 01902 555040
Email linda.banbury@wolverhampton.gov.uk
Address Democratic Support, Civic Centre, 2nd floor, St Peter's Square,
Wolverhampton WV1 1RL

Copies of other agendas and reports are available from:

Website <http://wolverhampton.cmis.uk.com/decisionmaking>
Email democratic.support@wolverhampton.gov.uk
Tel 01902 555043

Some items are discussed in private because of their confidential or commercial nature. These reports are not available to the public.

Agenda

Part 1 – items open to the press and public

Item No. *Title*

BUSINESS ITEMS

1. **Apologies for absence**
2. **Declarations of interest**
3. **Minutes**
(a) Meeting, 26 February 2014
[for approval]
(b) Sub-Committee – meetings, 26 and 28 February 2014
[for approval and adoption]
4. **Matters arising**
[To consider any matters arising from the minutes]

DECISION ITEMS

5. **Schedule of outstanding minutes**
[To receive a schedule indicating when reports on individual items will be submitted for consideration]
6. **Health and Safety Statutory Plan**
[to consider and endorse the Plan]
7. **Scrap Metal Dealers Act**
[To receive an update on the key provisions of the Act and the outcome of the local implementation arrangements]
8. **Consultation on the relaxation of licensing hours during the FIFA World Cup 2014**
[to consider consultation document]

Part 2 – exempt items, closed to the press and public

Nil



Licensing Committee

Minutes – 26 February 2014

Attendance

Members of the Committee

Cllr Bishan Dass (chair)	Cllr Harman Banger
Cllr Alan Bolshaw	Cllr Ian Claymore
Cllr Craig Collingswood	Cllr Susan Constable
Cllr Keith Inston	Cllr Rita Potter
Cllr Neville Patten	Cllr John Rowley

Employees

Sarah Hardwick	Senior Solicitor (Delivery)
Colin Parr	Licensing Manager (Education and Enterprise)
Linda Banbury	Democratic Support Officer (Delivery)

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
BUSINESS ITEMS		
1.	Apologies for absence Apologies for absence were submitted on behalf of Councillors Mark Evans and Patricia Patten.	-
2.	Declarations of interest No interests were declared.	-
3.	Minutes Resolved: (a) That the minutes of the meeting held on 29 January 2014 be approved as a correct record. (b) That the minutes of the meetings of the Licensing Sub-Committee held on 29 January and 6 February 2014 be approved as a correct record and adopted.	- -

4. **Matters arising**

Councillor Claymore wished to place on record the appreciation of residents and local Ward Members in regard to the proactive approach of Council employees in resolving the issues of concern raised in regard to the One Stop Shop, Oxley Moor Road.

Colin Parr

Pursuant to the review prior to renewal of a Hackney Carriage Driver's Licence considered by the Sub-Committee on 29 January 2014, Colin Parr drew attention to the increasing tension between trade members. He added that the Leader of the Council had attended a recent meeting of the Hackney Carriage Working Group. He had stressed that they were ambassadors for the City and any acts of violence or aggression in full view of the public would not be tolerated. Colin Parr advised that Committee that he had undertaken six reviews within the previous six weeks and that there were three cases pending. Three licences had been revoked.

The Committee endorsed the zero tolerance approach. Colin Parr undertook to arrange for a joint letter to be sent to the trade on behalf of the Licensing Authority and West Midlands Police reiterating the approach. The Committee requested that the information be copied to the Private Hire Operators.

Colin Parr

5. **Schedule of outstanding minutes**

A report was presented, which set out a schedule of outstanding minutes, together with an indication of when individual reports would be submitted for consideration.

Linda
Banbury

Resolved:

That the report be received.

DECISION ITEMS

6. **Fees and charges for hackney carriage and private hire licensing functions for 2014/15**

The Licensing Manager presented a report, which sought approval to proposed fees and charges for licences relating to hackney carriages, private hire vehicles, drivers and private hire vehicle operators for 2014/15. It was proposed that they remain unchanged as the cost of providing the service would meet the budgetary requirements for 2014/15.

Resolved:

That the proposed fees and charges for hackney carriage and private hire licensing functions for 2014/15, as detailed

Colin Parr

at appendices A and B to the report, be approved.

7. **Review of fees and charges for street trading consents**

The Licensing Manager presented a report, which sought approval to proposed street trading fees and charges to take effect from 1 April 2014 and apprised the Committee of arrangements for the control and regulation of street trading activities undertaken in the city.

Resolved:

- (a) That the proposed fees and charges for annual street trading consents, as detailed at appendix A to the report be approved with effect from 1 April 2014.
- (b) That the proposed fees and charges for occasional/temporary street trading consents, as detailed at appendix B to the report be approved with effect from 1 April 2014.

Colin Parr

8. **Review of fees and charges for general licensing and miscellaneous matters for 2014/15**

The Licensing Manager presented a report, which sought approval to proposed fees and charges for 2014/15 in relation to certain licences and licensed activities that are regulated by the Licensing Committee. The report also detailed fees and charges set by the Secretary of State in relation to Licensing Act 2003 and Gambling Act 2005, over which the council has no local control.

Resolved:

- (a) That the proposed fees and charges for General Licensing, as detailed at appendix A to the report, be approved with effect from 1 April 2014.
- (b) That the new fee structure for sex establishment licences and fees as detailed at appendix A to the report, be approved with effect from 1 March 2014.
- (c) That the proposed fees and charges detailed at appendix B to the report, over which the council has fee setting powers, be approved with effect from 1 April 2014.

Colin Parr

9. **Hackney carriage fares**

The Licensing Manager presented a report, which detailed the request of the hackney carriage trade associations not to increase fares at this time, due to the current economic climate. This issue will be raised with the trade working group again in January 2015 to consider the fares for 2015/16.

Resolved:

That the report be received.

Colin Parr

- **Online equalities and information governance training**
Responding to a question raised by the Vice-Chair, Colin Parr advised the Committee that the current take up of training across Regulatory Services was 95%, with 100% take up within Licensing Services.
-

Part 2 – exempt items

Nil



Licensing Sub-Committee

Minutes – 26 February 2014

Attendance

Members of the Sub-Committee

Cllr Bishan Dass (chair)
Cllr Alan Bolshaw

Employees

Elaine Moreton	Section Leader (Licensing)
Sarah Hardwick	Senior Solicitor
Linda Banbury	Democratic Support Officer

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

- | | | |
|----|--|---|
| 1. | Apologies for Absence
An apology for absence was submitted on behalf of Councillor Mark Evans. | - |
| 2. | Declarations of interest
No interests were declared. | - |

DECISION ITEMS

EXCLUSION OF PRESS AND PUBLIC

- | | | |
|----|---|--|
| 3. | Exclusion of press and public
Resolved:
That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act. | |
|----|---|--|

Part 2 – exempt items, closed to the press and public

4. **Review prior to renewal of a hackney carriage and private hire vehicle driver's licence**

The chair welcomed everyone to the meeting, introductions were made and he outlined the procedure to be followed.

The Section Leader (Licensing) outlined the report, which had been circulated to all parties in advance of the meeting.

Mr Singh was in attendance at the meeting in connection the review prior to renewal of his Licence and answered questions raised the councillors and employees as appropriate.

The Section Lead (Licensing) and Mr Singh withdrew from the meeting to enable the Sub-Committee to reach their decision. The Solicitor advised them of the options open to them in determining the renewal application.

The Sub-Committee considered all the evidence presented at the meeting. They noted that Mr Singh was an experienced driver, accepted guilt for the offences detailed in the Licensing Services' report. They further noted his remorse and assurance that there would be no future breaches of licence conditions and decided that he is a fit and proper person to hold a Hackney Carriage/Private Hire Vehicle Driver's Licence. It was:

Resolved:

That the Hackney Carriage/Private Hire Vehicle Drivers Licence for Mr Sarbjit Singh be renewed for a period of twelve months, subject to a six monthly review with the Licensing Manager for the next twelve months.

Elaine
Moreton/
Linda
Banbury



Licensing Sub-Committee Minutes – 28 February 2014

Attendance

Members of the Sub-Committee

CLlr Alan Bolshaw (chair)
CLlr Rita Potter
CLlr John Rowley

Employees

Rob Marshall	Solicitor
Rob Edge	Section Leader (Licensing)
Linda Banbury	Democratic Support Officer

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

- Apologies for Absence**
There were no apologies for absence.
- Declarations of interest**
No interests were declared.

DECISION ITEMS

- Licensing Act 2003 – Application for review of a premises licence in respect of Aibe Market, 165 Dudley Road, Wolverhampton**
In attendance
For the premises
Mr A Ahmed – Premises Licence Holder
Mr G Amar – former Premises Licence Holder
Applicant for review
Sarah Hardwick – Legal Representative
Elaine Moreton – Licensing Authority

The chair introduced the parties and outlined the procedure to be

followed at the meeting.

The Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance. Mr Ahmed advised that his understanding of spoken English was not good. He had, however, read the report and confirmed that he understood it.

Sarah Hardwick outlined the application for review of the premises licence as detailed at Appendix 3 to the report of Licensing Services. She advised that council compliance officers had visited the premises the previous day and requested sight of training records, together with CCTV coverage for a period of 31 days. CCTV was only available for 20 days and the Premises Licence Holder did not appear to be aware of the necessity to maintain records. The Licensing Authority were of the opinion that the premises licence should be either revoked or suspended for a period of time.

On a point of clarification, the Section Leader (Licensing) advised that it was common practice in review cases where the licence had been transferred, for the former and current Premises Licence Holder to be invited to attend the meeting.

Responding to questions, Sarah Hardwick indicated that the current licensing conditions lacked detail and that there was no confirmation that they were being complied with. The lack of training records gave rise to increased potential for crime and disorder. The Licensing Authority had not been made aware of any complaints regarding underage sales of alcohol.

Mr Ahmed indicated that he was fully aware of the conditions on his licence and of his responsibilities regarding the sale of alcohol and had undertaken the relevant training three months previously. He believed that was not allowed to sell single cans of alcohol, although this was not a current condition on the premises licence. Mr Amar advised that he no longer had involvement with the premises but had advised Mr Ahmad of his responsibilities in regard to asking for ID etc.

All parties were afforded the opportunity to make closing statements.

4. **Exclusion of press and public**

Resolved:

That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act.

All parties, with the exception of the Council's Solicitor and Democratic Support Officer, withdrew from the meeting at this point.

Part 2 – exempt items, closed to the press and public

5. **Deliberations and decisions**

The Sub-Committee discussed the issues which had been raised during consideration of the premises licence review and the Solicitor advised them of the options open to them in determining the application.

6. **Re-Admission of Press and Public**

Resolved:

That the press and public be readmitted to the meeting.

Part 1 – items open to the press and public

9. **Announcement of Decision**

The parties returned to the meeting and the solicitor outlined the decision of the Sub-Committee as follows:

Rob Edge/
Linda
Banbury

An application has been made by the Licensing Authority for a review of the premises licence in respect of Aibe Market, 165 Dudley Road, Wolverhampton.

At this hearing to review the premises licence, the licensing Sub-Committee have listened carefully to all representations made by the persons who have spoken at the hearing. They have considered all the evidence presented and have found the following facts:

In accordance with the amended guidance issued under Section 182 of the Licensing Act 2003, the premises have been used for criminal activity on 8 February 2013. In accordance with the guidance, the Licensing Sub-Committee must deter such criminal activity.

On 27 February 2014 compliance officers visited the premises. 31 day CCTV footage was not available, thereby undermining the prevention of crime and disorder licensing objective. No training records were available, thereby undermining the prevention of crime and disorder licensing objective.

Based upon the above and having regard to the application and relevant representations made, the Sub-Committee have decided to suspend your licence for a period of three months.

The above action is considered necessary and proportionate for the promotion of the prevention of crime and disorder licensing objectives.

An appeal may be made to the Magistrates' Court against the decision, by the applicant and the holder of the premises licence within 21 days from the date of receipt of written notice of this decision.

The Sub-Committee further recommended that Mr Ahmed seek further advice and support in order to fully understand the practical responsibilities of his role as a Premises Licence Holder.

10. **Licensing Act 2003 – Application for variation to a premises licence in respect of Taj Palace, Adelphi House, Frederick Street, Wolverhampton**

In attendance

For the premises

Mr D Campbell – Legal Advisor

Mr Deol - Applicant

Objector

Sargeant K Whitehouse

and PC L Davies – West Midlands Police

The chair introduced the parties and outlined the procedure to be followed at the meeting.

The Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance. Prior to the meeting the Sub-Committee had, at the request of Mr Campbell, been furnished with copies of Temporary Event Notices for events which took place 5 – 6 May and 25 August 2013. Copies of a letter sent from Mr Campbell to the Section leader (Licensing), together with case law relating to the 'Funky Mojoe' case.

Mr Campbell advised the Sub-Committee of a minor typographical

error in the variation application in that the supply of alcohol should read 2230 to 0200 hours.

Having been advised by the Council's solicitor in regard to the case law submitted, the Sub-Committee agreed that the hearing should continue.

On a point of clarification, PC Davies advised that an email had been sent to the premises outlining proposed licensing conditions and that this had been followed up with a phone call to Mr Campbell. A conversation had subsequently taken place between the Section Leader (Licensing) and Mr Campbell concerning the relevance of some of the proposed conditions only to the varied part of the licence.

Mr Campbell outlined the application to vary the premises licence, indicating that the Mr Deol had been involved with the premises for some thirteen years, during which time there have been no incidents of crime and disorder requiring police presence. The Sub-Committee were advised that the Premises Licence Holder carried out a risk assessment prior to every even and had agreed to provide appropriate door supervision and a 'Challenge 21' system. The Premises Licence Holder advised that the majority of functions were Asian weddings, in addition to some christenings, funeral wakes and charity functions. Bookings were made initially by telephone, followed by face to face discussions. It was a family business, which included Jak's café/bar. He further indicated that events rarely extended beyond 0030 hours. The Premises Licence Holder indicated his willingness to work closely with the Police to ensure there were no problems.

At this juncture, PC Davies outlined the Police representations detailed at Appendix 4 to the report of Licensing Services. She advised that the Premises Licence holder had agreed to the proposed licence conditions, with the exception of 'Challenge 25'. The Police believed that the lack of internal CCTV would not assist in promoting the licensing objectives. PC Davies drew attention to the police intervention arrangements in regard to a wake which they believed would be attended by known nominals, hence the request for prior notice of events. The Police acknowledged, however, that it would not be possible to provide 28 days' notice in respect of funeral wakes.

Responding to a question in regard to the redacted document provided for the meeting, PC Davies advised that the Police were

unable to provide additional information due to data protection regulations. The Police were not aware of any problems of underage drinking at the premises.

All parties were afforded the opportunity to make closing statements.

(Councillor Potter withdrew from the meeting at this point)

EXCLUSION OF PRESS AND PUBLIC

4. Exclusion of press and public

Resolved:

That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act.

All parties, with the exception of the Council's Solicitor and Democratic Support Officer, withdrew from the meeting at this point.

Part 2 – exempt items, closed to the press and public

5. Deliberations and decisions

The Sub-Committee discussed the issues which had been raised during consideration of the premises licence variation and the Solicitor advised them of the options open to them in determining the application.

6. Re-Admission of Press and Public

Resolved:

That the press and public be readmitted to the meeting.

Part 1 – items open to the press and public

9. Announcement of Decision

The parties returned to the meeting and the solicitor outlined the decision of the Sub-Committee as follows:

The Sub-Committee have taken note of all the written concerns raised in respect of Taj Palace, Adephi House, Frederick Street, Wolverhampton. They have listened to the arguments both for

Rob Edge/
Linda
Banbury

and against the application.

Having considered the views of all concerned, the Sub-Committee have decided that the variation be granted as applied for.

Such conditions as are specified on/or are³ consistent with the operating schedule will be attached to the licence, together with any mandatory conditions required by the Act.

All parties have a right of appeal to the Magistrates' Court within 21 days of receipt of this decision.



Licensing Committee

26 March 2014

Report Title

Schedule of Outstanding Minutes

Originating service

Delivery/Democratic Support

Accountable employee

Linda Banbury
Tel
Email

Democratic Support Officer
01902 55(5040)
linda.banbury@wolverhampton.gov.uk

Recommendation for noting:

The Committee is asked to note the report

	Subject	Date of Meeting and Minute No.	Decision	Comments
1.	Future of Hackney Carriage Services	13.02.13 38(c)	Further review of Hackney Carriage provision to take place in 2016	Report to July 2016 meeting
2.	Hackney Carriage and Private Hire Vehicle Testing at VOSA Registered Garages	17.04.13 61(f)	Report to be presented in twelve months on impact of proposals in regard to vehicle testing	Report to April 2014 meeting
3.	City Centre Pubwatch Scheme	22.05.13 2	Update to be presented on outcome of customer research	Report to future meeting
4.	Review of Decision Making	22.05.13 6(d)	Annual delegation report to be presented	Report to May 2014 meeting
5.	Scrap Metal Dealers Act	25.09.13 8	Progress report to be presented in six months	Report to this meeting
6.	Wolverhampton Alcohol Strategy 2011-2015	18.12.13 6	Further update to be presented in six months	Report to June 2014 meeting



Licensing Committee

Report title **HEALTH AND SAFETY STATUTORY PLAN**

26 March 2014

Wards affected All

Accountable director Tim Johnson, Education and Enterprise

Originating service **EDUCATION AND ENTERPRISE**

Accountable employee(s) Name Dan O'Brien, Section Leader
Tel 01902 554381
Email dan.obrien@wolverhampton.gov.uk

Report to be/has been considered by None

Recommendation(s) for action or decision:

The Committee is recommended to:

- (i) acknowledge the status of the Health and Safety Statutory Service Plan in the light of Health and Safety Commission guidance issued under Section 18 of the Health and Safety at Work etc. Act 1974;
- (ii) consider and endorse the draft Health and Safety Statutory Service Plan for 2014/15
- (iii) endorse the Council's continued commitment and participation in the development of the HSE's Strategic Partnership.
- (iv) make formal Committee commitment to improving health and safety outcomes
- (v) make a commitment to "Sensible Risk Management" as explained in paragraph 2.6
- (vi) agree to receive a further report if the ongoing restructure of Regulatory Services results in significant changes to the health and safety work programme or statutory plan.

1.0 Purpose

- 1.1 The report outlines the Council's health and safety enforcement plan for 2014/2015. As one of the nation's health and safety regulators, the Council needs to make "adequate arrangements" to show it is performing this important statutory duty. The Health and Safety Statutory Plan details how the Council intends to discharge this function.

2.0 Background

- 2.1 The most recent statistics for work related ill health are;

- An estimated 646 000 workers had an accident at work in 2012/13 - 231 000 of these injuries led to over 3 days absence from work and 175 000 to over 7 days (Source - Labour Force Survey)
- Self-reported non-fatal injuries have fallen by around one third over the past decade (Source – Labour Force Survey).
- 148 workers were fatally injured in 2012/13 - a rate of fatal injury of 0.5 deaths per 100 000 workers. This is less than half the number killed 20 years ago. (Source - Reporting of Injuries Diseases and Dangerous Occurrences Regulations).
- 19 707 major injuries to employees were reported in 2012/13; about 11% less than in 2011/12. (Source - Reporting of Injuries Diseases and Dangerous Occurrences Regulations).

- 2.2 Of the two enforcing authorities for health and safety, Local Authorities and the Health and Safety Executive (HSE), HSE (the national regulator) is responsible for maintaining a co-ordinated approach from all enforcing authorities and issuing guidance on behalf of the Government. HSE does this by issuing guidance under section 18 of the Health and Safety at Work Act (HSWA).

- 2.3 In May 2013, HSE launched the new National Health and Safety Enforcement Code. The LA National Code sets out the risk based approach to targeting health and safety interventions to be followed by local authority regulators.

The Code provides a principle based framework that recognises the respective roles of business and the regulator in the management of risk, concentrating on four objectives:

- Clarifying the roles and responsibilities of business, regulator and professional bodies
- Outlining the risk-based approach to regulation that local authorities should adopt
- Setting out the need for training and competence of local authority health and safety regulators
- Explaining the arrangements for collection/publication of local authority data and peer review to give assurance on meeting the requirements of the Code.

- 2.4** A key element of complying with the National Local Authority Enforcement Code is the preparation of an annual Service Plan. Wolverhampton City Council has been producing an annual service plan since 2001. Copies of the 2014/15 draft plan are available upon request from the Assistant Director – Regeneration. Copies have also been placed in Councillors rooms.
- 2.5** The Plan details the service provided by Wolverhampton City Council. It also identifies appropriate quality procedures and mechanisms for compliance with national strategies promoted by the HSE. It also confirms this Council's commitment to the Strategic Partnership with the Health and Safety Executive.
- 2.6** The Council's participation and support in the development of the Strategic Partnership is considered to be fundamental to the continued provision of a quality health and safety enforcement service in the City of Wolverhampton. It is also essential in the delivery of the Council's commitment to encouraging enterprise and business and empowering people and communities.

The Strategic Partnership is built on the following core values -

- HSE and Local Authorities will continue to work together to investigate work related incidents and secure justice;
 - Encouraging strong leadership and championing a common sense approach to health and safety;
 - Building competence of those charged with delivering health and safety in workplaces;
 - Promoting the benefits of worker involvement, whether the workplace is unionised or not;
 - Customising the support for small businesses to help them comply with their health and safety obligations; and
 - Taking account of the wider issues that impact on health and safety and its delivery.
- 2.7** Councillors will be aware Regulatory Services is currently involved in a restructuring exercise in line with the corporate savings programme. It is possible some of the areas of service detailed in the Statutory Service Plan will need to be significantly revised as a result of the implementation of the required savings. In the event of such a scenario arising a further report, setting out any significant changes, will be brought back to this Committee.

3.0 Financial Implications

- 3.1** Health and safety provision forms part of the Environmental Health (Commercial) Service which has a budgetary provision of approximately £1.2 million including a wide range of other non-health and safety services. The service is currently subject to restructure and any significant impact on the Statutory Service Plan will be subject of a further report.

[MF/12032014/S]

4.0 Legal Implications

- 4.1** Health and Safety enforcement is a function which must not be the responsibility of an authority's executive. Functions under any of the "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work etc Act 1974, fall to the Licensing Committee to approve.
- 4.2** Under Section 18 of the Health and Safety at Work etc Act 1974 the Authority is required to make "adequate arrangements" for the enforcement of health and safety within the City. The production of an annual Service Plan is a mandatory requirement of the guidance to this obligation.

[SH/06032014/G]

5.0 Environmental Implications

- 5.1** The report has indirect environmental implications in so far as it affects the working and commercial environment of Wolverhampton.

6.0 Equalities Implications

- 6.1** Implementation of the Health and Safety Statutory Plan has direct equality implications as it sets out how a range of statutory enforcement duties are to be delivered in the City affecting both individuals and all sections of the community.
- 6.2** In order to ensure a consistent and proportionate approach all decisions are based solely on consideration of risk, public safety, evidence and public interest. All enforcement policies reflect this approach.



Licensing Committee

26 March 2014

Report Title	Scrap Metal Dealers Act 2013	
Classification	Public	
Accountable Strategic Director	Tim Johnson Education and Enterprise	
Originating service	Licensing Services	
Accountable officer(s)	Name	Colin Parr
	Tel	01902 550105
	Email	colin.parr@wolverhampton.gov.uk

Recommendations for noting:

The Licensing Committee is asked to note:

- the key provisions of the Scrap Metal Dealers Act 2013 and outcome of the local implementation arrangements.

1.0 Purpose

- 1.1 This information update report is intended to inform the Licensing Committee of the key provisions of the Scrap Metal Dealers Act 2013 and the outcome of the local implementation arrangements.

2.0 Background

- 2.1 Between 2001 and 2012 the international price of ferrous scrap metal increased from \$77 per ton to over \$500 per ton, this increase is due to ever increasing demand for resources from developing economies. The consequences of this at a national level have been a significant increase in the theft and illegal trade of stolen metal.
- 2.2 The Association of Chief Police Officers (ACPO) have identified metal theft as the UK's fastest growing crime type and it is estimated to cost the economy £770m per year. The growth of metal theft across the country has included thieves regularly targeting infrastructure such as power lines, railway signals and manhole covers. Metal theft has also become an emotive and political issue with thefts reported from churches, schools and war memorials.
- 2.3 At a local level the Council itself has experienced spates of metal thefts including bin liners, manhole covers and gullies all being targeted. In 2009 the copper roof of Bushbury Crematorium was stolen causing extensive damage and costing thousands of pounds to replace.
- 2.4 In response to this national trend Richard Otterway MP tabled a Private Members Bill which was sponsored by the Home Office. The Bill proposed an overhaul of the regulatory framework governing the trade of scrap metal.
- 2.5 The Bill received Royal Assent on 28 February last year and became the Scrap Metal Dealers Act 2013.
- 2.6 On 25 September 2014 Licensing Committee agreed fees and charges, delegations and the compliance and enforcement arrangements for the new Act. At that meeting a further update was requested in six months.

3.0 Previous Regime

- 3.1 The Scrap Metal Dealers Act 1964 obliged every licensing authority to maintain a register of all persons carrying on a business in their area operating as a Scrap Metal Dealer. A Scrap Metal Dealer was defined as someone whose business is to buy and sell scrap metal.
- 3.2 At the time the Scrap Metal Dealers Act 1964 provisions were repealed Licensing Services had 230 Scrap Metal Dealers registered. There was no registration fee under this regime.
- 3.3 The Vehicle (Crimes) Act 2001 and the Motor Salvage Operators Regulations 2002 provided the framework for the registration of Motor Salvage Operators. People or

businesses are required to be registered as Motor Salvage Operators if they operate a business which involves the disposal of written off vehicles and the sale/re-use of salvageable parts from motor vehicles. The purpose of this registration scheme was to curtail the illegal trade in stolen vehicles.

3.4 At the time these provisions were repealed Licensing Services had 54 Motor Salvage Operators registered. The registration lasted for three years and a fee of £100 was required.

3.5 All enforcement activities under the previous Scrap Metal Dealer and Motor Salvage Operator regimes were carried out by the police.

4.0 Scrap Metal Dealers Act 2013

4.1 The Scrap Metal Dealers Act 2013 brought together the previous registration schemes for Scrap Metal Dealers and Motor Salvage Operators and replaced them with a single licensing regime.

4.2 The main provisions of the Act are as follows:-

- No person may carry on a business as a Scrap Metal Dealer unless licensed under the Act.
- There are two types of licence
 - (i) A Site Licence (authorises any site in a local authority area).
 - (ii) A Collectors Licence (authorises the licensee to carry on a business as a mobile collector in a local authority area).
- The licensing authority will be able to set fees locally for licences. However when determining fees regard will have to be had to the Home Office guidance.
- Applicants will have to satisfy the licensing authority they are a 'suitable person' to carry on a business as a Scrap Metal Dealer. The guidance will provide greater clarity as to the factors which will need to be considered in making this decision.
- A register of licences will be maintained by the Environment Agency.
- The Act makes it an offence for any Scrap Metal Dealer including collectors to buy scrap metal for cash.
- Requirement for detailed records to be kept for receipt and disposal of metal.
- Provides the police and licensing authorities with new powers to enter and inspect sites.
- Closure of unlicensed sites by the police and licensing authorities.
- Licences will be issued for three years.
- Licences can be refused, varied and revoked by the licensing authority with an appeal to the Magistrates Court.

- 4.3 Since the commencement of the new Act on 1 October 2013 Licensing Services has received 120 applications for Scrap Metal Dealers licences, these are split as follows:
- 78 collector licences
 - 42 site licences
- 4.4 Of these applications four have been refused by the Section Leader, Licensing Services, following objections from the police. In all four cases the applicants have requested a hearing with the Licensing Manager; these hearings are scheduled for 19 March 2014.
- 4.5 The applications received have generated £31,630 in income. As the licences are issued for three years the majority of this income will be transferred to the Licensing Reserve at the end of the financial year and used to support compliance activities delivered in years two and three.

5.0 Next Steps

- 5.1 The licensing authority has adopted a light touch to the implementation of the new legislation and has sought to support all businesses in meeting the new requirements. Despite this however there are still a number of previously registered dealers that have not applied for a licence under the new scheme. All registered dealers have been written to several times and advised of the new scheme and the consequences of continuing to trade without a licence.
- 5.2 There have been several multi-agency visits to sites and the licensing authority is satisfied that all commercially active scrap metal yards have applied for a licence under the new legislation.
- 5.3 Of those previously registered dealers that have not applied for a licence the majority are small scale collectors, often family businesses with several individuals all registered, but only one or two people actually active as collectors. In many cases these individuals have chosen only to licence those that are active in collecting scrap.
- 5.4 A series of further multi-agency visits has now commenced, however the focus of these visits has now moved from advising on the new requirements to ensuring compliance.

6.0 Financial Implications

- 6.1 Licensing Committee on 26 February 2014 and Cabinet (Resources) Panel on 11 March 2014 approved the fee levels set for Scrap Metal Dealers licences. The income generated from these licenses are based on cost recovery over a three year period. As the licences are issued for three years the majority of this income will be transferred to the Licensing Reserve at the end of the financial year and used to support compliance activities delivered in years two and three. [ES/18032014/I]

7.0 Equalities Implications

- 7.1 There are no direct equalities implications from this update report.

8.0 Legal Implications

8.1 There are no direct legal implications from this update report [SH/14032014/O].

9.0 Environmental Implications

9.1 There are no direct environmental implications from this update report.

10.0 Schedule of Background Papers

Scrap Metal Dealers Act 2013, Licensing Committee, 25 September 2013



Home Office

Consultation: The relaxation of licensing hours during the FIFA World Cup, 2014

13-26 March 2014

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1. Introduction

Proposal

1. The Government is consulting on whether to relax licensing hours nationally to mark England's participation in the FIFA World Cup 2014 (the 'World Cup') in June and July 2014, or whether to rely on the existing system of Temporary Event Notices (TENs) which gives the local police and environmental health officers a say in decisions on whether local premises should extend their licensing hours, based on local circumstances. This consultation also asks for the impact of any relaxation and the geographical extent to which any licensing hours order for the World Cup should relate, were this to be the Government's decision.
2. The Government has decided that, were it to decide to relax licensing hours nationally following this consultation, this would relate to the sale of alcohol for consumption on the premises only and the provision of late-night refreshment in on-trade licensed premises. The Government believes that the on-trade provision of late night refreshment in licensed premises would be appropriate to accompany a relaxation of alcohol licensing hours during the World Cup, not least to support people to drink responsibly. The Government considers that any national relaxation of licensing hours should not apply to the sale of alcohol for consumption off the premises (i.e. in supermarkets and off-licences) as anyone wishing to watch the World Cup at home will be able to buy alcohol during a shop's normal hours for selling alcohol. Late night refreshment venues, by definition, are already licensed to open late at night and would not benefit from a relaxation of licensing hours. Unlicensed premises would also not benefit from a relaxation in licensing hours and would still need to use a TEN to undertake licensable activities.
3. The purpose of any national relaxation of licensing hours during the World Cup would be to enable all pubs and other on-trade premises to sell alcohol and late night refreshment to people watching England's World Cup matches live. Any relaxation would therefore not cover regulated entertainment as this relaxation would be in the context of the World Cup.
4. The consultation asks for views on how long licensing hours should be relaxed during England's matches in the World Cup. The options presented in the consultation seek to enable pubs and other on-trade premises to sell alcohol and late night refreshment throughout the duration of live England matches whilst balancing concerns about public order. Licensing hours will not be relaxed beyond 1am for any of the matches, including England's opening game which is due to kickoff at 11pm. The consultation asks whether licensing hours should be relaxed for three, three and a half or four hours after kick off (eg. so that matches which kickoff at 9pm could be extended until 12 midnight, 12.30am or 1am). This allows for a minimum of three hours of playing time (including 30 minutes for extra time and 20 minutes for penalties). The Government believes this is a reasonable length of time to allow for the duration of matches. After these licensed hours, premises would not be able to sell alcohol or late night refreshment under the licensing hours order. However, premises may be able to allow customers to remain on the premises beyond these hours and could give a TEN if they wished to open later.

5. This consultation asks about the premise of relaxing licensing hours for England playing in a World Cup and whether it is an occasion for which this power should be used, or whether this should remain a local decision through the existing TEN system.

Background

6. The licensing regime is designed to ensure a balance between the benefits of licensable activities including responsible drinking and sale of alcohol, and the potential problems which can arise from them, such as alcohol-related crime and disorder, public nuisance and risks to public safety.
7. Under section 172 of the Licensing Act 2003 (the '2003 Act'), the Secretary of State may make an order relaxing licensing hours for licensed premises in relation to a 'celebration period', to mark an occasion of 'exceptional international, national or local significance'. A 'licensing hours order' can be used to relax licensing hours in licensed premises¹ during a period not exceeding four days. An order may be applied to all licensed premises in England and Wales or only to premises in one or more specified areas. Other variables in the order are the dates, times and licensable activities to which it applies. Since the introduction of the 2003 Act, this national power has been used to mark the Royal Wedding in 2011 and the Queen's Diamond Jubilee in 2012. This would be the first time such a power could be used for a sports tournament.
8. The World Cup is an important sporting event and it is likely that many pubs and other licensed premises will wish to sell alcohol and food later than their traditional hours allow. A number of games kick off late in the evening because of the time difference with host country Brazil. England's opening game on Saturday 14 June, in particular, is due to kick off at 11pm. A national relaxation of licensing hours would potentially benefit all on-trade licensed premises which stop selling alcohol or late night refreshment before the nationally specified time. It would be a decision for individual premises whether or not they choose to take up any national relaxation. Unlike the TEN regime (see below), local agencies, including the police, would not be able to object to the national relaxation if introduced. There are an estimated 134,000 premises licensed for on-sales of alcohol in England and Wales² of which 49,000³ are pubs⁴. In terms of which on-trade premises could benefit from a relaxation, in the case of 14 June game it could be nearly 90%. Figures obtained by the Home Office in 2010 imply that only 12% of on-trade premises are licensed to sell alcohol until 1am or later on a Saturday night.
9. Under the 2003 Act, the existing TEN regime enables people with or without existing licenses, including people who run pubs and bars, to give notice that they intend to sell alcohol at times when this would not otherwise be authorised on a 'one-off', limited basis. This system is designed to balance giving people and organisations flexibility in selling alcohol and carrying on other licensed activities, with protecting local people from the problems this can cause, including crime and disorder and public nuisance. For this reason, the police and environmental health authorities can object to a TEN on the basis of the licensing objectives⁵ and potentially prevent the event to which it relates from going ahead.

1 A licensed premises is any premises authorised by a premises licence or club premises certificate to carry on licensable activities.

2 <https://www.gov.uk/government/publications/tables-for-alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2013>.

3 <http://www.beerandpub.com/statistics>.

4 The on-trade also includes, for example, restaurants, hotels and private members' clubs, such as Royal British Legion, political or working men's clubs.

5 The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; the protection of children from harm.

10. Each TEN costs £21 and authorises the activities to which it relates⁶ to be carried on for up to 168 hours (seven days). A premises user must submit a standard TEN at least 10 working days before the event begins and at least five working days for a late TEN. Premises users are subject to annual limits on the number of TENs they can use (including a maximum of 12 per calendar year and covering events up to maximum of 21 days per year). This Government has increased the flexibility in the TEN system by introducing late TENs and increasing their duration. At the same time, the Government has increased safeguards, including giving environmental health authorities a say in whether TENs take place. The Government is currently looking to extend the availability of TENs from 12 to 15 per premises per calendar year to give premises users more flexibility in how they use them. This measure is in the Cabinet Office Deregulation Bill which is currently proceeding through Parliament.

⁶ Licensable activities are the sale of alcohol, late night refreshment or licensed entertainment.

2. About this consultation

Scope of the consultation

Topic of this consultation:	This consultation seeks views on whether to relax licensing hours during England's matches in the World Cup 2014 on a national basis or whether to leave this as a local decision via the existing Temporary Event Notice system.
Scope of this consultation:	Licensing authorities, the police, environmental health authorities, licensed trade, residents.
Geographical scope:	England and Wales

Basic information

To:	We are keen to hear from everyone who would be affected by a national relaxation of licensing hours, including: members of the public, those who live close to licensed premises, those who own or work in on-trade premises, the police, licensing authorities and trade associations.
Duration:	The consultation runs for 2 weeks from 13–26 March 2014.
Enquiries:	worldcup.consultation@homeoffice.gsi.gov.uk
How to respond:	Please respond using the online consultation tool through the GOV.UK website: www.gov.uk/government/consultations/world-cup-licensing-hours If you are not able to respond via the online system please contact the Home Office on the email address above. Further information on how to respond to this consultation can be found on the GOV.UK website.
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.
After the consultation:	Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

Background

Previous engagement:	The Government has already consulted a number of key partners, including the police, local authorities and licensing officers prior to publishing this consultation.
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Details of the proposal

11. The Government is consulting on whether to relax licensing hours nationally to mark England's participation in the World Cup in June and July 2014, or whether to rely on the existing system of TENs. In the event of a national relaxation of licensing being decided on, the Government is consulting on the duration of the relaxation and the geographical extent to which the relaxation would apply.
12. In coming to its final decision on whether to relax licensing hours nationally or to use the TEN regime, the Government will balance reducing burdens on businesses wishing to mark England's participation in this World Cup (where some matches will be screened outside traditional licensing hours) with protecting the public from potential crime and disorder and public nuisance late at night.
13. A relaxation of hours would benefit all licensed on-trade premises, particularly those that wish to televise live World Cup matches and would normally close earlier. The Government estimates that almost 90% of on-trade premises could benefit from a national relaxation until 1am on Sunday 15 June⁷. The Government does not know how many premises would have used a TEN in the absence of a national relaxation, but clearly there will be savings in not having to apply for a TEN for those that were intending to trade later and additional revenue from the extended time they could sell alcohol and late night refreshment. A national relaxation would also relieve local authorities and the police from the burden of considering potentially thousands of TENs in the run up to the World Cup.
14. There are however potential risks to relaxing licensing hours, such as the impact on enforcement agencies. Around 61% of violent crime occurs in the evening or at night and 15% of all violent incidents take place in or around a pub or club⁸. In almost half (49%) of all violent crimes, the offender is perceived to be under the influence of alcohol and 20% of adults over 16 perceive drunkenness or rowdy behaviour as a problem in their local area. During the 2012 UEFA European Championship, 152 football-related arrests were made in England and Wales following the opening 28 matches⁹. Around 60% of incidents occurred on England's four match days. The TEN regime (conversely to a licensing hours order) provides for local discretion, with the police or environmental health authorities able to object to (or in the case of a late TEN, prevent) a TEN on the basis of local circumstances because of a negative effect on any of the four licensing objectives¹⁰.

7 See paragraph 8.

8 Statistics are from the period 2012/13, taken from the Crime Survey for England and Wales, Office for National Statistics.

9 As reported by police forces in England and Wales to the Home Office during Euro 2012.

10 See paragraph 9.

Questions

15. This consultation seeks your views on whether the Temporary Event Notice (TEN) system should be used to determine licensing hours **locally** during the FIFA World Cup or whether there should be a **national** relaxation of licensing hours for all England matches during the World Cup. This would apply to all England matches with a scheduled UK kick off time of 8pm or later. It also asks for your opinion on the impact of any relaxation, the duration and geographical extent which any national relaxation of licensing hours for England's matches in the World Cup should apply to, were this to be the Government's decision.
16. Under the Licensing Act 2003, people and premises can give notice that they intend to extend their hours on a limited basis using the TEN system. This system gives the police and environmental health authorities an opportunity to object to a TEN on the basis of the licensing objectives¹¹. This would not be possible under a national relaxation.

Question 1: Which of the following statements best reflects your view on the relaxation of licensing hours for specific periods during the World Cup in 2014?

- I think that there should be a national relaxation of licensing hours for all England matches during the World Cup;
- I think that licensing hours during the World Cup should be a local decision using the existing TEN system;
- I do not know whether licensing hours should be relaxed nationally or not.

Question 2: Do you agree or disagree that a national relaxation of licensing hours would contravene one or more of the licensing objectives ((1) crime prevention / (2) public safety / (3) public nuisance / (4) prevention of harm to children)? Please tick the relevant boxes from the options below:

Licensing Objective	Agree	Neither agree nor disagree	Disagree	Don't know
1) Prevention of crime and disorder				
2) Public safety				
3) Prevention of public nuisance				
4) Protection of children from harm				

17. If you have stated under Question 1 that you do not know or do not think that licensing hours should be relaxed nationally during the World Cup (options b or c), we are still interested in your view on Questions 3 and 4, which consider the duration and geographical extent to which any national relaxation should apply, were this to be the Government's decision following this consultation. Please answer these questions on this basis.

¹¹ The licensing objectives are: the prevention of crime and disorder, public safety; the prevention of public nuisance; the protection of children from harm.

Duration

The following question asks how long you think licensing hours should be relaxed for after the scheduled kick off time. Three hours would cover the normal playing time, extra time and penalties.

Please note that any national relaxation of licensing hours will not go past 1am. After these licensed hours, premises would not be able to sell alcohol or late night refreshment under the licensing hours order. However, premises may be able to allow customers to remain on the premises beyond these hours and could give a TEN if they wished to open later.

Question 3: If licensing hours were to be relaxed nationally during England's World Cup matches, do you think that this should be for: three, three and a half or four hours after the scheduled kick off time:

- a) Three hours, so that matches which are due to kick off at 8pm would see a relaxation until 11pm and matches due to kick off at 9pm would see a relaxation until 12 midnight;
- b) Three and a half, so that matches which are due to kick off at 8pm would see a relaxation until 11.30pm and matches which are due to kick off at 9pm would see a relaxation until 12.30am;
- c) Four hours, so that matches which are due to kick off at 8pm would see a relaxation until 12 midnight and matches which are due to kick off at 9pm see a relaxation until 1am;
- d) Do not know.

Geographical Extent

Question 4: The Licensing Act 2003 applies to both England and Wales. However, a national relaxation of licensing hours could apply to the entire region or to specified areas within it. With this in mind, if licensing hours were to be relaxed nationally during England's matches in the World Cup, do you think that this should be for England and Wales or for England only?

- a) England and Wales
- b) England only
- c) Do not know

Information about you

Question 5: Please indicate in what capacity you are responding to this consultation:

- Police
- Licensing authority
- Licensed trade / trade organisation
- Environmental health
- Member of the public
- Other

Question 6: Do you currently reside, or (if you are responding in a professional capacity) work in:

- a) England
- b) Wales
- c) Other

Responses: Confidentiality and Disclaimer

1. The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be 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).
2. If you want other information that you provide 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, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information 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. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Co-ordinator

3. If you have a complaint or comment about the Home Office's approach to this consultation, you should contact the Home Office Consultation Co-ordinator.

The Co-ordinator can be emailed at: HOC consultations@homeoffice.gsi.gov.uk, or alternatively you can write at:

Consultation Co-ordinator
Home Office
Better Regulation Unit
3rd Floor, Peel Building
2 Marsham Street
London
SW1P 4DF

