



Licensing Committee

21 January 2015

Time 10.00 am **Public Meeting?** YES **Type of meeting** Regulatory
Venue Committee Room 1 - Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

Membership

Chair Cllr Bishan Dass (Lab)
Vice-chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Greg Brackenridge
Cllr Ian Claymore
Cllr Craig Collingswood
Cllr Susan Constable
Cllr Harman Banger
Cllr Milkinderpal Jaspal
Cllr Rita Potter

Conservative

Cllr Mark Evans
Cllr Patricia Patten
Cllr Paul Singh

Liberal Democrat

Quorum for this meeting is three Councillors.

Information for the Public

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

Contact a Banbury, Democratic Support Officer
Tel/Email Email: linda.banbury@wolverhampton.gov.uk Tel: 01902 555040
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Website <http://wolverhampton.moderngov.co.uk>
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Tel 01902 555043

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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 of previous meeting** (Pages 3 - 12)
(a) Meeting, 12 November 2014.

(b) Sub-Committee – meetings, 3 and 11 December 2014.
- 4 **Matters arising**
- 5 **Schedule of outstanding minutes**

DECISION ITEMS

- 6 **Review of Fees and Charges for Street Trading Consents for 2015/16** (Pages 13 - 18)
To approve fees and charges with effect from 1 April 2015
- 7 **Fees and Charges for Hackney Carriage and Private Hire Licensing Functions for 2015/16** (Pages 19 - 24)
To approve fees and charges with effect from 1 April 2015.
- 8 **Review of Fees and Charges for General Licensing and Miscellaneous Matters for 2015/16** (Pages 25 - 30)
To approve fees and charges for 2015/16 and to note those set by the Secretary of State.
- 9 **Regeneration Compliance and Regulatory Policy Review** (Pages 31 - 56)
To approve the revised policy as it applies to non executive matters falling under the remit of the Committee.



Licensing Committee

Minutes - 12 November 2014

Attendance

Members of the Licensing Committee

Cllr Bishan Dass (Chair)
Cllr Alan Bolshaw (Vice-Chair)
Cllr Greg Brackenridge
Cllr Ian Claymore
Cllr Craig Collingswood
Cllr Harman Banger
Cllr Mark Evans
Cllr Milkinderpal Jaspal
Cllr Patricia Patten
Cllr Paul Singh

Employees

Linda Banbury	Democratic Support Officer
Sarah Hardwick	Solicitor
Rob Edge	Section Leader - Licensing
William Humphries	Section Leader
Colin Parr	Licensing Manager

Part 1 – items open to the press and public

Item No. *Title*

- 1 **Apologies for absence**
An apology for absence was submitted on behalf of Councillor Rita Potter.

- 2 **Declarations of interest**
There were no declarations of interest.

- 3 **Minutes of previous meeting**
Resolved:
 - (a) That the minutes of the meeting of the Licensing Committee held on 10 September 2014 be approved as a correct record.

 - (b) That the minutes of the meetings of the Sub-Committee held on 3, 10, 18 September and 22 October 2014 be approved as a correct record and adopted.

- 4 **Matters arising**
Responding to a Councillor's question, the Licensing Manager advised that a private hire vehicle driver had appealed the Licensing Sub Committee's four month suspension of his licence to the Magistrates' Court. The appeal had been dismissed

due to the appellant's non-attendance and a further appeal had been made to the Crown Court.

The Chair reminded the Committee of the planned night-time economy visit on 6 December 2014 and urged as many members as possible to participate in the event.

5 **Schedule of outstanding minutes**

Resolved:

That the report be received.

6 **The Licensing Authority and Safeguarding Children**

The Licensing Manager presented a report, which sought endorsement to the proposal for formalisation and expansion of work to include other regulatory functions through the establishment of the Regulatory Services and Safeguarding Forum. It was noted that the Forum was fully supported by the Director for Public Health and that, if the model proved successful, it could be rolled out across the Council. It was further noted that there was no such formal Forum established elsewhere in the West Midlands. The Committee were advised that 'e' learning training in regard to safeguarding was to be provided for staff within Regulatory Services.

The Committee welcome the proposal and it was suggested that representation also be sought from the West Midlands Police and School Liaison.

Councillor Collingswood drew attention to an online course and face to face training which was available for Councillors.

Resolved:

(a) That the regular engagement that has taken place between employees from Licensing Services and Safeguarding be noted.

(b) That the proposals for formalisation and expansion of this work to include other regulatory functions, through the establishment of the Regulatory Services and Safeguarding Forum, be endorsed.

(c) That a further report be presented in twelve months regarding the outcomes of the Forum.

7 **Licensing Act 2003 - Review of Statement of Licensing Policy**

The Licensing Manager presented a report, which sought approval of the draft Statement of Licensing Policy and endorsement of the consultation arrangements. Sergeant A S Reeves of the West Midlands Police attended the meeting to provide information to the Committee on this item. A Powerpoint presentation was provided, which outlined the summary of major policy revisions, revised City Centre Cumulative Impact Zone (CIZ) and new proposed CIZs in Bilston Town Centre, Wednesfield Town Centre, Dudley Road and the Avion Centre. Sergeant Reeves expanded on the crime figures provided in respect of CIZs.

The Licensing Manager stressed that colleagues were mindful, in drawing up the proposals, of not wishing to deter growth and economic activity in all of the CIZs.

Responding to Councillors' comments and observations, the Licensing Manager:

- undertook to attend a meeting of the Wednesfield Traders' Association as part of the consultation process;
- raise the issue of the boundary for the Wednesfield Town Centre CIZ at the relevant PACT meeting, and
- investigate the issue raised regarding alcohol related anti-social behaviour on the Tettenhall and Compton Roads (near Chapel Ash).

It was noted that the consultation period would last for twelve weeks and that the draft policy would be considered by the Licensing Committee on 18 March 2015 for submission to full Council on 3 April 2015.

Resolved:

(a) That the draft Statement of Licensing Policy, attached at Appendix 1 to the report, be approved for consultation.

(b) That the consultation arrangements detailed at Section 5 of the report be endorsed.

(c) That a further report be presented to the Licensing Committee on 18 March 2015, following completion of the consultation process.

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Licensing Sub-Committee

Minutes - 3 December 2014

Attendance

Chair Cllr Bishan Dass (Lab)

Labour

Cllr Alan Bolshaw
Cllr Ian Claymore

Conservative

Employees

Colin Parr
Linda Banbury
Sarah Hardwick

Licensing Manager
Democratic Support Officer
Solicitor

Item No. *Title*

1 **Apologies for absence**

There were no apologies for absence.

2 **Declarations of interest**

There were no declarations of interest.

3 **Licensing Act 2003 - Application for a variation of a Premises Licence in respect of The Royal London, 4-6 Wulfruna Street, Wolverhampton**

In attendance

For the premises

Clare Eames – Solicitor for the Premises Licence Holder

Donna Boden – Designated Premises Supervisor

Andy Willis – Area Manager for Stonegate Pub Company Limited

Responsible Authorities

Elaine Moreton – Licensing Authority

Sarah Stiles – Environmental Health (Commercial)

This hearing had originally been scheduled to take place on 7 November 2014 and, following a request from the Solicitor for the Premises Licence Holder, the Sub-Committee had agreed to defer consideration of the variation application until today.

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

Colin Parr, Licensing Manager, outlined the report submitted to the meeting and circulated to all parties in advance. He advised that, following consultation with the applicant and a subsequent decision to cease off-sales at midnight, Public Health indicated that they would not be attending the hearing as this was unnecessary.

Clare Eames outlined the application to vary the premises licence, on behalf of the Premises Licence Holder. She advised that pre-consultation had taken place with the responsible authorities. She added that the Designated Premises Supervisor had nineteen years' experience in the licensed trade, was chair of the Pubwatch Scheme and heavily involved in the launch of the Safe Haven initiative. The premises also operated 'Challenge 25' and were due to sign up to the use of lapel cameras. The Sub-Committee were advised that the premises were owned by Stonegate Pub Company Limited and that Heantun Housing leased the first floor of the premises to house vulnerable persons. The premises had had a number of Temporary Event Notices between March and November 2014 and there had been no problems arising from these functions. She added that, currently, some of the clientele would leave Royal London to visit other establishments within the Cumulative Impact Zone which opened later; it was not the intention to attract new customers but to encourage the current customers to stay and then disperse from the city centre. She indicated that the Company had already negotiated longer opening hours within fourteen other locations.

Responding to questions, the Designated Premises Supervisor advised that the off sales facility was only used up to 1800 hours in respect of the smoking area and only plastic glasses were used. A sweep of the area to clear any litter in the vicinity of the premises was undertaken every thirty minutes and a radio link was used to alert any disturbance covered by the CCTV. She added that she had a good working relationship with Heantun Housing, who were currently in the process of providing a twenty four hour concierge facility. She advised that the patrons to the premises were of a mixed range in terms of age.

Elaine Moreton had made formal representations on behalf of the Licensing Authority and drew attention to minor wording amendments in respect of proposed conditions on the varied application which had been agreed with the applicant.

Sarah Stiles had agreed an additional condition with the applicant and should this be attached to the licence was happy for the application to vary to be granted.

The Solicitor for the Premises Licence Holder was afforded the opportunity to make a closing statement.

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 at this point as it involved the likely disclosure of exempt information falling within paragraph 3 of schedule 12A to the Act relating to the business affairs of a particular person.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the application for a variation to the premises licence.

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision as follows:

7 Announcement of decision

The Sub-Committee have taken note of all the written concerns raised in respect of Royal London, 4 - 6 Wulfruna Street, Wolverhampton. They have listened to the arguments of those who have spoken at this hearing.

The Cumulative Impact Policy applies to these premises. The Sub-Committee are satisfied that sufficient evidence has been provided by the applicant to illustrate that the premises will not add to the cumulative impact already experienced and that the presumption of non-grant has been rebutted.

The application for variation to the premises licence is therefore granted as applied for, subject to the following amendments to the operating schedule as agreed between the applicant and the Licensing Authority (page 71 for the agenda bundle) to read:

Prevention of Crime and Disorder

6. An incident log (which may be electronic) shall be kept and made available on request to an officer of the Licensing Authority or Police, which will record the following:

- a) any incidents of disorder
- b) any seizures of drugs or offensive weapons
- c) any ejections of patrons

Protection of Children from Harm

2. A log (which may be electronic) shall be kept detailing all refused sales of alcohol. The log shall include the date and time of the refusal and the name of the member of staff who refused the sale. A copy of the log or electronic report shall be made available to an officer of the Licensing Authority or Police upon reasonable request.

The granting of the variation to the premises licence is also subject to the following conditions:

1. No off sales at the premises after midnight on any day.
(This was agreed between the applicant and Public Health)
2. Notices will be displayed at the exit to the premises requesting customers to leave quietly.
(This was agreed between the applicant and Environmental Health)

It is considered by the Sub-Committee that the above conditions should be attached in support of the Prevention of Public Nuisance and Public Safety licensing objectives.

Finally, such conditions as are specified on/or are 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 Sub-Committee (Private Hire/Hackney Carriage)

Minutes - 11 December 2014

Attendance

Members of the Licensing Sub-Committee (Private Hire/Hackney Carriage)

Cllr Alan Bolshaw (Chair)
Cllr Patricia Patten
Cllr Rita Potter

Employees

Linda Banbury	Democratic Support Officer
Elaine Moreton	Section Leader - Licensing
Veronica Simpson	Licensing Officer

Part 1 – items open to the press and public

Item No. *Title*

1 **Apologies for Absence**
There were no apologies for absence.

2 **Declarations of Interest**
There were no declarations of interest.

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 information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

4 **Application for a Private Hire Vehicle Driver's Licence**
The applicant, ASG, was present at the meeting.

The Chair made introductions and outlined the procedure to be followed during the meeting. The Section Leader (Licensing) outlined the report which had been circulated to all parties in advance.

The Solicitor advised that section 5.1.3 (a) of the guidelines relating to the relevance of convictions and breaches of licence conditions provided that a licence would not normally be granted to this applicant until 15 July 2016. However, whilst employees and councillors have regard to the guidelines, each case would be considered on its

individual merits and where reasonable the employees or Sub-Committee may depart from the guidelines (paragraph 1.3).

The applicant outlined the background to the motoring conviction, detailed at appendix A to the report and answered questions raised by the Sub-Committee and employees as appropriate.

At this juncture the applicant, Section Leader (Licensing) and Licensing Officer withdrew from the meeting to enable the Sub-Committee to deliberate upon the application.

The parties returned to the meeting and were advised of the following decision:

Resolved:

That a Private Hire Vehicle Driver's Licence be granted to ASG, subject to a satisfactory medical report and passing the driving ability and knowledge tests.

The applicant has a right of appeal to the Magistrates' Court within twenty one days of written notice of the decision.



Licensing Committee

21 January 2015

Report Title

Schedule of Outstanding Minutes

Originating service

Delivery/Democratic Support

Accountable employee

Linda Banbury

Democratic Support Officer

Tel

01902 55(5040)

Email

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.	City Centre Street Trading	18.06.14 8	Further report to be presented in regard to city centre street trading designation of licensed streets following completion of the consultation period	Report to future meeting
3.	Update on Wolverhampton Alcohol Strategy – 2011/15	10.09.14 6	Further report to be presented in six months	Report to March 2015 meeting
4.	Private Hire Vehicle Roof Signs	10.09.14 7	Further report to be presented at the end of the twelve week consultation period	Report to future meeting
5.	Summary of Officer Decisions	10.09.14 9	Further report to be presented at beginning of 2015/15 municipal year	Report to future meeting
6.	The Licensing Authority and Safeguarding Children	12.11.14 6	Report to be presented in 12 months on the outcomes of the Forum	Report to November 2015 meeting
7.	Licensing Act 2003 – Review of Statement of Licensing Policy	12.11.14 7	Further report to be presented following completion of the consultation process	Report to March 2015 meeting



Licensing Committee

21 January 2015

Report Title Review of Fees and Charges for Street Trading Consents for 2015/16

Accountable Strategic Director Tim Johnson
Education and Enterprise

Originating service Licensing Services

Accountable employee Colin Parr Licensing Manager
Tel 01902 550105
Email colin.parr@wolverhampton.gov.uk

Recommendations:

The Licensing Committee are recommended to:

- (i) Approve the proposed fees and charges for Annual Street Trading Consents as set out in Appendix A of this report with effect from 1 April 2015.
- (ii) Approve the proposed fees and charges for Occasional/Temporary Street Trading Consents as set out in Appendix B of this report with effect from 1 April 2015.

1.0 Purpose

- 1.1 To submit for consideration proposed street trading fees and charges to take effect from 1 April 2015 and also to advise the Licensing Committee of arrangements for the control and regulation of street trading activities undertaken in the City.

2.0 Background

- 2.1 In 1986 the Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, designating all streets in the City as “consent” streets, enabling the Council to control certain street trading activities. In general terms any trading on a “street”, with a few exceptions, requires “consent to trade”.
- 2.2 Licensing Services are responsible for the administration (including the collecting of fees) for street trading, whilst the enforcement responsibilities associated with street trading are currently undertaken by Regulatory Services Commercial.

3.0 Overview of local controls

- 3.1 The Council’s constitution delegates the Council’s functions relating to the processing, determination and management of street trading, under the Local Government (Miscellaneous Provisions) Act 1982, to the Licensing Committee.
- 3.2 A variety of different consents are issued which set controls such as location and approved times of operation. All consent locations are determined by an officer group from Regeneration, covering the disciplines of planning, highways design, highways enforcement etc.
- 3.3 Consents are agreed and defined based upon location within the City and time of operation. The following represents the location types:
- Dudley Street
 - Bilston Street/Queen Street
 - Victoria Street/Skinner Street/Cleveland Street
 - Molineux Area (Football Consents)
 - Bilston Town Centre
 - Wednesfield Town Centre
 - Evening Consents
 - Other City Areas Food
 - Other City Areas Flowers
 - B Type Consents
 - Operating on Land Accessible to the Public Without Payment (Private Land)

Notes:

- All consents apply for a 12 month period only. There are no guarantees that successful applications for 2015/16 will be successful in 2016/17.
- Evening Consents permit trade at any location within a ¼ mile radius of the Council's retail markets only between the hours of 21.00 and 05.00 hours and are typically issued for catering units.
- Other City Areas Food and Flower consents relate to the consent for traders on designated pitches in other City areas previously issued as mobile consents.
- 'B' Type Consents allow trading in any street in the City, except within a ¼ mile radius of any Council market or other prohibited area. B Type Consents are typically issued for ice cream sales or snacks by means of a mobile unit.
- Operating on Land Accessible to the Public Without Payment (Private Land) relates to consents issued for food, non-food and Molineux match days.

4.0 Review of fees and charges 2015/16

- 4.1 Paragraph 9 of Schedule 4 of the 1982 Act states "that a Council may charge such fees as they consider reasonable for the grant or renewal of a street trading consent".
- 4.2 Each year proposals for the review of fees and charges related to street trading are generated. These proposals are based upon the Council's policy of reviewing fees and charges annually at least in line with the increased cost of providing the service, whilst also having due regard to the Council's social and economic policies.
- 4.3 Having regard to the above it is recommended the fees and charges for street trading consents will remain unchanged for 2015/16.
- 4.4 Appendix A sets out the proposed fees for annual street trading consents for 2015/16 rounded to the nearest £5.00 for administrative purposes.
- 4.5 Appendix B sets out the proposed fees for occasional/temporary street trading consents for 2015/2016.

5.0 Trader Consultation

- 5.1 A Street Traders' Forum was established in 2007. The group's primary function has been to consult with traders regarding proposals for city centre improvements particularly those pertaining to Dudley Street, Queens Square and the implications that these changes may have for them and their businesses. The forum now meets on an annual basis.
- 5.2 On 10 October 2014 street traders were invited to attend a street traders forum. The agenda listed several topics to be discussed including:-
- City centre street trading
 - Fees and charges 2015/16

5.3 No representations were made by the trade regarding the proposed fees and charges for 2015/16.

6.0 Financial implications

6.1 Based upon current occupation, the proposed fees outlined in Appendix A would meet the budgetary requirements for 2015/16. [TK/09012015/B]

7.0 Environmental implications

7.1 This report does not generate any direct environmental implications. However, the presence of street traders clearly impacts on the street scene environment.

8.0 Legal implications

8.1 The legal implications are considered within the main body of the report.
[SH/02012015/F]

9. Schedule of background papers

9.1 Licensing Committee 16 January 2013 - Review of fees and charges for street trading consents for 2013/14.

Licensing Committee 26 February 2014 - Review of fees and charges for street trading consents for 2014/15.

APPENDIX A

Proposed Annual Street Trading Fees 2015/16

LOCATION / TYPE	2014/15 Existing Consent Annual Fee (£)	2015/16 Proposed Consent Annual Fee (£)
Dudley Street	3380	3380
Bilston Street/Queen Street	2940	2940
Skinner Street/Cleveland Street/Victoria Street	2940	2940
Molineux Area (Football Consents)	690	690
Bilston Town Centre	2170	2170
Wednesfield Town Centre	1990	1990
Evening Consents	1905	1905
Other City Areas Food	1300	1300
Other City Areas Flowers	440	440
B Type Consents*	460	460
Private Land Consent	95	95

Proposed Occasional/Temporary Street Trading Fees 2015/16

LOCATION / TYPE	2014/15 Existing Consent (£)	2015/16 Proposed Consent (£)
City Centre (within Ring Road)		
Individual Week Days (Monday to Friday, excluding Bank Holidays)	30.00	30.00
Mid-Week Consent (Monday to Friday inclusive, excluding Bank Holidays)	110.00	110.00
Weekends (Saturday and Sunday inclusive)	110.00	110.00
Bank Holidays and Specialist Market Days	55.00	55.00
Bilston and Wednesfield Town Centres		
Individual Week Days (Monday to Friday, excluding Bank Holidays)	15.00	15.00
Mid-Week Consent (Monday to Friday inclusive, excluding Bank Holidays)	55.00	55.00
Weekends (Saturday and Sunday inclusive)	55.00	55.00
Bank Holidays and Specialist Market Days	30.00	30.00
Other Areas		
Individual Week Days (Monday to Friday, excluding Bank Holidays)	10.00	10.00
Mid-Week Consent (Monday to Friday inclusive, excluding Bank Holidays)	35.00	35.00
Weekends (Saturday and Sunday inclusive)	35.00	35.00
Bank Holidays and Specialist Market Days	15.00	15.00
Special Outdoor Event (i.e. City Show, Vaisakhi, Steam and Vintage Rally, etc)	Up to 165.00 per event	Up to 165.00 per event



Licensing Committee

21 January 2015

Report Title	Fees and Charges for Hackney Carriage and Private Hire Licensing functions for 2015/16	
Accountable Strategic Director	Tim Johnson Education and Enterprise	
Originating service	Licensing Services	
Accountable employee	Colin Parr Tel Email	Licensing Manager 01902 550105 colin.parr@wolverhampton.gov.uk

Recommendation:

The Licensing Committee are recommended to:

- (i) Approve the proposed fees and charges for Hackney Carriage and Private Hire Vehicle Drivers as set out in Appendix A with effect from 1 April 2015.
- (ii) Approve the proposed fees and charges for Hackney Carriage and Private Hire Vehicles as set out in Appendix B with effect from 1 April 2015.

1.0 Purpose

- 1.1 To approve the proposed fees and charges for licences relating to hackney carriages, private hire vehicles, drivers and private hire vehicle operators for 2015/16.

2.0 Background

- 2.1 The Council is empowered by statute to levy fees and charges in respect of licences for hackney carriages, private hire vehicles, drivers and their operators. The fees charged must be reasonable in relation to costs incurred in the administration and enforcement of such licences. Council policy is that fees and charges should be reviewed annually and reflect the cost of providing the service.

3.0 Proposals for 2015/16

- 3.1 The proposals for 2015/16 have been developed in accordance with Council policy and the desire to minimise costs to the private hire and hackney carriage trade whilst ensuring that public safety is not compromised and the vehicle licensing function operates on a cost neutral basis.
- 3.2 It is proposed that the existing fees and charges for drivers, vehicles and operators for the current year 2014/15 remain unchanged for the coming year 2015/16. As the cost of providing the service would be met by the anticipated income for 2015/16 without any requirement to increase fees and charges.
- 3.3 On 18 June 2014 the Licensing Committee resolved to extend the initial approval fee of £150 for existing approved VOSA garages to be registered for the testing of hackney carriage and private hire vehicles until 31 March 2015 and to be included in 2015/16 fees and charges report.
- 3.4 It is proposed that the approval fee for VOSA registered garages to be registered as a facility for testing hackney carriage and private hire vehicles also remains unchanged for 2015/16.

4.0 Driver fees

- 4.1 It is proposed that the existing fees for driver licences detailed at Appendix A of this report remain the same for 2015/16.
- 4.2 The cost of new and third year Disclosure and Barring Service (DBS) checks are not covered by this report as they are determined by Disclosure and Barring Service (DBS).
- 4.3 The fee currently charged for an enhanced DBS disclose is £65 which includes administration costs. The DBS has indicated that there is no proposal to increase the fee at this time. However, if the fee is increased this will automatically be passed onto drivers.

- 4.4 On 20 November 2013 the Licensing Committee approved that applicants submitting an online DBS application be charged £46 as this reduced administration time to process and verify the application by the Licensing Officer.
- 4.5 Worcestershire County Council in partnership with Wolverhampton City Council deliver the Driver Training Scheme for new hackney carriage and private hire vehicle driver applicants. Worcestershire County Council incur all the costs associated with the training and receive all the income from drivers.
- 4.6 Worcestershire County Council have indicated that they do not intend to increase their charges for 2015/16 due to the current economic climate.

5.0 Legal implications

- 5.1 There are no direct legal implications arising from this report. [SH/02012015/W].

6.0 Financial implications

- 6.1 It is envisaged that although it is not proposed to increase the fees and charges for the coming year 2015/16, the costs of providing the service will be met providing the number of licences remain at the current level. [TK/09012015/H]

7.0 Environmental implications

- 7.1 The pricing structure for vehicles may act as an incentive for proprietors and operators to use newer vehicles which are generally, due to national vehicle emissions requirements less polluting than older vehicles.

8.0 Equalities implications

- 8.1 There are equalities implications arising from this report in that the reduced fees for persons on Job Seekers Allowance directly benefit potentially lower income applicants.

9.0 Schedule of background papers

- 9.1 Licensing Committee 16 January 2013 - Fees and charges for hackney carriage and private hire licensing functions 2013/14.

Licensing Committee 26 February 2014 - Fees and charges for hackney carriage and private hire licensing functions 2014/15.

APPENDIX A

PROPOSED FEES AND CHARGES FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES 2015/16

	LICENCE TYPE/FUNCTION	EXISTING CHARGE 2014/15 £	PROPOSED CHARGE 2015/16 £
1.	DRIVERS		
	(i) Hackney Carriage/Private Hire 1 Year New	77	77
	(ii) Hackney Carriage/Private Hire 1 Year Renewal	77	77
	(iii) Job Seekers Allowance 1 Year New	35	35
	(iv) Hackney Carriage/Private Hire 3 Year New/Renewal	194	194
	(v) New/Renewal Dual Hackney Carriage/Private Hire	105	105
	(vi) New 3 year Dual Hackney Carriage/Private Hire	240	240
	(vii) Conversion from Hackney Carriage/Private Hire to Dual Licence.	80 (plus testing fees)	80 (plus testing fees)
	(viii) Hackney Carriage/Private Hire New Applicants One Day Driver Training Course/Test	75	75
	(ix) Hackney Carriage/Private Hire New Applicants Driver Training Immediate Re-test	21	21
	(x) Hackney Carriage / Private Hire New Applicants One Day Driver Training Re-sit	75	75
	(xi) Hackney Carriage/Private Hire New Applicants Practical Driving Assessment	79	79

APPENDIX B

	LICENCE TYPE/FUNCTION	EXISTING CHARGE 2014/15 £	PROPOSED CHARGE 2015/16 £
2.	VEHICLES Hackney Carriage (i) 0 to 6 yrs old 1 Year or 1 st 6 Months 2 nd 6 Months (ii) Over 6 yrs old and under 16 yrs old 1 Year or 1 st 6 Months 2 nd 6 Months	 285 170 170 361 206 206	 285 170 170 361 206 206
	Private Hire (i) 0 to 6 yrs old 1 Year or 1 st 6 Months 2 nd 6 Months (ii) Over 6 yrs old and under 12 yrs old 1 Year or 1 st 6 Months 2 nd 6 Months	 285 170 170 361 206 206	 285 170 170 361 206 206
3.	PRIVATE HIRE OPERATORS (i) New (ii) Renewal	 1077 785	 1077 785
4.	HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE TESTING FACILITIES Council approved VOSA registered garages.	 150	 150

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Licensing Committee

21 January 2015

Report Title Review of Fees and Charges for General Licensing and Miscellaneous Matters for 2015/16

Accountable Strategic Director Tim Johnson
Education and Enterprise

Originating service Licensing Services

Accountable employee Colin Parr Licensing Manager
Tel 01902 550105
Email colin.parr@wolverhampton.gov.uk

Recommendations:

The Licensing Committee are recommended to:

- (i) Approve the proposed fees and charges for General Licensing as set out in Appendix A with effect from 1 April 2015.
- (ii) Approve the distribution of free printed material consent for new businesses to be made permanent.
- (iii) Note the fees and charges set by the Secretary of State in relation to the Licensing Act 2003 over which the Council has no local control.
- (iv) Approve the proposed fees and charges set out in Appendix B in relation to the Gambling Act 2005 with effect from 1 April 2015 over which the Council has fee setting powers.
- (v) Note other fees and charges for permits set by the Secretary of State in relation to the Gambling Act 2005 over which the Council has no local control.

1.0 Purpose

- 1.1 To submit for consideration proposed fees and charges for 2015/16 in relation to certain licences and licensed activities that are regulated by the Licensing Committee.

2.0 Background

- 2.1 The Council is empowered under various statutes to levy fees for the issue of local licences and permits.
- 2.2 This report does not include street trading fees and charges which are the subject of another report to this meeting.
- 2.3 The Council policy is to review its fees on an annual basis and introduce increases at least in line with the increased cost of providing the service, whilst also having due regard to the Council's social and economic policies. In relation to a number of licence types, the fees and charges are set by the Secretary of State.

3.0 Proposals for 2015/16

3.1 General licensing

- 3.1.1 Certain licences, permits and registrations are subject to local control for fees and charges.
- 3.1.2 It is proposed that the existing fees and charges for General Licensing for the current year 2014/15 remain unchanged for the coming year 2015/16. These are detailed at Appendix A.
- 3.1.3 On 16 January 2013 the Licensing Committee approved the introduction of a two day consent in relation to the distribution of free printed material for new businesses. This was introduced on a trial basis and it is proposed to make this permanent.

3.2 Licensing Act

- 3.2.1 Fees and charges for premises, clubs, personal licences, temporary event notices and other fees in relation to the Licensing Act 2003 are set by the Secretary of State.
- 3.2.2 Since the implementation of the Act in 2005 there has been no increase in fees set by the Secretary of State.
- 3.2.3 Councillors should note that applications made under Sections 17, 34, 71 and 84 of the Licensing Act 2003 which relate to the provision of Regulated Entertainment within Educational Institutions i.e. Schools or College or premises that are or form part of a Church Hall, Chapel Hall or similar building or Village Hall, Parish Hall or Community Hall or other similar building are exempt from payment of fees.

3.3 Gambling Act

- 3.3.1 It is proposed to continue to charge the maximum fees as set by the Secretary of State for premises licences, temporary use notices and other fees in relation to the Gambling Act 2005 as set out at Appendix B of this report. This is to reflect the cost of the service.
- 3.3.2 In relation to Gambling Act fees for permits, small society registrations etc these are set by the Secretary of State and the Licensing Authority has no discretion to amend these fee levels.

4.0 Financial implications

- 4.1 Should the Licensing Committee agree with the recommendations in this report it is anticipated that overall income from the proposed fees and charges in Appendices A and B which are subject to local control will cover the cost of providing the service assuming the number of licences remain at the current level.
[TK/09012015/B]

5.0 Environmental implications

- 5.1 There are no environmental implications arising from this report.

6.0 Legal implications

- 6.1 The legal implications are considered within the main body of the report.
[SH/02012015/J]

7.0 Schedule of background papers

- 7.1 Licensing Committee – 16 January 2013 - Review of fees and charges for general licensing and miscellaneous matters for 2013/14.

Licensing Committee – 26 February 2014 - Review of fees and charges for general licensing and miscellaneous matters for 2014/15.

GENERAL LICENSING FEES AND CHARGES SUBJECT TO LOCAL CONTROL

	LICENCE	PROPOSED CHARGE 2015/16 £
1.	Riding Establishments	210
2.	Performing Animals	145
3.	Pet Shops	160
4.	Dog Breeding Licences	160
5.	Animal Boarding Establishments	160
6.	Home Boarding (up to 4 animals)	95
7.	Dangerous and Wild Animals	
	(i) Initial	505
	(ii) Full	260
	(iii) Random Inspections	175
8.	Cosmetics etc.	
	A. Premises	
	(i) Acupuncture	
	(ii) Tattooing	
	(iii) Electrolysis	
	(iv) Ear Piercing	105
	(v) Cosmetic Piercing	
	(vi) Semi-Permanent Skin Colouring	
	B. Persons - All	
	Variation of Licence	35
9.	Poisons Act	
	(i) Initial	55
	(ii) Alteration	35
	(iii) Maintain on list	45
10.	Sex Establishments	
	(i) Initial (Shop or Cinema)	2,500
	(ii) Renewal (Shop or Cinema)	2,000
	(iii) Initial Sev	3,330
	(iv) Renewal Sev	2,830
	(v) Initial Joint (Shop/Cinema/Sev)	3,750
	(vi) Renewal Joint (Shop/Cinema/Sev)	3,250
	(vii) Transfer	500
	(viii) Variation	At cost

	LICENCE	PROPOSED CHARGE 2015/16 £
11.	Scrap Metal Dealers Act 2013 (3 Years) (i) Collectors (ii) Additional Collectors Copy of Licence (iii) Site (iv) Additional Site (v) Variation of Licence	160 45 450 250 50
12.	Highways Act 1980 (i) Table and Chairs (ii) A-Boards (iii) Goods on the Highway	25 25 25
13.	Clean Neighbourhoods and Environment Act 2005 (i) Distribution of Free Printed Matter (ii) Additional Badges (iii) 1 Day Consent (Up to 2 Persons) (iv) 7 Day Consent (Up to 2 Persons) (v) New small/medium business consent (2 days)	300 45 50 100 No charge
14.	Mini-Bus Permits and Disc (5 Years) (i) Initial (ii) Renewal (iii) Replacement	25 25 25

WOLVERHAMPTON CITY COUNCIL

THE GAMBLING ACT 2005 – APPROVED FEES FROM 1 APRIL 2015 UNTIL 31 MARCH 2016

Category of Premises License	Application Fee in Respect of Conversion of Provisional Statement	Application Fee in Respect of New Premises Licences	Annual Fee YEAR 2	Fee for Application to Vary Licence	Fee for Application to Transfer a Licence	Fee for Application for Reinstatement of a Licence	Fee for Application for Provisional Statement	Fee for Notification of a change of Circumstance (Statutory Fee)	Fee for Application for Copy of Licence (Statutory Fee)	Fee for giving notification of a TUN (MAX £500)	Fee for requesting a copy of a TUN (MAX £25)
New Small Casino Premises	MAX £3,000	MAX £8,000	MAX £5,000	MAX £4,000	MAX £1,800	MAX £1,800	MAX £8,000	£50	£25	£500	£25
Converted Casino Premises	N/A	N/A	MAX £3,000	MAX £2,000	MAX £1,350	MAX £1,350	N/A	£50	£25	£500	£25
Bingo Premises	MAX £1,200	MAX £3,500	MAX £1,000	MAX £1,750	MAX £1,200	MAX £1,200	MAX £3,500	£50	£25	£500	£25
Adult Gaming Centre Premises	MAX £1,200	MAX £2,000	MAX £1,000	MAX £1,000	MAX £1,200	MAX £1,200	MAX £2,000	£50	£25	£500	£25
Betting Premises (Track)	MAX £950	MAX £2,500	MAX £1,000	MAX £1,250	MAX £950	MAX £950	MAX £2,500	£50	£25	£500	£25
Family Entertainment Centre	MAX £950	MAX £2,000	MAX £750	MAX £1,000	MAX £950	MAX £950	MAX £2,000	£50	£25	£500	£25
Betting Premises (Other)	MAX £1,200	MAX £3,000	MAX £600	MAX £1,500	MAX £1,200	MAX £1,200	MAX £3,000	£50	£25	£500	£25



Licensing Committee

21 January 2015

Report title	Regeneration Compliance and Regulatory Policy Review	
Wards affected	All	
Accountable director	Tim Johnson, Education and Enterprise	
Originating service	Regulatory Services	
Accountable employee(s)	Andy Jervis	Head of Regulatory Services
	Tel	01902 551261
	Email	andy.jervis@wolverhampton.gov.uk
Report to be/has been considered by	The Policy has already been approved by Cabinet on 22 October 2014.	

Recommendation(s) for action or decision:

The Committee is recommended to:

Approve the proposed revised Regeneration Compliance and Regulatory Policy.

1.0 Purpose

- 1.1 To seek Licensing Committee approval of the proposed revised Regeneration Compliance and Regulatory Policy as it applies to non-executive matters falling under the remit of the committee. The policy has already been approved by Cabinet as it also covers executive matters. The report that went to the Cabinet meeting 22 October 2014 is attached at appendix A, the proposed policy is attached at appendix B.

2.0 Background

- 2.1 Prior to 1 January 2015 Regeneration sat within the Council's Education and Enterprise directorate, its broad remit - included:
- Growing the economy and creating jobs
 - Maximising investment
 - Strengthening economic development
 - Regenerating the city and in particular the city centre
 - Public protection
- 2.2 Regeneration was responsible for discharging the majority of the Council's core regulatory and compliance functions. These were delivered, by Regulatory Services, Planning, Housing (Private Sector) and Transportation services. Responsibility for these services falls to both the executive and non-executive parts of the Council.
- 2.3 Regeneration sought to ensure, through a fair and proportionate approach to compliance and enforcement that the highest levels of protection were afforded to residents, businesses and those working in and visiting the city, in relation to public health, the built environment and public realm, housing, environmental protection, food safety, trading standards, historic environment and licensing.
- 2.4 Following the recent restructure Regeneration no longer exists in it's past format, however the proposed Regeneration Compliance and Regulatory Policy will covers all of the same functions where ever they may be located in the councils structure.
- 2.5 It is also important to periodically review the policy to ensure it continues to fully recognise and appropriately respond to the impact of the economic climate on Wolverhampton's commercial sector through the correct balance of assistance to the trade and proportionate application of regulatory powers to address public health and safety risks.
- 2.6 The current Regeneration Compliance and Regulatory Policy was last updated in 2011/2012, it became due for review in April 2014 following the publication of the Better Regulation Delivery Office (BRDO) Regulators' Code. The new policy would also need to reflect the outcomes of recent systems thinking reviews in Planning, Environmental Health, Trading Standards and Licensing which have shifted the emphasis of regulatory activity more towards compliance assistance.

- 2.7 The Regulators Code was given statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006, it replaces the Regulators Compliance Code. Regulators whose functions are specified by order under the Act must have regard to the code when developing policies and procedures.
- 2.8 The Regulators Code and the Regulators Compliance Code are very similar. The main difference is the emphasis within the Regulators' Code on providing a clear framework for transparent, open and accountable regulatory delivery. It sets out new expectations, including a provision for regulators to publish 'service standards' setting out what those they regulate should expect from them. The Principals of the Regulators Code are:
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
 - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
 - Regulators should base their regulatory activities on risk.
 - Regulators should share information about compliance and risk.
 - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
 - Regulators should ensure that their approach to their regulatory activities is transparent.
- 2.9 As a general approach to regulation, the Council has already adopted the principles set out in the new Regulators Code for a considerable period. The use of systems thinking across Regeneration has meant that there has been an emphasis of promoting compliance through support rather than enforcement.
- 2.10 The Regeneration Compliance and Regulatory Policy has been amended to reflect this change of emphasis.
- 3.0 Progress, options, discussion, etc.**
- 3.1 It is requested that the Licensing Committee approve the revised Regeneration Compliance and Regulatory Policy.
- 4.0 Financial implications**
- 4.1 All costs associated with the delivery of regulatory functions in accordance with the policy can be accommodated within approved Regeneration service revenue budgets.
- 4.2 Councillors should be mindful however of the reduced budgetary provision and associated staffing resource associated with the councils regulatory services. This will inevitably impact upon both the range of issues the services are capable of responding to and the time taken to initiate a response.

5.0 Legal implications

- 5.1 No legal proceedings are instigated without the requisite consultation with Legal Services. Prosecutions are authorised by the Assistant Director; Regeneration in consultation with the Chief Legal Officer or nominee who will have regard to the adopted regulatory policy in addition to the Code for Crown Prosecutors and other relevant guidance and legal issues

6.0 Equalities implications

- 6.1 The policy was subject to an equalities screening when last revised. It is considered that no significant alterations to the aims of the policy, that would change the anticipated impacts, have been made. The revised policy still aims to ensure an appropriate balance between levels of compliance and economic impact on local businesses and individuals without jeopardising public wellbeing, health and safety. For this reason, it was not necessary to revise the equalities analysis at this time.
- 6.2 The policy aims to be proportionate, transparent consistent and risk based. It aims to remove or reduce any inequalities to acceptable levels and therefore is anticipated to have a positive impact on equalities.
- 6.3 All formal enforcement decisions are made in with regard to the requirements of the Code for Crown Prosecutors which focus on the admissibility of evidence and the public interest of bringing proceedings. Any adverse impacts on equality will be identified and dealt with at this stage.
- 6.4 The policy seeks to target long term non-compliance and provide compliance assistance where required. Both demands are often associated with the more deprived areas of the city. The policy therefore addresses the higher levels of risk these issues expose consumers from these areas to.

7.0 Environmental implications

- 7.1 A significant proportion of the activities and functions undertaken by Regeneration are intended to protect and enhance Wolverhampton's natural, commercial and built environments.
- 7.2 Proportionate, appropriate and focussed regulation can have significant positive impacts on the environmental amenity of buildings, land and entire neighbourhoods.

8.0 Schedule of background papers

- 8.1 Appendix A – Regeneration Compliance and Regulatory Policy Review report that was approved at the Cabinet meeting 22 October 2014.

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Cabinet Meeting

Date 22 October 2014

Report title	Regeneration Compliance and Regulatory Policy Review	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor John Reynolds City Services	
Key decision	No	
In forward plan	No	
Wards affected	All	
Accountable director	Tim Johnson, Education and Enterprise	
Originating service	Regulatory Services	
Accountable employee(s)	Andy Jervis	Head of Regulatory Services
	Tel	01902 551261
	Email	andy.jervis@wolverhampton.gov.uk
Report to be/has been considered by	N/A	

Recommendation(s) for action or decision:

The Cabinet is recommended to:

Approve the proposed revised Regeneration Compliance and Regulatory Policy.

1.0 Purpose

To seek Cabinet approval of the proposed revised Regeneration Compliance and Regulatory Policy as it applies to matters falling under the remit of the Council's executive. The draft policy is attached at Appendix A.

2.0 Background

2.1 Regeneration sits within the Council's Education and Enterprise directorate and within its broad remit - which includes:

- Growing the economy and creating jobs
- Maximising investment
- Strengthening economic development
- Regenerating the city and in particular the city centre
- Public protection

2.2 The service is responsible for discharging the majority of the Council's core regulatory and compliance functions. These are delivered, in varying degrees, by the Regulatory Services (Environmental Health, Trading Standards and Licensing), Planning (Development Control and Building Control), Housing (Private Sector) and Transportation (Highway Safety & Traffic Management) services. Responsibility for these services falls to both the executive and non-executive parts of the Council.

2.3 Regeneration seeks to ensure, through a fair and proportionate approach to compliance and enforcement that the highest levels of protection are afforded to the residents and visitors to the city in relation to public health, the built environment and public realm, housing, environmental protection, food safety, trading standards, historic environment and licensing.

2.4 Proportionate, risk based, consistent and supportive regulation, which is aimed at assisting good business with its compliance obligations, plays a key role in delivering, facilitating and complementing these broad aims whilst adequately protecting public and community safety, health and wellbeing. The targeting of resource to the small proportion of intractably non-compliant commercial operations within the city provides both protection to the public through the identification and elimination of risk and also assistance to the majority of good businesses who want to implement and operate at high levels of compliance.

2.5 The current Regeneration Compliance and Regulatory Policy which was last revised and updated in 2011/2012 became due for review in April 2014 following the publication of the Better Regulation Delivery Office (BRDO) Regulators' Code and the recent restructures following revisions to the Council's budgets. The new policy would also need to reflect the outcomes of recent systems thinking reviews in Planning, Environmental

Health, Trading Standards and Licensing which have shifted the emphasis of regulatory activity more towards compliance assistance.

- 2.6 It is also important to periodically review the policy to ensure it continues to fully recognise and appropriately respond to the impact of the economic climate on Wolverhampton's commercial sector through the correct balance of assistance to the trade and proportionate application of regulatory powers to address public health and safety risks.
- 2.7 The latest version of the Regulators' Code came into force on the in April 2014 and Regulatory Services has had full regard to it in developing and implementing its policies and guidance.
- 2.8 As responsibility for these services falls to both the executive and non-executive parts of the Council, approval for the revised policy will also be sought from Licensing Committee.

3.0 **The Regulators' Code**

- 3.1 The Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities.
- 3.2 Regulators must equally have regard to the Code when setting standards or giving guidance which will inform the activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.
- 3.3 The Regulators' Code contains six basic principles in contrast to the 2008 Regulators Compliance Code which contained seven, there is however little material difference between the plans or the principles.
- 3.4 The six principals of the Regulators' Code are set out below, with the seven principals of the Compliance Code below that.
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
 - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
 - Regulators should base their regulatory activities on risk
 - Regulators should share information about compliance and risk
 - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
 - Regulators should ensure that their approach to their regulatory activities is transparent

The seven principals of the Compliance Code were;

- Economic Progress
- Risk Assessment
- Advice and Guidance
- Inspections and Other Visits
- Information Requirements
- Compliance and Enforcement Actions
- Accountability

3.5 The code contains additional narrative that explains the detail behind these principles and the expectations of the BRDO in relation to compliance by relevant regulators

3.6 The revised draft Regeneration Compliance and Regulatory Policy has been reviewed and revised to reflect the new Regulators Code and is attached at Appendix A for consideration

4.0 **Revised Regeneration Compliance and Regulatory Policy**

4.1 As a general approach to regulation, the Council has adopted the principles set out in the new Regulators Code for a considerable period. In fact, it could be said the new code actually embodies the approach taken by this authority over the last five plus years.

4.2 Additional detail on the Council's approach is contained in the revised Regeneration, Compliance and Regulatory Policy. However, the key points for each of the six new principles are set out below giving examples from the Food Hygiene service to highlight the necessary requirements.

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
 - employees now take very practical, hands on approach to encourage compliance. This routinely involves showing business operators and food handlers exactly how to undertake specific tasks. The process of working with the business in this way now ensures a much higher level of compliance than simply telling businesses what to do.
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
 - By reducing unnecessary paperwork and back office systems a much greater emphasis is now placed on increasing the amount of time spent with the businesses so any solutions we jointly put in place are tailored to the businesses needs and operating methods. This enhanced engagement provides for a better exchange of views and ideas and therefore a greater degree of compliance and improved working relationships.

- Regulators should base their regulatory activities on risk
 - The whole of the food hygiene inspection and intervention regime is based on an assessment of the risks posed by individual businesses. Clearly, this facilitates a direction of resources to those businesses most in need of intervention and support.
- Regulators should share information about compliance and risk.
 - All of the changes put in place as a result of the food hygiene systems thinking intervention have been shared, not only with the other Black Country local authorities but with many others interested in pursuing a similar approach. Additionally, the service has worked, and continues to work with the Food Standards Agency to ensure they, as a government body, understand and support the changes we are making to the service and the way it interacts with local businesses.
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
 - When employees are required to document changes in the way a business operates so it can comply with the law this is written in conjunction with the owner of the business in words they understand. Technical jargon is avoided and solutions that suit the business are agreed to facilitate legal compliance
- Regulators should ensure that their approach to their regulatory activities is transparent
 - A fundamental principle of the new approach is an open and clear dialogue with local businesses. In an independent survey commissioned across the Black Country as part of the Regulation for Growth initiative in the catering sector the levels of satisfaction with regulation in Wolverhampton was markedly higher than the other local authorities. This is considered a direct result of the improved relationship we have with our local business community.

5.0 Financial Implications

- 5.1 All costs associated with the delivery of regulatory functions in accordance with the policy can be accommodated within approved Regeneration service revenue budgets.
- 5.2 Councillors should be mindful however of the reduced budgetary provision and associated staffing resource associated with the councils regulatory services. This will

inevitably impact upon both the range of issues the services are capable of responding to and the time taken to initiate a response. [TK/29092014/H

6.0 **Legal Implications**

6.1 No legal proceedings are instigated without the requisite consultation with Legal Services. Prosecutions are authorised by the Assistant Director; Regeneration in consultation with the Chief Legal Officer or nominee who will have regard to the adopted regulatory policy in addition to the Code for Crown Prosecutors and other relevant guidance and legal issues KR/24092014/N

7.0 **Equal Opportunities Implications**

7.1 The policy was subject to an equalities screening when last revised. It is considered that no significant alterations to the aims of the policy, that would change the anticipated impacts, have been made. The revised policy still aims to ensure an appropriate balance between levels of compliance and economic impact on local businesses and individuals without jeopardising public wellbeing, health and safety. For this reason, it was not necessary to revise the equalities analysis at this time.

7.2 The policy aims to be proportionate, transparent consistent and risk based. It aims to remove or reduce any inequalities to acceptable levels and therefore is anticipated to have a positive impact on equalities.

7.3 All formal enforcement decisions are made in with regard to the requirements of the Code for Crown Prosecutors which focus on the admissibility of evidence and the public interest of bringing proceedings. Any adverse impacts on equality will be identified and dealt with at this stage.

7.4 The policy seeks to target long term non-compliance and provide compliance assistance where required. Both demands are often associated with the more deprived areas of the city. The policy therefore addresses the higher levels of risk these issues expose consumers from these areas to.

8.0 **Environmental Implications**

8.1 A significant proportion of the activities and functions undertaken by Regeneration are intended to protect and enhance Wolverhampton's natural, commercial and built environments.

8.2 Proportionate, appropriate and focussed regulation can have significant positive impacts on the environmental amenity of buildings, land and entire neighbourhoods.

9.0 **Corporate landlord implications**

9.1 The report has no corporate landlord implications.

10.0 **Schedule of background papers**

10.1 None.

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**EDUCATION &
ENTERPRISE:**

Wolverhampton
City Council



REGENERATION COMPLIANCE AND REGULATORY POLICY

Approved By:

Signed

.....

Cabinet Member for
City Services

Date

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Signed

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Cabinet Member for
Economic Regeneration
and Prosperity

Date

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Signed

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Chair of Licensing
Committee

Date

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Signed

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Assistant Director
Regeneration

Date

.....

REGENERATION COMPLIANCE AND REGULATORY POLICY

1.0 INTRODUCTION

1.1 The Regeneration service group, which is part of the Education and Enterprise Directorate, has responsibility for protecting and enhancing many aspects of Wolverhampton's natural, commercial and built environments. Effective regulation, through a balance of support and enforcement has a key contribution to local communities by protecting the public and supporting businesses. Regeneration's regulatory focus, through its various compliance and consenting activities and functions, is based around four central principles:-

- Resources directed towards rogue / higher risk businesses
- Actions focussed on addressing risk and public safety / health issues
- Assisting business compliance through a joint approach towards identifying solutions
- Except in cases relating to the deliberately dishonest, legal action will be pursued as a last resort with a presumption against formal proceedings following requests for help and assistance.
- Actions focussed on improving the environment and experience for residents, shoppers, visitors and businesses.

1.2 Regeneration delivers its regulatory responsibilities through three key service areas:

- Regulatory Services
 - Environmental Health
 - Trading Standards
 - Licensing
- Planning
 - Development Control
 - Building Control
- Housing
 - Private sector standards and management
 - Empty Homes
 - Area Renewal
- Transportation
 - Highway safety
 - Traffic Management

1.3 Regeneration seeks to ensure, through a fair and proportionate approach to compliance and enforcement, appropriate, focussed and timely support to business and effective partnership working, that the

highest levels of protection are afforded to the residents and visitors to the City of Wolverhampton in relation to public health, the built environment and public realm, housing, environmental protection, food safety, trading standards, historic environment and licensing.

- 1.4 This Policy has been developed in conjunction with key stakeholders, including local business and enforcement partners. The Policy was originally developed in 1999 and has been reviewed and updated to take account of the Human Rights Act 1998, Regulation of Investigatory Powers Act 2000, the Council's duty to work in partnership to address crime and disorder and the 'mainstreaming of equalities' into service delivery. The Policy endorses the principles of fair and proportionate compliance and enforcement to guide all of Regeneration's regulatory activities and was last, fully revised in 2012. This revision takes into account changes brought about by the 2014 restructure and the publication, in 2014, of the new Regulators' Code

2.0 **PRINCIPLES OF COMPLIANCE AND ENFORCEMENT**

- 2.1 The Policy endorses the principles of good regulatory practice, including high emphasis on the provision of advice and guidance, which will be used to ensure, fair, proportionate and consistent compliance and enforcement activity across all of Regeneration's regulatory functions. The Legislative and Regulatory Reform Act 2006 details the principles of good enforcement:

- Targeted:- intelligence led and risk based.
- Proportionate:- use of powers and sanctions appropriate to address the issue
- Consistent:- use of similar measures in similar circumstances
- Transparent:- clear and understandable to the recipient
- Accountable:- in terms of officer and service ability to explain chosen actions

- 2.2 Although the above Act does not formally apply to all Regeneration's activities (Development/Building Control for example) the principles of good regulatory practice are still applicable to those service areas in the execution of their compliance and enforcement approach.

3.0 **REGULATORS' CODE**

- 3.1 The Regulators' Code has been a central part of the current Governments' better regulation agendas for some time now. Its aim is to embed a risk based, proportionate and targeted approach to regulatory inspection and enforcement.

- 3.2 The Code came into force on 6th April 2014 and Regeneration has had full regard to it in developing and implementing its policies and guidance. The Code does not legally apply to some aspects of

Regeneration regulatory activity although the provisions are still relevant.

- 3.3 A copy of the code is attached as an appendix to this document, however Regeneration's interpretation of the provisions contained within the Code, are briefly summarised below:

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

1.2 When designing and reviewing policies, operational procedures economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.

1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.

1.4 Regulators should ensure that their officers understand the statutory principles of good regulation and of this Code, and how the regulator delivers its activities in accordance with them.

Since implementing a systems thinking approach to regulation, Wolverhampton Regulatory Services have gone further than most to embody this principal into the way it regulates.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing

policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.

2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.

2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.

2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.

Wolverhampton Regulatory Services has consulted widely on its regulatory activity, the last consultation was prior to the implementation of The Regulators Compliance Code, satisfaction surveys of those we regulate, have returned a very positive feedback. Regulatory Services has published service standards for all its regulatory functions since 2001.

3. Regulators should base their regulatory activities on risk

3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.

3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.

3.3 Regulators designing a risk assessment framework, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.

3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.

3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

3.6 The Government will discuss with national regulators a common approach to surveys to support benchmarking of their performance.

3.7 The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to individual businesses or other regulated entities.

Wolverhampton Regulatory Services has had a risk based approach to regulation since the implementation of the Enforcement Concordat in 1998. There will be no inspection without a reason and when engaging with dutyholders, consideration has always been given to the economic impact and public interests of the consequences of regulation.

4. Regulators should share information about compliance and risk

4.1 Regulators should collectively follow the principle of "collect once, use many times" when requesting information from those they regulate.

4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.

Where possible data is shared through common IT systems within Regulation. Data Protection Legislation can sometimes hinder this process, Regulatory Services uses all its legal ability to reduce administrative burdens and information obligations.

5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.

5.2 Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.

5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.

5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.

5.5 In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.

5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

Both the Lord Young report and the Loefstedt report recognised Local Government as an excellent resource for advice and guidance, Regulatory Services have long since delivered help and assistance to dutyholders and operated Lead and Home Authority partnerships with significant businesses and sectors within Wolverhampton and Nationally. Officers are always available to give free impartial advice without the threat of regulation.

6. Regulators should ensure that their approach to their regulatory activities is transparent

6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.

6.2 Regulators' published service standards should include clear information on: a) how they communicate with those they regulate and

how they can be contacted; b) their approach to providing information, guidance and advice;

c) their approach to checks on compliance, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect; Including inspections, audit, monitoring and sampling visits, and test purchases.

d) their enforcement policy, explaining how they respond to non-compliance;

e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges;

and f) how to comment or complain about the service provided and routes to appeal.

6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point on the regulator's website that is clearly signposted, and it should be kept up to date.

6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.

6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

3.4 In certain instances Regeneration may conclude that full compliance with a provision in the Code is outweighed by another significant factor. It will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

Wolverhampton Regulatory Services has published its Enforcement Policy Statement since 1998 and reviewed it in line with national government requirements, Service Standards for all regulatory functions have been in place since 2001.

4.0 **DEVELOPMENT CONTROL**

4.1 Development Control will have regard to the National Planning Policy Framework and Circular 10/97 "Enforcing Planning Control – legislative provisions and procedural requirements" in the development of their service specific enforcement policy.

5.0 **ENFORCEMENT OPTIONS & COMPLIANCE MEASURES**

5.1 Regeneration is committed to ensuring an adequate level of public and business protection within the City via a positive and proactive approach to compliance based on advice, education and support with formal action only being taken in appropriate circumstances, usually when all reasonable attempts to secure compliance through assistance and support have been exhausted and/or the case concerns deliberate dishonesty.

5.2 Enforcement action will generally reflect a significant severity of offence or worsening compliance history. Action must adequately protect the public interest and provide an appropriate deterrent to offending. Each case will however, be considered on its own merits in determining the course of action to be taken.

5.3 The range of compliance measures and/or enforcement actions together with a brief description of the circumstances in which they would generally be considered, is set out below.

- **Advice:** A range of general, authoritative information, advice and guidance through a variety of channels will be made available to assist compliance
- **Written Warnings:** Generally used for minor offences.
- **Enforcement Notices:** Issued in relation to significant breaches of legislative requirements or where significant risks to health exist or used in conjunction with other action as appropriate.
- **Fixed Penalty Notices:** Used where there is either a local or current need to address a particular issue through their deterrent effect.
- **Simple Cautions:** May be used as an alternative to prosecution in respect of less serious offences :-
 - where it is considered unnecessary to involve the courts
 - where the offender's approach makes repeat offending unlikely
 - where the offender's age or health make it appropriate
 - where offenders have adequately demonstrated improvement since the initial offence(s)

Simple Cautions may only be issued where the offender makes a clear and reliable admission of guilt and understands the significance of accepting a caution.

- **Legal Proceedings:** Regeneration will consider prosecution where there has been a breach of legal requirements such that individual

or public safety, health or economic or physical well being or the environment or environmental amenity is adversely affected. The Evidential and Public Interest Tests in the Code for Crown Prosecutions must be met by all prosecution cases.

However, in addition to the paragraph above other circumstances which may justify prosecution are:

- failure to comply with an Enforcement Notice
 - the offer of a Simple Caution has been declined
 - continued, premeditated or reckless non-compliance
 - failure to pay a fixed penalty
 - acts of obstruction or threats of physical harm
 - deliberate non-compliance to secure economic advantage over competitors
- **Injunctions:** Regeneration will pursue injunctive action as a means of preventing an activity or course of action likely to result in continued harm to public safety economic harm to businesses or the public or an adverse impact on environmental amenity.
 - **Licensing Reviews:** In addition to or as an alternative to the above, Regeneration may also use powers available in its capacity as a Licensing Authority and/or a 'responsible authority' in the cases of Environmental health and Trading Standards to apply for review of a licence where an offence or breach of a licence is identified. Under the provisions of the Licensing Act 2003 reviews of Premises Licences can be undertaken in appropriate circumstances. Situations that would normally result in a review application would include for example, under age sales of alcohol and persistent or significant breaches of licence conditions.
 - **Seizure:** The seizure of articles, vehicles and/or equipment will be considered where there is an immediate need to resolve a current, recurring or foreseeable event which is impacting or likely to impact on the public health or wellbeing of a person or community.
 - **Works in Default:** In certain circumstances, when work required by a duty holder to comply with a formal notice is not completed, it will be appropriate for the Council to undertake those works directly and recover the costs at a later date via a local land charge process or as otherwise prescribed in the relevant provisions. Works in default will be considered when the alternative sanction of prosecution will still not rectify the defect or adequately deal with the issue the notice was originally intended to address. Undertaking Work in Default will not preclude the Council also taking other legal actions.

5.4 To ensure that proposed legal proceedings are subject to a robust evaluation before a decision is taken to prosecute. Regeneration has established a Cases Panel to evaluate each potential case. In

accordance with the Council's constitution, the Assistant Director for Regeneration in consultation with the Chief Legal Officer (or nominee) will determine legal action based on the salient aspects of each case, in particular a rigorous public interest assessment of the proposed action, identified by the relevant Manager and a Legal Services Officer.

6.0 **COMPLAINTS AND APPEALS**

6.1 Service users who express dissatisfaction with enforcement action should be invited to:

- contact the relevant Service Lead or
- contact the relevant Head of Service
- use the Council's Complaints and Compliments Procedure.

6.2 Where legislation provides a formal appeals procedure to challenge enforcement action, written notice of the appeals procedure shall be provided at the time action is taken.

7.0 **EQUAL OPPORTUNITIES**

7.1 Regeneration is committed to delivering its operational activities in accordance with the Council's Equal Opportunities Policy and the Council's commitment to Equalities. Officers are also committed to work flexibly to meet service user's needs as far as practicable, particularly where those users are from a disadvantaged or vulnerable group.

7.2 This revised Enforcement Policy has been subject to an Equality Analysis in accordance with the Council's guidelines. Since the analysis, no significant alterations to the aims of the policy, that would change the anticipated impacts, have been made. The revised policy still aims to ensure an appropriate balance between levels of compliance and economic impact on local businesses and individuals without jeopardising public wellbeing, health and safety. All decisions made against the policy will be monitored from equalities perspectives.

8.0 **HUMAN RIGHTS ACT 1998**

8.1 The Human Rights Act 1998 allows enforcement actions to be directly challenged in the UK courts, where it is alleged that rights enshrined in the Human Rights Convention of 1951 have been infringed. The rights most commonly involved would be:

- Article 6 : Right to a fair trial
- Article 8 : Right to respect for private and family life
- Protocol 1 Article 1 : Protection of property

- 8.2. The right to a fair trial is an absolute right that may not be infringed. The rights expressed in Article 8 and Article 1 of Protocol 1 are conditional rights that may be infringed where it is necessary and proportionate to protect public and community rights. The service protects that right in through compliance with the Police and Criminal Evidence Act 1984, Regulation of Investigatory Powers Act 2000 and all other statutory provisions relating to criminal and evidential procedure and relevant guidance from time to time.

9.0 **SHARED ENFORCEMENT ROLE**

- 9.1 Regeneration will work in partnership with other enforcement agencies with a shared enforcement role under legislation such as the Environmental Protection Act 1990, Enterprise Act 2002, Licensing Act 2003, Food Safety Act 1990 and Gambling Act 2005. The service is also committed to partnership working to address community safety, crime and disorder, public health and community cohesion issues together with the Police, the LNPs, voluntary sector and other central and local government partners.

10.0 **MONITORING AND REVIEW**

- 10.1 All proposed enforcement actions shall be assessed against this policy by the investigating officers concerned in conjunction with line or the service manager where appropriate.
- 10.2 Effective implementation of the Policy will be monitored by the Regeneration Management Team.