

Licensing Committee

22 July 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 Alan Bolshaw (Lab)

Vice-chair Cllr Bishan Dass (Lab)

Labour

Cllr Greg Brackenridge
Cllr Ian Claymore
Cllr Harman Banger
Cllr Milkinderpal Jaspal
Cllr Rita Potter
Cllr Keith Inston
Cllr John Rowley
Cllr Daniel Warren

Conservative

Cllr Mark Evans
Cllr Patricia Patten

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 Linda Banbury, Democratic Support Officer
Tel/Email 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.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 - 22)
 - (a) Meeting, 3 June 2015 [for approval]
 - (b) Sub-Committee – meetings, 10 June, 1 July and 10 July 2015 [for approval and adoption]
- 4 **Matters arising**
[To consider as necessary]
- 5 **Schedule of outstanding minutes** (Pages 23 - 24)

DECISION ITEMS

- 6 **Proposed revisions to Hackney Carriage and Private Hire Vehicle, Driver and Operator Criteria** (Pages 25 - 32)
[To inform Committee of the Deregulation Act 2015 and its impact on the private hire licensing regime and to endorse the proposals to revise the existing criteria, fees and training programme]
- 7 **Health and Safety Statutory Plan 2015/16** (Pages 33 - 60)
[To approve the Plan]
- 8 **Exclusion of press and public**
To pass the following resolution:
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 7 of Schedule 12A to the Act relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 9 **Minutes of previous meeting** (Pages 61 - 66)
Sub-Committee meeting, 10 June 2015 [for approval and adoption]



Licensing Committee

Minutes - 3 June 2015

Attendance

Members of the Licensing Committee

Cllr Bishan Dass (Vice-Chair)
Cllr Alan Bolshaw (Chair)
Cllr Greg Brackenridge
Cllr Ian Claymore
Cllr Harman Banger
Cllr Mark Evans
Cllr Milkinderpal Jaspal
Cllr Patricia Patten
Cllr Rita Potter
Cllr Keith Inston
Cllr John Rowley
Cllr Daniel Warren

Employees

Linda Banbury	Democratic Support Officer
Sarah Hardwick	Solicitor
Andy Jervis	Head of Regulatory Services
Colin Parr	Licensing Manager

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 **Minutes of previous meeting**
Resolved:
 - a) That the minutes of the meeting held on 25 March 2015 be approved as a correct record.
 - b) That the minutes of the meetings of the Licensing Sub-Committee held on 25 March and 22 April (x 2) 2015 be approved as a correct record and adopted.

- 4 **Matters arising**
Pursuant to minute 4 of the minutes of the Licensing Sub-Committee (Private Hire/Hackney Carriage) held on 25 March 2015, the Licensing Manager advised that

the appeal had been dismissed by the Crown Court, with costs being awarded to the Council.

5 Schedule of outstanding minutes

Resolved:

- a) That the report be received.
- b) That an update on the Small Casino be presented to the next meeting of the Committee.

6 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 items as they involve the likely disclosure of exempt information falling within paragraphs 3 and 7 of Schedule 12A to the Act relating to the business affairs of particular persons/any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

7 Minutes of previous meeting

Resolved:

That the minutes of the meetings of the Licensing Sub-Committee held on 15 and 20 May 2015 be approved as a correct record and adopted.

8 Matters Arising

There were no matters arising.

9 Review of Decision Making 2015/16

The Licensing Manager introduced the report, which sought the endorsement and approval of a proposed decision making process and proposed delegations in relation to category 3 decision making powers to the Strategic Director for Place. The document also drew attention to proposed delegations from the Director to employees within Place.

The report also included details of hackney carriage/private hire vehicle and operator appeals to the Court, and the Committee placed on record their appreciation of the diligence and hard work of staff leading to a 100% success rate for the Council.

Resolved:

- a) That the proposals outlined in section 2 of the report relating to category 2 and 3 decisions be endorsed and approved.
- b) That authority be delegated to the Strategic Director for Place in respect of category 3 decision making powers.
- c) That the schedule including further proposed delegations from the Strategic Director to employees, attached at Appendix 1 to the report, be noted.
- d) That the proposed delegation relating to closure notices under the Anti-Social Behaviour Crime and Policing Act, which must be from the Head of the Paid Service (Managing Director), be endorsed.
- e) That the schedule of employee decisions for 2014/15 attached at Appendix 2 to the report, in relation to the Licensing Authority as a Responsible Authority, be noted.

- f) That the schedule of employee decisions for 2014/15 attached at Appendix 3 to the report, in relation to new hackney carriage and private hire applications, be noted.

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Licensing Sub-Committee

Minutes - 10 June 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Rita Potter
Cllr Keith Inston

Conservative

Employees

Linda Banbury
Rob Edge
Sarah Hardwick

Democratic Support Officer
Section Leader - Licensing
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 Premises Licence in respect of Dosa Hut Restaurant, 314 Dudley Road

In Attendance

For the Premises

Mr D Hardy – Licensed Trade Legal Services
Mr D S Juttla – applicant

Responsible Authorities

Elaine Moreton – Licensing Authority
Michelle Smith – Public Health
Stefan Polajko – Environmental Health (Commercial)

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

Rob Edge, Section Leader (Licensing) outlined the application for a new premises licence.

At this juncture Mr Hardy outlined the application which was aimed as an upmarket restaurant with corporate facilities.

Responding to questions, the applicant advised that the cuisine would be South Indian, with the family/business persons orientated restaurant seating a maximum of thirty persons with an additional takeaway facility. Mr Hardy advised that the extension to hours on New Year's Eve was standard on all applications. Elaine Moreton advised that this aspect was introduced as a de-regulation order.

At this juncture Elaine Moreton outlined the representations on behalf of the Licensing Authority and, in so doing, stated that she would support the application, subject to the following conditions:

Sales of alcohol off the premises –

- Only patrons ordering sit down table meals will be permitted to purchase alcohol for consumption off the premises.

The protection of children from harm –

- The words 'under the age of 18' to be added for clarification.
- No unaccompanied children under the age of 18 will be allowed on the premises.

Michelle Smith, on behalf of Public Health, concurred with the above suggestion. Stefan Polatajko, on behalf of Environmental Health (Commercial) had liaised with the applicant and had no issues with the application for a public nuisance point of view.

All parties were afforded the opportunity to make a closing statement.

4 Exclusion of press and public

Resolved:

That, in accordance with Section 100(A) 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 to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the application for a new 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 written concerns raised in respect of Dosa Hut Restaurant, 314 Dudley Road, Wolverhampton. They have listened to the arguments of those who have spoken at this hearing, both for and against the application.

Having considered the views of all concerned, the Sub-Committee are satisfied that the Cumulative Impact Policy applies to these premises. They are further 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.

Therefore, having considered the views of all concerned, the Sub-Committee have decided that the application for a premises licence is granted as applied for, subject to the following conditions agreed between the applicant and the Licensing Authority:

Sales of alcohol off the premises –

- Only patrons ordering sit down table meals will be permitted to purchase alcohol for consumption off the premises.

The protection of children from harm –

- The words 'under the age of 18' to be added for clarification.
- No unaccompanied children under the age of 18 will be allowed on the premises.

It is considered by the Sub-Committee that the above conditions should be attached in support of the public safety and protection of children from harm 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.

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Licensing Sub-Committee

Minutes - 1 July 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Greg Brackenridge

Conservative

Cllr Patricia Patten

Employees

Linda Banbury
Rob Edge
Sarah Hardwick

Democratic Support Officer
Section Leader - Licensing
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 Premises Licence in respect of Barn Green Convenience Store, 12 Barn Green

In attendance

For the premises

Mr M Ahmed – representing the applicant
Mr S Sokhi – Designated Premises Supervisor

Responsible Authorities

E Moreton – Licensing
PCSO C Round – West Midlands Police

Other persons

Mrs Stapleford – spokesperson for Bran Green residents
Mr and Mrs Thomas
Mrs Bucknall
Ms Bucknall – spokesperson for Fistril Gardens

Mrs Phillips
Miss Woolley
Mr Walker

The Chair introduced the parties and outlined the procedure to be followed at the hearing.

Rob Edge, Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance.

At this juncture Mr Ahmed outlined the application for a new premises licence and in doing so advised that, following mediation, had agreed conditions with the Licensing Authority and West Midlands Police and he outlined the measures to be undertaken to protect both the business and local residents. The store would be primarily a convenience store for household and food goods, and there would be no sale of single cans of high volume alcohol. It was noted that the applicant wished to work with the residents and the Designated Premises Supervisor would be happy attend any residents' meetings.

Mr Ahmed and Mr Sokhi answered questions from the Sub-Committee, Responsible Authorities and other persons as appropriate.

On a point of clarification, the Solicitor advised that the Licensing Sub-Committee could only consider matters under the Licensing Act 2003 and that parking was a highways matter.

The Responsible Authorities outlined their representations in support of the prevention of public nuisance and prevention of crime and disorder licensing objectives. PCSO Round believed that the proposed amendments to the operating schedule which had been agreed and signed by the applicant, following meetings between the premises, West Midlands Police and the Licensing Authority, would be sufficient to promote the licensing objectives.

The Responsible Authority representatives answered questions from the Sub-Committee, applicant and other persons as appropriate.

The other persons (local residents) outlined their concerns which related primarily to the sale of alcohol and opening hours. Issues were also raised regarding parking, which could not be considered under the Licensing Act 2003.

All parties were 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 for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

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

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision, which would be forwarded in the next five working days, as follows:

7 Announcement of decision

The Sub-Committee have taken note of all the written concerns raised in respect of Barn Green Convenience Store, 12 Barn Green, Wolverhampton. They have listened to the arguments of those who have spoken at this hearing, both for and against the application.

The Sub-Committee have heard from other persons that there is anti-social behaviour in the area. However, they have heard from the West Midlands Police that it is not a 'hot spot' for anti-social behaviour and, if the agreed conditions were added to the premises licence, they believe it should be granted.

The Sub-Committee have heard from the Licensing Authority that:

1. the applicant has worked with Responsible Authorities to remedy any issues, and
2. they support this application if agreed conditions are added to it.

Having considered the views of all concerned, the Sub-Committee have decided that the premises licence should be granted as applied for, subject to the following conditions:

Agreed between the applicant and the Licensing Authority (as detailed on the file note dated 28 May 2015)

Operating schedule to be modified to includes as follows:

- Supply of alcohol off the premises reduced to between 0800 and 2200 hours, Monday to Sunday inclusive.
- Designated Public Place Order, provided by the Licensing Authority shall be displayed prominently on the premises visible from outside the store, advising that police have powers to seize alcohol.
- No sales of single cans or bottles of beer, lager or cider with an ABV of 6.5% or over to be permitted.

Agreed between the applicant and the West Midlands Police (as detailed on page 28 of the bundle of documents attached to the report and dated 8 May 2015)

- CCTV system with recording equipment shall be installed and maintained at the premises.
- CCTV should cover entry and exit points of the premises and all areas where alcohol/money is served/taken and all areas to which the public have access and the immediate vicinity outside the premises.

- Images/recordings to be downloaded in a suitable format and provided to any member of a Responsible Authority upon request and without undue delay.
- Images and recordings must be of evidential quality, must indicate the correct time and date and be kept for at least 31 days.
- All staff to be trained to use the CCTV system and at least one member of staff to be on duty who is trained to download the systems images should any member of a Responsible Authority make a request.
- All staff to receive training and refresher training every six months on their responsibilities with regard to licensing legislation; this training to be documented and shown to a member of a Responsible Authority upon request.

It is considered by the Sub-Committee that the above conditions should be attached in support of the prevention of public nuisance and prevention of crime and disorder 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 Magistrate's Court within 21 days of receipt of this decision.

8 **Licensing Act 2003 - Application for a Premises Licence in respect of Star Works, Frederick Street**

In Attendance

For the premises

A Potts – Licensing Consultant
R McGillicuddy – Director
L Coppage – Freedom Security
P Atkins – Cool It Events

Responsible Authorities

PC J Yoemans – West Midlands Police
N Baugh – West Midlands Fire Service
S Stiles – Environmental Health (Commercial)
E Moreton – Licensing
M Smith – Public Health

The Chair introduced the parties and outlined the procedure to be followed at the hearing.

Rob Edge, Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance.

At this juncture Mr Potts outlined the application for a premises licence on behalf of the applicant. It was noted that consultation had taken place with the Responsible Authorities and conditions added to the operating schedule.

E Moreton spoke on behalf of all the Responsible Authorities indicating that, following meetings with the applicant and representatives, a number of conditions had been added to the licence which would meet the prevention of public nuisance, public safety and prevention of crime and disorder licensing objectives.

9 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 to the Act relating to the business affairs of particular persons.

10 Deliberations and decision

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

11 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision, which would be forwarded in the next five working days, as follows:

12 Announcement of decision

The Sub-Committee have taken note of all the written concerns raised in respect of Star Works, Frederick Street, Wolverhampton. They have listened to the arguments of those who have spoken at this hearing, both for and against the application.

Having considered the views of all concerned, the Sub-Committee have decided that the premises licence is granted as applied for, subject to the following conditions agreed between the applicant and all Responsible Authorities who made relevant representations:

1. For each event the Premises Licence Holder shall provide an event plan and appropriate risk assessments to the Safety Advisory Group (SAG) via licensing@wolverhampton.gov.uk at least two months prior to the event taking place and shall attend any SAG meetings as requested. All formal recommendations of the SAG shall be adhered to, constitute additional conditions on the premises licence and be enforced as any other such conditions would be.
2. The premises licence holder shall take all reasonable precautions and exercise all due diligence to ensure that no licensable activity is advertised by means of flyposting.
3. Reasonable steps will be undertaken to ensure that the provision and use of the external smoking area does not result either in litter or a nuisance being caused. This will be in a position shown on the amended plan produced by Andrew Upson and will have adequate ashtrays provided and be under direct supervision by SIA badged door staff and a dedicated CCTV camera.
4. The event plan and risk assessments shall be bespoke to each particular event and, due to the condition of the building, include a safety risk

assessment to ensure the safety of members of the public attending such events.

5. The provision of temporary sanitary conveniences shall be discussed and agreed at the SAG bearing in mind the requirements of BS6465 for sanitary provision and numbers of such facilities shall be agreed with Building Control in advance.
6. There shall be no sales for consumption off the premises save for persons occupying the dedicated smoking area.
7. Polycarbonate glasses shall be used in all circumstances, unless expressly agreed beforehand through the SAG. In any event, no glass will be taken outside the premises, including the smoking areas.
8. Clause number 2 of the original application shall apply to this application namely 'if the premises licence holder wishes to operate past 0400 hours the premises must inform the Licensing Department at Wolverhampton Police Station in writing a minimum of 28 days in advance. West Midlands Police have a power of veto if it is believed that any of the four licensing objectives may be breached. Notwithstanding this condition, any hours of operation shall be agreed at a SAG meeting for the particular event.
9. There shall be no adult entertainment of a sexual nature at the premises.
10. Door staff at any event shall be at a ratio agreed through the SAG.
11. The premises shall not operate until such time as a full Building Regulations application has been made and the same will apply to Listed Building Consent and a Planning Application for change of use and the alterations to the facades of the building.
12. So far as the West Midlands Fire Service is concerned, an undertaking has been made to satisfy their requirements numbers 1 to 3 and for the avoidance of doubt as is envisaged in paragraph 2 under Public Safety, the premises shall not open for trading until a professionally prepared fire risk assessment is produced to the West Midlands Fire Service at Wolverhampton.
13. For the avoidance of doubt it shall be a condition of any licence that a minimum period of two months notice, unless otherwise agreed in writing with the Licensing Authority for a shorter period of notice, shall be given to Responsible Authorities and the SAG of all events.
14. The premises shall not open for trading under this licence until hand mitts and metal detection (in the form of a knife arch or wand) is in operation on any occasion the premises are open for licensable activities, unless other arrangements are expressly agreed beforehand through the SAG.
15. A 100% search policy will operate, utilising the facilities detailed above at 13, for all events, unless other arrangements are expressly agreed beforehand through the SAG.
16. At all times the premises are open there shall be in force the Premises Licence Holder's drugs policy, suspicious vehicles policy, lost and found policy, a female search policy, a dispersals policy and any other policies reasonably requested by the SAG. All these policies are to be presented and agreed through SAG for each event.
17. The terminal hour for all licensable activities at the premises will be 0500 hours and no licensable activities shall commence before 1400 hours.
18. Last entry time for any event shall be 0200 hours, unless expressly agreed beforehand through the SAG.
19. Events with licensable activities will be limited to no more than ten occasions per year (each day licensable activities take place constitutes a separate

occasion, i.e. an event on a Saturday from 1900 hours to 0300 hours would constitute one occasion: however, if the same artist/entertainment were also offered on the following Sunday for the same or similar hours this would constitute a second occasion).

20. A CCTV system, with recording equipment shall be installed and maintained at the premises.
21. CCTV should cover entry and exit points of the premises and all areas where alcohol/money is served/taken and all areas to where public have access and the immediate vicinity outside the premises.
22. Images/recordings must be downloadable and downloaded in a suitable format for them to be provided to any member of a Responsible Authority upon request and without any undue delay.
23. Images and recordings must be of evidential quality, must indicate the correct time and date and be kept for at least 31 days.
24. All staff to be trained to use the CCTV system and at least one member of staff to be on duty who is trained to download the system images, should any member of a Responsible Authority make a request.

It is considered by the Sub-Committee that the above conditions should be attached in support of the prevention of public nuisance, public safety and prevention of crime and disorder 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 Magistrate's Court within 21 days of receipt of this decision.

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Licensing Sub-Committee

Minutes - 10 July 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Bishan Dass

Conservative

Cllr Patricia Patten

Employees

Linda Banbury
Rob Edge
Sarah Hardwick

Democratic Support Officer
Section Leader - Licensing
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 - Temporary Event Notice in respect of The Prince Albert, Railway Street, Wolverhampton

In attendance

For the premises

S Hughes – Designated Premises Supervisor

Responsible Authority – West Midlands Police

WPC L Davies

T Woodward – Legal Services

The Chair introduced the parties and outlined the procedure to be followed at the hearing.

Rob Edge, Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance. On a point of clarification, he advised that the fire risk assessment had been submitted as part of the Temporary Event Notice (TEN) and therefore included in the report presented to this meeting.

At this juncture, Ms Hughes outlined the application for a TEN, advising that there would be no change to the regular 'Paparazzi' event and that the application was made in order to utilise the rear terrace area (arena). An additional three door supervisors would be employed to monitor movement of patrons between the different areas and cover all whole perimeter of the building, additional CCTV had been installed and only polycarbonate glasses would be used. Responding to a question, she advised that the issues raised in the fire risk assessment had all been addressed.

WPC Davies outlined the objections of the West Midlands Police and, in so doing referred to matters of crime and disorder which had occurred at the premises. Responding to questions, she indicated that the Police required time to check DJ details in respect of possible gang nominal activity and were concerned regarding a recent incident when a weapon had been passed through the perimeter fencing. They had concerns regarding security in respect of the whole of the perimeter to the venue and a review of the premises licence had been requested.

On a point of clarification, the Section Leader (Licensing) advised that the statutory timeframe for submission of TENs:

- standard applications – ten days prior to event
- late applications – five days prior to event

He further advised that a TEN was outside the scope of the premises licence and that a Responsible Authority could modify the conditions on a TEN. There was no requirement to carry out a risk assessment in respect of a TEN.

WPC Davies indicated that the Police also had concerns regarding the competency of current door supervision staff.

All parties were afforded the opportunity to make a final 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 for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the application for a Temporary Event Notice.

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision to submit a counter-notice as follows, a copy of which was presented to all parties at the hearing:

7 **Announcement of decision**

**COUNTER NOTICE IN RESPECT OF TEMPORARY EVENT ON 18/19 JULY 2015
LICENSING ACT 2003**

TO : Richard Ryan Limited, Premises Licence Holder
And to : The Chief Officer of Police for the West Midlands

Premises:

Having had regard to the Objection Notice of the Chief Officer of West Midlands Police, being an email sent to Wolverhampton City Council on 7 July 2013, the Licensing Sub-Committee are satisfied that a counter-notice should be issued to you, in accordance with Section 105(3) of the Licensing Act 2003 as it is considered appropriate for the promotion of the prevention of crime and disorder and public safety licensing objectives.

AND NOTICE is given that the reasons for this decision are as follows:

1. There has been an incident at the premises and a weapon was discovered.
2. The West Midlands Police have concerns and have requested a review of the premises licence. Whilst that cannot and has not been considered today, the West Midlands Police have made reference to insufficient planning for this event, issues with the standard of security staff and potential for weapons to be passed through the perimeter fencing at the premises.

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Licensing Committee

22 July 2015

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.	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 future 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.	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
6.	Regeneration Compliance and Regulatory Policy Review	21.1.15 9	Further report to be presented including information on the proposal for a Black Country policy	Report to future meeting

Licensing Committee

22 July 2015

Report Title Proposed Revisions to Hackney Carriage & Private Hire Vehicle, Driver and Operator Criteria

Accountable Strategic Director Tim Johnson
Place

Originating service Licensing Services

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

Recommendation(s) for action or decision:

The Licensing Committee is recommended to:-

- (i) Approve and endorse for implementation the revised private hire vehicle criteria.
- (ii) Approve and endorse the revised driver training programme for private hire drivers.
- (iii) Note the introduction of three year driver and five year operator licences resulting from the Deregulation Act 2015
- (iv) Agree the proposed five year operators fees detailed at section 3.3.3 of the report.
- (v) Endorse officers to explore flexible payment options for driver, vehicle and operator licence fees.
- (vi) Agree the removal of the minimum engine size requirement for private hire vehicles.

1.0 Purpose

- 1.1 This report is intended to inform the Licensing Committee of the Deregulation Act 2015 and its impact on the private hire licensing regime.
- 1.2 Councillors are also recommended to endorse proposals to revise the existing hackney carriage and private hire driver, vehicle and operator criteria, fees and training programme.

2.0 Background

- 2.1 Hackney carriage and private hire licensing is a non-executive function and it is therefore the responsibility of Licensing Committee to determine the policy and procedures in respect of this matter.
- 2.2 On 26 March 2015 the Deregulation Bill received royal assent. The Deregulation Act 2015 introduces a number of changes relevant to the Licensing Committee, including two significant revisions to the current taxi licensing regime, these are:
 - the introduction of three year hackney carriage and private hire vehicle driver's licences and five year private hire vehicle operator licences.
 - the permitting of sub-contracting of private hire work between operators licensed in different licensing authority areas
- 2.3 The Council raised concerns with the government regarding both of the above proposals however they have been included in the Act and are scheduled to come into force on 1 October 2015.
- 2.4 At the private hire and hackney carriage trade working groups held in June, the impact of the Act was discussed and these discussions have contributed to the proposals detailed below at section 3 of this report.
- 2.5 The Deregulation Act 2015 also makes revisions to other regulatory regimes for which the Licensing Committee has oversight, these include:
 - changes to the Health and Safety at Work Act to remove certain businesses from scope of the Act (i.e. self-employed person conducting low risk activities)
 - the introduction of a statutory duty for regulators to have regard to the desirability of promoting economic growth when carrying out their functions and to consider the impact on economic growth by ensuring that any action taken is needed and proportionate
- 2.6 Due to the way Regulatory Services has, over many years, aligned operational service delivery to support businesses and the leading role the Council takes regionally in

encouraging other regulators to support businesses these changes will have little effect on the operational delivery of the Council's regulatory functions.

3.0 Proposals

3.1 Private hire livery

3.1.1 Discussions were held at both trade working groups regarding private hire and hackney carriage vehicle livery. This was in the context of the Deregulation Bill and an inevitable increase in 'out of town' vehicles working in Wolverhampton and also vehicles licensed by the council working in other licensing authority areas.

3.1.2 In the most recent consultation of Autumn 2014 the options outlined below were put to the trade and stakeholders:-

Option 1 - Remove the requirement for private hire vehicles to display a roof sign as required by private hire vehicle licence conditions.

Option 2 - Retain the current requirement that private hire vehicles should display a type approved yellow magnetic illuminated roof sign.

Option 3 - Leave the option to have a roof sign or not to the proprietor of the private hire vehicle.

Option 4 - If roof signs remain the type, size and suppliers of the sign be optional to proprietors and operators.

3.1.3 However no overall consensus has previously been agreed by the trade until the trade working group meetings in June.

3.1.4 Following the discussions at the trade working groups, the trade agreed that public safety was paramount and that roof signs did contribute to illegal plying for hire. All agreed that subject to other appropriate signage making vehicles easily identifiable the removal of roof signs would reduce illegal plying for hire and would not compromise public safety.

3.1.5 It is proposed that the existing requirements that all private hire vehicles have a type approved roof sign and Council issued door stickers are both removed and replaced with a clear external visible internal plate displayed in the vehicle's front window screen and that prominent door stickers, unique to the operator and pre agreed with the Section Leader, Licensing, are placed on each side of the vehicle on its rear doors.

3.1.6 The trade did not believe that previous concerns regarding customers not knowing there pre-booked vehicle had arrived were still current, as technology has evolved since this issue was last considered, the trade reported that all companies operating in Wolverhampton now operate some form of ring/text back service.

- 3.1.7 This proposal is consistent with Department for Transport best practice guidance which discourages licensing authorities from permitting roof signs on private hire vehicles as they encourage illegal plying for hire.
- 3.1.8 The proposal is supported by the police who have also highlighted concerns regarding roof signs encouraging illegal plying for hire. One issue however the police did highlight was the benefit of identifying the operator from a roof sign, for this reason the door stickers will include operators name and telephone number.
- 3.1.9 It is proposed that the new requirements are phased in over the summer with a view to full implementation from 1 October 2015.
- 3.1.10 All parties felt that at this stage, with the hackney carriage demand survey pending, it was not appropriate to revise our current hackney carriage vehicle livery requirements.

3.2 Driver training requirements

- 3.2.1 The existing driving training programme has been in place since 2008 and Worcester County Council has administered and delivered the training on behalf of Wolverhampton City Council.
- 3.2.2 Due primarily to current concerns nationwide regarding safeguarding of children and the role taxi drivers could potentially play in tackling suspected CSE (child sexual exploitation) it is proposed to rebalance the training programme for new drivers towards this important area of work.
- 3.2.3 It is proposed that the training for new private hire driver applicants will focus on safeguarding/CSE awareness, learning and demonstrating an understanding of compliance conditions and the ability to communicate in English to a satisfactory level.
- 3.2.4 Outdated aspects of the test such as the A to Z have already been removed from the assessment on a pilot basis and it is proposed that this is made permanent as the vast majority of vehicles are fitted with modern satellite navigation equipment. For the same reason it is also proposed that the knowledge element is refined for private hire drivers. As whilst it is important that private hire drivers have a broad understanding of the city's geography, a detailed street by street local knowledge is not necessary as all fares are pre-agreed and not metered as is the case for hackney carriages.
- 3.2.5 Again it should also be noted that under the Deregulation Act 2015 it is feasible that private hire vehicles and drivers licensed in any other UK licensing authority area could legitimately complete fares in Wolverhampton, as such it is disproportionate and unfair to our own applicants to continue to maintain our current onerous and expensive requirements.
- 3.2.6 Save for modernising the safeguarding content it is not proposed to make any other revisions to the current hackney carriage training requirements as these are currently deemed fit for purpose.

- 3.2.7 It is proposed in future that due to the ever changing needs of the city that revisions to the testing arrangements for hackney carriage and private hire vehicle drivers be delegated to the Licensing Manager, with significant revisions presented to the Licensing Committee.
- 3.2.8 Finally, it is also proposed that employees from Licensing Services explore the most economically viable new driver training package which may include changing the service provider, currently Worcestershire County Council and/or give consideration as to whether to bring the function back in house to deliver.
- 3.2.9 Because the safeguarding of children and tackling CSE are priorities for the council it is proposed that the new training programme is implemented with immediate effect.

3.3 Five year operators licence fee

- 3.3.1 As detailed above the Deregulation Act sees the introduction of three year hackney carriage and private hire vehicle drivers licences and five year private hire vehicle operator licences from 1 October 2015. Licensing Services already offers a three year driver's licence at a fee of £240 which was approved by the Licensing Committee on 21 January 2015.
- 3.3.2 It is proposed that the Licensing Committee approve a private hire vehicle operators licence fee for a five year licence. Currently private hire vehicle operator's licences are only issued for a 12 month period at a cost of £1,077 for a new licence and £785 for a renewal of a licence.
- 3.3.3 It is proposed the fees of £3,400 for a five year private hire operator new licence and £3,140 for a renewal licence are approved by the Licensing Committee. These fees are based on the administrative section of the fee (approximately 30%) not being included in years two to five of the licence, but also reflects a slight increase in compliance costs associated with the introduction of sub-contracted work (approximately 5% additional compliance work is anticipated).
- 3.3.4 This proposed fee will be subject to public consultation in accordance with Section 70 of the Licensing Government (Miscellaneous Provisions) Act 1976 and any representations will be presented back to the Licensing Committee prior to implementation on 1 October 2015.

3.4 Flexible payment options

- 3.4.1 Councillors are recommended to approve employees from Licensing Services to work with Financial Services to introduce flexible payment options for hackney carriage and private hire proprietors, drivers and private hire vehicle operators.
- 3.4.2 Due to incrementally increasing costs with insurance, petrol, diesel and overall maintenance of vehicles, coupled with increased initial costs associated with the introduction of three and five year licences, it is proposed costs could be spread over the

term of the licence or shorter period. A default position for failure to comply with payment plan would result in suspension of the licence.

3.4.3 This flexibility was introduced for other licence regimes several years ago and has been well received by those trade groups with no significant financial impact on the service. The proposal will also bring licence fees into line with other services businesses are required to pay for, but given flexibility in the payment scheme, such as business rates, utility bills and insurance premiums.

3.5 Minimum vehicle engine sizes

3.5.1 Current private hire vehicle conditions restrict vehicles with engine capacities of less than 1395 cc from joining the private hire fleet.

3.5.2 This requirement has been in place for over thirty years and was initially introduced as vehicles with engine capacities below this size at the time were felt to provide insufficient performance.

3.5.3 Engine technologies have moved on significantly since this requirement was introduced and the evolution of hybrid and fully electric engines has resulted in a range of vehicles with engine capacities well below the current minimum that do not compromise performance or the passenger experience.

3.5.4 As such it is proposed to remove the vehicle minimum engine size requirement in its entirety. This will be implemented with immediate effect.

3.5.5 This proposal will also support the Council's aspirations regarding air quality, sustainability and promoting ultra-low emission vehicles.

4.0 Consultation

4.1 All proposals detailed in this report have been discussed at both the Hackney Carriage and Private Hire Trade Working Groups and both groups unanimously agreed with the proposals.

5.0 Financial implications

5.1 There are no direct financial implications for the Council arising from the proposals detailed within the body of this report. [TT/10072015/M]

6.0 Legal implications

6.1 As stated in Section 2 above the Deregulation Act 2015 introduces two significant revisions to the current taxi licensing regime namely the introduction of three year hackney carriage and private hire vehicle driver's licences and five year private hire vehicle operator licences AND the permitting of sub-contracting of private hire work between operators licensed in different licensing authority areas. The Act is scheduled to

come into force on 1 October 2015. Discussions on the impact of the Act have contributed to the proposals set out in Section 3 of this report.

- 6.2 The Local Government (Miscellaneous Provisions) Act 1976 (the Act) allows the local authority to condition licences for hackney carriage and private hire vehicles, proprietors, drivers and private hire vehicle operators.
- 6.3 Section 48(2) of the Act provides a district Council may attach to the grant of a private hire vehicle licence such conditions as they may consider reasonably necessary.
- 6.4 Section 51 of the Act provides that the Council may attach such conditions to a driver's licence as are reasonable.
- 6.5 Section 55 of the Act provides that the Council may attach such conditions to an operator's licence as are reasonable.
- 6.6 Further as stated at paragraph 3.3.4 above the proposed fees will be subject to public consultation in accordance with Section 70 of the Licensing Government (Miscellaneous Provisions) Act 1976 including notice being published in a local newspaper giving at least 28 days for representations to be made. Any representations will be presented back to the Licensing Committee for consideration prior to implementation on 1 October 2015.
[KR/13072015/P]

7.0 Equalities implications

- 7.1 The impact of these minor revisions to existing policies have been considered and there are no adverse equalities implications.

8.0 Environmental implications

- 8.1 There are no adverse environmental implications arising from this report.

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City of
Wolverhampton
Council

REGULATORY SERVICES

**HEALTH AND SAFETY
STATUTORY PLAN**

2015/16

CITY OF
WOLVERHAMPTON
COUNCIL

City of Wolverhampton Council

Health and Safety Statutory Service Plan 2015 / 2016

Introduction

The Health and Safety Statutory Plan is one of two related statutory service delivery plans implemented by Regulatory Services. The plans formalise the statutory obligations of the different enforcement services discharged.

The Health and Safety Service Plan is a requirement of mandatory guidance issued under section 18 of The Health and Safety at Work etc. Act 1974. This plan serves as a quality assured framework for the delivery of the service.

Should you have any comments or views with respect to the plan please forward these to the Service Director for City Environment Nick Alderman.

Councillor Alan Bolshaw
Chair of the Licensing Committee

Nick Alderman
Service Director, City Environment

City of Wolverhampton Council

HEALTH AND SAFETY STATUTORY SERVICE PLAN 2015/2016

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City of Wolverhampton Council

Health and Safety Statutory Service Plan 2015/2016

1.0 Information on the service, Its Aims and Objectives.

Aims

1. To protect the health, safety and welfare of people at work in Wolverhampton and to safeguard others, principally members of the public, who may be exposed to risks from the way that work is carried out; either in Wolverhampton, or by employers whose managerial control is based in Wolverhampton.

2. In accordance with Health and Safety Executive (HSE) guidance, to reduce risks and protect people.

Objectives

- To maintain a balance of enforcement which achieves optimum use of resources.
- To maintain a fully trained and competent inspectorate.
- To carry out enforcement in a transparent and proportionate manner.
- To maintain liaison arrangements and The Strategic Partnership with HSE and other West Midlands Authorities through the West Midlands Health and Safety Liaison Group.
- To work in collaboration with other regulatory and 'health' agencies such as the Public Health England (PHE), Care Quality Commission
- To adhere to guidance / direction issued by Health and Safety Executive Local Authority Liaison Committee (HELAL), Health and Safety Executive, Local Authority Unit, Chartered Institute of Environmental Health and Local Government Association.
- To support the Lead Authority / Primary Authority Principle.
- To respond to complaints, requests for service, accidents, incidents/reports of ill health and dangerous occurrences.
- To make elected Councillors aware of the Statutory Plan, its contents and how the service will be discharged.
- To implement through the Regulatory Services Work Programme the general aims and objectives of the Statutory Plan and to discharge those particular

duties detailed within this document.

- To ensure all actions and decisions taken by officers and Councillors are done so in an open and transparent fashion and with due regard to the Council's policies on equality and the principles of fairness and natural justice.
- To promote access to the Regulatory Challenge Panel in the event of a regulatory dispute.

1.1 Service Statement

Each Service is required to produce a Service Statement. The Service Statement for Regulatory Services is detailed below.

Description of service

Regulatory Services deliver the traditionally functions of Environmental Health, Public Protection, Trading Standards and Licensing. The service is also responsible for the wider protection of public health and property. On average we receive 25,000 requests for service in each year. In addition to dealing with complaints we carry out programmed regulation of shops and businesses in Wolverhampton.

Regulatory Services enforces the law through a programme of interventions (inspections) and investigations in respect of food and other commercial and industrial businesses, and the provision of information and advice to businesses, customers and other consumers.

1.2 Authority profile

Background

Authority Profile (based on the 2011 census)

The City of Wolverhampton has a population of 249,500 (123,400 male, 126,100 female). The ethnic breakdown of the population is:

- 64.5% white british
- 3.5% white non-british
- 18.1% Asian
- 6.9% Black
- 5.1% Mixed
- 1.9% Other

95,000 individuals, including self-employed, either live in or travel to Wolverhampton for paid employment, 73,180 of which are full time workers.

104,200 local people are either in paid employment or looking for work.

Wolverhampton is in the 6% most deprived areas in the country and levels of deprivation in the city continue to rise. About 30.2% (15,000) children live in poverty and life expectancy for both men and women is lower than the England average.

1.3 Links to Corporate Issues

In order to achieve continuous service improvement and strive for performance capable of achieving a sustainable future which reflects the political priorities and values of partners within Wolverhampton, it is important that the work programme links itself visibly to the overall corporate objectives.

Regulatory Services produces two service delivery plans detailing the work of the

service. They cover the work of the Food and Health and Safety services.

Approval and Review Process

The statutory Service Plans are subject to approval and scrutiny by the Head of Service, Service Director and Councillors and this will be the case with the Health and Safety Service Plan.

Progress will be monitored monthly by the Regulatory Services management Team.

2.0 The means by which the service is discharged

2.1 Organisational Structure

The regulating functions of the Council are discharged, either through the Executive or, in the case of matters which have a quasi-judicial footing such as licensing, the Licensing Committee. The Government has determined that matters relating to the discharge of the health and safety enforcement functions be overseen by a body other than the Executive. Within Wolverhampton this is the Licensing Committee.

2.2 Scope of the Service

In relation to health and safety Regulatory Services delivers;

- Programmed proactive inspections of high risk premises for health and safety purposes.
- Other interventions with dutyholders.
- Investigation of accidents arising at work within the City.
- Investigation of dangerous occurrences arising at work within the City.
- Investigation of occupational diseases arising at work within the City.
- Response to complaints/requests for service from businesses/members of the public.
- Expert assistance and advice to businesses and public.
- A dedicated “good neighbour scheme” to assist the steel stock-holding community within the City.
- Support to the West Midlands Health and Safety Liaison Group.
- Commitment to the Lead Authority Partnership Scheme (LAPS) Primary Authority Partnership Scheme (PAP) and commitment to the HSE/LA Strategic Partnership and its priorities.
- Education to businesses and the public.
- The licensing/registration of premises in respect of acupuncture, cosmetic skin piercing, tattooing, electrolysis, and the operation of cooling towers.
- Representation at the Molineux Stadium Safety Advisory Group to ensure the satisfactory implementation of the General Safety Certificate.
- Representation of the enforcing authority on the Council’s Events Safety Group.

- Liaison with neighbouring local authorities and other agencies such as Public Health England (PHE) on Legionella.
- Enforcement of safety certificates relating to all four regulated sports grounds in Wolverhampton.
- Enforcement of the Health Act 2006

2.3 Demands on Health and Safety Service

In accordance with the Health and Safety (Enforcing Authority) Regulations 1998, local authorities are responsible for the enforcement of health and safety in certain categories of premises. Depending upon the attendant risks associated with the work activities at these premises they are allocated a priority band. The priority band determines the frequency of inspections/ types of intervention at premises.

During 2011 a joint statement was issued by the Health and Safety Executive (HSE) and the Local Government Group. It was intended to assist LA regulators in determining the use of proactive interventions to achieve both improved health and safety outcomes for each locality and the Government's regulatory reform agenda.

Under Government reforms announced in its publication '*Good Health and Safety, Good for Everyone*', protecting people in the workplace and wider society still remains a key priority. The Government's aims for health and safety reform include reducing the inspection burden on business alongside focussing on better health and safety outcomes. Refining the intervention strategies for businesses by further improving the targeting of relevant and effective interventions and preserving inspection for higher risk premises and issues should lead to a reduced number of proactive inspections. Reducing the aggregate numbers of proactive inspections by a third across all local authorities will free up capacity for more effective outcome focussed interventions.

Priority Programme

In conjunction with the HSE priority programme, which identifies those areas of national priority within health and safety and focuses upon the areas that are most likely to bring about an improvement in standards, the programme is a 3 year initiative aimed at influencing the health of the nation by improving areas of work most likely to contribute to ill health.

Strategic Partnerships

The HSE and Local Authority Representative Bodies have recently published a Statement of Commitment which sets out the joint commitment to ensure provision of adequate standards of partnership working in order to prevent death, injury and ill health of those at work and those affected by work activities.

Accidents and Requests for Service

In addition to the programmed work the Service receives approximately 400 requests for health and safety service and in excess of 200 accident /disease/ dangerous occurrence notifications a year.

2.4 Access to the Health and Safety Service

Regulatory Services is based at the Civic Centre in Wolverhampton City centre. The office is staffed Monday to Friday (except statutory holiday days) between the hours of 8.30 am, and 5.00 pm. The full range of services provided is accessible during these periods. However, when work activities enforced by the service are taking place outside these hours, officers will be available to fulfil required functions.

City Direct

In August 2004, as one of the responses to the Comprehensive Performance Assessment (CPA) report, the Council created City Direct, a single access point enabling customers to contact the Council via telephone or e-mail between the hours of 8am – 6pm Monday to Friday and 9am – 2pm Saturday.

Outside office hours, a work related death, major incident or dangerous occurrence will be referred to the service through the Council's emergency control room. A protocol of understanding also exists with the police, HSE and the Crown Prosecution Service in circumstances where there is a work related death.

2.5 West Midlands Health and Safety Liaison Group

The Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) was created in 1975 to promote consistency of enforcement throughout and between Local Authorities and the Health and Safety Executive. In 1982 the Local Authority Unit (LAU) was created to specifically co-ordinate liaison between the Health and Safety Executive and Local Authorities. Part of this liaison is carried out through the creation of local liaison groups which include the HSE Local Enforcement Liaison Officer (ELO). The West Midlands Health and Safety Liaison Group (WMHSLG) is chaired by the Chief Environmental Services Officer for Birmingham C. C.

The group co-ordinates the West Midlands Metropolitan authorities approach to enforcement via the production of an annual business plan and the adoption of common practices, policies and procedures.

The group also organises regular training programmes for enforcement officers.

2.6 Investigation Skills Training

One of the cornerstones of the work of the West Midlands Health and Safety Liaison Group is the promotion of consistency throughout the West Midlands authorities by organising Investigation Skills Workshops. The authority is committed to attending at least one health and safety Investigation Skills Workshop per year.

3.0 Delivery in Accordance with Section 18 HASWA

3.1 Inspection Programme

Of approximately 4700 premises within Wolverhampton, about 400 fall into the priority rating bands A to B2. These represent the highest safety and health risk within the City. Many involve complex processes or dangerous equipment and plant. The inspection programme relating to these is detailed below. The remaining c.4000 category 'C' premises are a combination of low risk premises such as small shops or offices where inspection would not be an efficient use of resources and premises which are currently low risk but consist of light to medium industrial type units, where although the current occupier is low risk, the premises could accommodate different/higher risk activities.

3.2 Priority Planning Health and Safety Inspections

Inspection Frequencies LAC 67/2

This guidance is divided into two parts: **Part One - Risk Rating** and **Part Two - Frequency of Intervention**. The guidance requires a shift of focus in terms of interventions planning by LAs and their officers. It reflects the HSE Board's new strategy "**The Health and Safety of Great Britain: Be part of the solution**" and sets out a new approach to developing effective health and safety regulatory interventions justified by risk. This is also mirrored through the reactive intervention approach via the **Incident Selection Criteria (LAC 22/13)**. The two systems should be used in conjunction to enable enforcing authorities to focus and optimise impact in areas of greatest risk. To enable effective operation of interventions the enforcing authority should provide sufficient resources to deliver an efficient and effective service in line with the Section 18 Capacity Toolkit

New Approach

For proactive work, priority should be given to the inspection of those premises and activities that, after assessment, are rated as category 'A'. The aim of the inspection must be to improve compliance and, where significant breaches continue to exist, enforcement actions should be considered. Topic based interventions, partnership projects, joint working with other regulators, contributions to local and national policy development and other non-inspection interventions can be undertaken with premises that fall into any category. It is expected that category "C" premises would normally fall outside of any inspection-based intervention because of their low risk.

The new rating process consists of evaluating 4 different elements as they relate to a work activity. A rating value is then assigned to each of these 4 elements:

- Confidence in management
- Safety performance
- Health performance
- Welfare compliance gap.

Intervention type Table

Description	Category	Rating Score	Intervention Types
Highest Risk	A	Score of 5 or 6 on any risk	Suitable for proactive inspections until risks are adequately managed such that the premise can be re-categorised; Accident/complaint investigation
	B1	Score of 4 on any risk	Not suitable for proactive inspection but all other interventions to be considered. Accident/complaint investigation
	B2	Score of 3 on any risk	Not suitable for proactive inspection; consider the use of other interventions only where necessary based on national and local information. Accident/complaint investigation
Lowest Risk	C	No score greater than 2	Use non-inspection intervention methods\techniques Accident/complaint investigation

Lord Young, Löfstedt, Red Tape Challenge, Joint Statement of LGG and HSE

A key priority for the Coalition Government is to ease the burden of bureaucracy on business as part of the Government's goal of making Britain more growth focused. The Government is committed to transforming the way in which regulation is delivered at the frontline and an important part of the Government's deregulatory agenda is to change the culture of health and safety.

For the Government, the first step in this process of changing the culture of health and safety was the review of the operation of health and safety laws and the growth of the compensation culture - commissioned by the Prime Minister – and the subsequent publication of the report "Common Sense, Common Safety".

In October 2010 the Government accepted all of the report's recommendations, which included measures for improving the public perception of health and safety and reducing the burden of bureaucracy on businesses. Two specific recommendations resulted in: a) Joint Health and Safety Executive (HSE), Local Government Regulation (LGR) and Food Standards Agency (FSA) guidance on "Combining Food Safety and Health and Safety Inspections." and b) A strengthening of the Primary Authority (PA) inspection plans with an enhanced role for HSE – whereby HSE will assist the Better Regulation Delivery Office (BRDO) in the development of inspection plans; and will develop sector intervention strategies for large multi-site retailers to assist individual PAs to develop inspection plans which other Local Authorities (LAs) must follow.

In March 2011, the Minister for Employment announced the next steps in the Government's plans for the reform of the health and safety system with the publication of "Good Health and Safety, Good for Everyone".

Under the reforms protecting people in the workplace and in society remains a key priority but the focus of the health and safety regime will move to a lighter touch approach concentrating on higher risk industries and on tackling serious breaches of the rules.

As a result of this Government’s reforms HSE and LAs are required to reduce the number of inspections carried out; to have greater targeting where proactive inspections continue; and to increase information provision to small businesses in a form that is both accessible and relevant to their needs.

In May 2011, Local Government Group (LGG) and HSE published joint guidance - “Reducing Proactive Inspections”

This document provided guidance for LAs to determine their proactive interventions with flexibility to deliver local and national health and safety priorities within the Government’s overall policy framework

Accordingly, the frequency of intervention for 2014/ 2015 is detailed in the table below, only Category “A” rated premises will receive a proactive inspection in line with coalition policy, guidance on the decision to carry out a proactive inspection is contained below in the **LA Inspection Wolverhampton Guidelines**.

Priority Rating	Visit Frequency	No of Premises (2014/15)
A	Proactive Inspection	3
B1	Not Proactive Inspection	4
B2	Not Proactive Inspection	68
C	Other intervention strategies and reactive strategies	c4300

<u>LA</u>	<u>Inspection Wolverhampton Guidelines</u>	
	In focussing this aspect of our work on the areas of greatest risk, we will undertake a programme of interventions in those industries, and with those employers, which present significant risk. Inspection is an appropriate intervention that improves the control of the identified risk. It is important for the reasons expressed in paragraph 3 that we are in a position to both monitor and measure our numbers of inspection visits from this year onwards. To enable us to do this we will reclassify our inspections.	
I.	Inspection action following Investigation/topic visit :	
	Is any inspection undertaken immediately following an investigation (RIDDOR or complaint) or immediately following a single topic visit (currently, inspection of LPG installations and where Legionella risks are uncontrolled) where the inspector judges it is necessary to further test health and safety risk management arrangements;	

II.	Inspection action of a High Risk Sector :	
	<p>This is any inspection of high risk areas (major areas for inclusion from 2015/16 plan are: Wholesale of heavy goods, and areas of wholesale where some processing/ manufacturing occurs which are high risk viz:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Metal stockholding <input type="checkbox"/> Timber/ builders merchants <input type="checkbox"/> Tyre and exhaust fitters <input type="checkbox"/> Intrusive procedures, risk of infection <input type="checkbox"/> metal products where processing some material <input type="checkbox"/> food & drink 	
III.	Inspection action of a Poor Performer :	
	<p>This is an inspection undertaken as a result of intelligence indicating poor health and safety performers^{1[1]} such as Cat A premises, intelligence driven visits (e.g. Accidents, receipt of AIRs, credible complaints, intelligence from other regulators, economic opportunity, culture of recklessness – (See Annex 1). In this context, the following extract from the Ministerial statement on 21 March 2011 is relevant 'No industrial areas will be exempted from maintaining good standards of health and safety 'The Employers who do not take protection of their employees etc seriously will still face intervention by HSE'</p>	
IV.	Joint Initiatives with Industry	
	Are those visits with industry to promote safe and healthy workplaces (eg, partnership with National Association of Steel Service Centers) (NASS).	
V.	Supply Chain Interventions :	
	Includes procuring services and compliance with EU law etc.	
VI.	Check Visits :	
	It is recognised that both Joint Initiatives and Supply Chain Interventions may not always involve an 'inspection'.	

Wolverhampton Delivery

The Priority Programme for 2014/2015 is detailed in the table below and will include the following alternate interventions over and above the programme directed work.

Programme	Hazard	Detail
Health Local	Various	Target selected dutyholders with Rospa developed health resource
Health Local	Blood borne pathogens	Target unregistered “bedroom” tattooists and piercers
Health Local	Asbestos	Large Institutions Project
Safety National	LPG	Continue to respond to and act upon LPG notifications
Health Local	Asbestos	Continue to prioritise asbestos work and Duty to Manage
Safety Local	Slips and Trips	Continue to prioritise responses to S&T through mandatory visits
Safety National	Falls from Height	Continue to prioritise responses to FFH through mandatory visits. Proactive response to Industrial wholesale /retail stockholding heavy sector.
Health National	Legionella	respond to and act upon notifications of cooling tower concerns.
Health Local	Social Care	Engage with commissioning partners to gather near miss data

3.4 Complaint Response

Regulatory Services receives approximately 400 requests for health and safety service a year ranging from enquiries about health and safety law eg. employers/proprietors duties, through to complaints and “whistle blowers” detailing serious workplace conditions or reports of dangerous practice.

Because of the public’s interpretation of the term “health and safety” the service often receives enquiries which are not relevant to the work of the division, eg. people complaining about poor workmanship or housing conditions. Invariably these complainants are given appropriate civil legal advice or referred to the correct service. These enquiries occasionally go unrecorded. Additional enquiries often come from employees for whom the HSE is the enforcing authority, these are either dealt with or, in

the event of a complaint, referred to the HSE.

All requests for service are logged and coded onto the Authority (Idox) system.

Selection Criteria and Priorities

Differing responses are available to the service depending on the seriousness of the complaint. Responses may vary from giving advice/guidance over the telephone to an immediate visit by an officer.

When determining the type of response, officers have regard to:

- the potential of the circumstances to cause injury, ill health or death
- the imminence of the risk
- the number/vulnerability of the people at risk
- the history of the undertaking
- the source of the complaint
- the reliability/credibility of information received
- if anonymous, the reason given, eg worker/relative/whistleblower/neighbour
- the availability of resources, if alternative action is deemed appropriate eg defer to next visit
- any HSE priorities, formerly HELA priorities (see section 4.0)
- local issues/priorities, area initiatives
- links to other legal duties eg emergency plan/environmental protection/food safety/ sports grounds
- public perception of risk
- involvement of other agencies eg Police, Fire, Environment Agency, Primary Care Trust, Public Health England.

Response times and targets for requests for service are set out within the work programme. Serious complaints within working hours will normally be responded to immediately. Other complaints will be responded to within target times based on the above criteria. The availability of officer resources may also be a factor in the speed of response.

The service receives approximately 200 notifications of injuries, disease or dangerous occurrences every year. On average the service receives a further 40 notifications which are not reportable.

Reportable incidents fall into 4 main categories:

- (i) fatalities
- (ii) a major injury to an employee eg broken large bones/amputations, blinding
- (iii) an injury to an employee which prevents them from working for more than 7 days or
- (iv) an injury to a member of the public which meant they had to be taken from the scene of the accident to a hospital for treatment.

In addition to these four main categories are reports of disease and dangerous occurrences, however these are considerably less frequent.

The requirement to report any of these incidents is moderated by the caveat of “arising out of or in connection with the work activity”. It is insufficient for an injury to merely occur on the premises. The way the **work** is being done has to have contributed to the accident. For most accidents involving employees the work activity is a contributing factor, accidents involving members of the public are less often reportable.

Reports must be sent, by the employer, to the appropriate enforcing authority within 10 days, or forthwith for major injuries or fatalities. Accidents can also be reported on line to; www.hse.gov.uk/riddor

3.6 Response Criteria and Priorities

Response times and targets for accidents reported to the service are set out within the work programme. Fatalities and major injuries will normally be responded to immediately unless it is a death from natural causes or unrelated to the work activity.

Not all accidents are investigated as the circumstances are either trivial or unforeseeable. When considering how to respond, regard is had to:

- the actual and potential severity of the event
- the seriousness of the potential breach
- the history of the undertaking
- HSE/ HELA/ local priorities
- the number/vulnerability of people at risk
- the likelihood that intervention will achieve improvement
- the relevance of the event to a wider range of premises

- the reasonable practicability of avoidance
- the foreseeability of the event
- legal factors.

More detailed instructions and quality procedures relating to accident investigations are contained within The West Midlands Health and Safety Liaison Group (WMHSLG) Operational Handbook.

3.7 Enforcement Policy

Wolverhampton and the other six West Midlands Authorities adopted a common health and safety enforcement policy in line with the Health and Safety Commission Enforcement Policy Statement in 1996.

The Policy continues to be reviewed as part of the ongoing West Midlands Health and Safety Liaison Group business plan.

3.8 The National Code, Section 18 Guidance

The Health and Safety Executive (HSE) and Local Authorities (LAs) are the principal Enforcing Authorities (EAs) for Health and Safety at Work etc Act 1974 (HSWA) in Great Britain. The primary purpose of the HSWA is to control risks from work activities. The role of the EAs is to ensure that duty holders manage and control these risks and thus prevent harm to employees and to the public.

To achieve this the HSE publishes from time to time guidance issued under Section 18 of HASWA. The most recent guidance is **National Local Authority Enforcement Code**.

The National Code Scope

This Code sets out what is meant by 'adequate arrangements for enforcement'. This Code replaces the existing S18 Standard and concentrates on the following four objectives:

3.9 Future Objectives/Action Plan

The new Section 18 Guidance is called **The National Code** and requires the Authority to go into more detail in areas such as:

- a) Clarifying the **roles and responsibilities** of business, regulators and professional bodies to ensure a shared understanding on the management of risk;
- b) Outlining the **risk-based regulatory approach** that LAs should adopt with reference to the Regulator's Compliance Code, HSE's Enforcement Policy Statement and the need to target relevant and effective interventions that focus on influencing behaviours and improving the management of risk;

c) Setting out the need for the **training and competence** of LA H&S regulators linked to the authorisation and use of HSWA powers; and

d) Explaining the arrangements for collection and publication of LA data and peer review to give an **assurance on meeting the requirements of this Code**.

3.10 Extra-service Issues

City of Wolverhampton Council's priorities are:

- Stronger economy
- Stronger communities
- Stronger organisation

These aspirations are achieved in part through Regulatory contributions to the Council's strategic goals. This Statutory Plan makes a valuable contribution to those goals.

3.11 Lead Authority Principle

Lead Authority Partnership schemes are concerned with the maintenance of consistency, primarily with companies that are national "high street names" and therefore have a single head office within one enforcing authority but multiple premises in other enforcing authorities.

Companies that have a presence in a number of enforcing authority areas are subject to a large quantity of enforcement actions and accordingly well placed to identify inconsistencies of approach. The Lead Authority Partnership scheme was introduced in order to manage these inconsistencies of enforcement action.

Organisations wishing to enter the scheme will normally, but not always, contact the local authority in whose area the head office resides. If mutually agreeable to both parties the local authority agrees to act as Lead Authority and will co-ordinate centrally enquiries from other authorities about matters of national significance. The authority also undertakes a review of the company's safety management procedures.

Local Authorities are either active participants within a scheme or have a passive obligation to observe the scheme in respect of partner premises.

City of Wolverhampton Council operates as a partner authority with Marston's Brewery Plc and the National Association of Steel Service Centres. The authority remains committed to maintaining these relationships by providing sufficient resources to maintain at least one specialist officer to act as local liaison officer for each partner organisation.

In addition, officers will contact the local authority in appropriate circumstances, such as, where formal action is being considered or where shortcomings have been identified in the organisations policies or procedures.

3.12 Primary Authority Scheme

The Better Regulation Delivery Office (BRDO) was created on 1 April 2012 as an independent unit within the Department for Business, Innovation and Skills

BRDO is intended to support economic Regeneration and business by improving regulation in the fields of Environmental Health, Trading Standards and Fire Safety.

One of the mechanisms through which BRDO intended to deliver these benefits was through the operation of the Primary Authority Scheme.

The Primary Authority Scheme builds upon the foundation of Home and Lead Authority Schemes but places the relationship on a statutory footing. Local Authorities are obliged to enter into a Primary Authority Scheme when asked by a business. Equally if an undertaking is already in such a scheme, then the counterpart Authority must have regard to any inspection plans or guidance issued by the Primary Authority prior to taking anything but expeditious action. BRDO wishes to substitute the Lead Authority Scheme with the Primary Authority Scheme however this approach is not universally supported by Local Authorities and businesses alike. It is government policy to no longer support the Lead Authority Scheme.

4.0 Strategic Governance (HELA)

HELA meets at least twice a year and is chaired jointly by the Deputy Chief Executive of the Health and Safety Executive (HSE) and the Chair of the Local Government Regulation (LG Regulation) Health and Safety Policy Forum.

The current Chairs of HELA are Kevin Myers, HSE's Deputy Chief Executive and Colin Alborough of Rushmore Borough Council.

HELA membership comprises senior LA officers. These members represent the Local Government Association (LGA) in England, the Convention of Scottish Local Authorities (COSLA) in Scotland and the Welsh LGA (WLGA) in Wales. HELA also includes HSE officials concerned with policy development and operations.

Also represented are The Chartered Institute of Environmental Health (CIEH) and the Royal Environmental Health Institute of Scotland (REHIS).

Role of HELA

HELA's aim is to provide strategic oversight of the partnerships between HSE and local authorities, with a view to maximising effectiveness and improving health and safety outcomes.

5.0 Resources

5.1 Financial Allocation

The resources available to the service are set within the context of the agreed Medium Term Financial Strategy and comprise a proportion of those revenues allocated to Environmental Health.

The overall budgetary provision for 2015/16 for Regulatory Services is yet to be finalised but is in the region of £ 2.4 million.

The services resourced through this budgetary provision include:

- Food Hygiene
- Food Standards
- Health and Safety
- Public Health and Environmental Protection (relating to commercial premises)
- Infectious Disease Control
- Licensing Enforcement
- Street Scene Enforcement
- Health Act Enforcement
- Student Training

Health and Safety covers:

- Health and Safety inspection
- Accident Investigation
- Health and Safety Complaints/Advice
- Asbestos advice and enforcement
- Asbestos awareness training
- Legionella investigations
- Certification of designated Sports Grounds/ regulated stands
- Registration of premises for the purposes of acupuncture, skin piercing, electrolysis and tattooing.
- Maintenance of Lead Authority partnerships
- Consultation on Licensing and Planning matters
- Representation on City Council Safety Advisory Groups

5.2 Staffing Allocation

The strategic financial, human and service functions are undertaken through the Regulatory Services Management Team.

Within Regulatory Services (Commercial) there are currently 13 FTE posts which have varying health and safety enforcement responsibilities.

Of this, a large proportion are primarily food officers for whom health and safety enforcement only represents a small proportion of their duties (circa 15%).

A breakdown of the proportions of time spent on operational and managerial duties dedicated to health and safety is detailed below:

Job Title	No FTE	% Health and Safety	FTE
Head of Service	1.0	5%	0.05
Service Lead Commercial Group 3	1.0	30%	0.30
Service Lead Commercial Group 1	0.8	10%	0.08
Inspectors	10	15%	1.5
Total	12.8		1.93

5.3 Staff Development Plan/ Employee Performance Review

As part of the Council's aim to provide a services efficiently and effectively, Regulatory Services Management Team regularly reviews training needs to ensure all staff are trained to a level of competence appropriate to their work. This includes both managers and operational staff. Records of all training received are kept so that suitable monitoring can take place. The different ways in which training needs can be met include:-

- Internal and external training courses/events
- Regulators Development Needs Assessment (RDNA)
- Guidance for Regulators Information Point (GRIP) Tool
- Team meetings and briefings - used to disseminate information etc
- Attendance at ad hoc working groups
- "On the Job" training - as part of delegation process
- Self directed training - suitable journals and up to date information are provided
- Establishment of trainee/student placements and Student EHO training
- Cascade training
- Internal placements with other service areas or teams

An additional training programme targeting health and safety operational matters is managed by the West Midlands Health and Safety Liaison Group

In addition to the above the Service will ensure all staff participate in the regional health and safety standardisation exercise and in any organised in-house. There will also be opportunities for members of the Service to attend one-off seminars on topical issues arising during the year. Where appropriate, staff attending these seminars are required to do a cascade training session for other officers within the service.

6.0 Quality Management and Review

6.1 Enforcement Policy Review

Through the West Midlands Health and Safety Enforcement Liaison Group, the service maintains continuous review of its enforcement policy. The policy remains a standing item within the Group's annual work programme.

6.2 Prosecution Procedure

The service maintains a documented prosecution procedure which details how inspectors proceed where investigations appear to fulfil criteria which conform with Enforcement Policy considerations that would lead to an outcome of prosecution. This procedure is monitored throughout by line management, the Council's Solicitors and the Service's Legal Proceedings Panel ("Cases Panel"), decisions on interventions are also informed by the Enforcement Management Model (EMM).

6.3 Regulatory and Investigatory Powers Act (RIPA)

Regulatory Services has fully implemented the requirements of RIPA and arrangements for the authorisation of surveillance exercises in relevant circumstances are in place.

Licensing Committee

22 July 2015

Report title	Health & Safety Statutory Plan 2015/16	
Wards affected	All	
Accountable director	Tim Johnson, Place	
Originating service	Regulatory Services	
Accountable employee(s)	Andy Jervis Tel Email	Head of Regulatory Services 01902 551261 andy.jervis@wolverhampton.gov.uk
Report to be/has been considered by		

Recommendation(s) for action or decision:

The Committee is recommended to:

Approve the proposed Health & Safety Statutory Plan 2015/16.

1.0 Purpose

- 1.1 To inform the Licensing Committee of the legal requirement to produce a Health & Safety Statutory Plan.
- 1.2 To inform the Licensing Committee of the restructure of Regulatory Services in October 2014 and the reduction in resources allocated to the delivery of the Health and Safety service.
- 1.3.1 To seek Licensing Committee approval for the 2015/16 Health and Safety Statutory Plan. The proposed plan is attached at appendix A.

2.0 Background

- 2.1 The Local Authority is responsible for protecting the health, safety and welfare of people at work in Wolverhampton and to safeguard others, principally members of the public, who may be exposed to risks from the way that work is carried out; either in Wolverhampton, or by employers whose managerial control is based in Wolverhampton. This responsibility is shared with the Health and Safety Executive and the Care Quality Commission. The Health and Safety (Enforcing Authority) Regulations 1998 determine who is responsible for whom at what premises.
- 2.2 Traditionally Local Authorities would have delivered their responsibilities through thorough proactive inspection programmes as well as reacting to reports of near misses, accidents and complaints of poor health and safety standards. Over recent years following changes in guidance, 'LAC67/2 – Targeting Local Authority Interventions', from the HSE, proactive inspection has been reduced to only the highest risk businesses. This risk is assessed on; confidence in management, safety performance, health performance and welfare needs compliance. Other businesses would only be contacted proactively to provide advice and education, they could still receive reactive inspection following reports of near misses, accidents and complaints of poor health and safety standards.
- 2.3 The HSE provides the list 'Activities/ Sectors for proactive inspection by LA's', only those sectors listed can be inspected and the inspection limited to the activities detailed.
- 2.4 Further under Section 108 of the Deregulation Act 2015 the Local Authority is required to consider the promotion of economic growth when exercising regulatory functions. In particular; regulatory action is only taken when needed and any action taken must be proportionate.
- 2.5 In October 2014 Regulatory Services underwent a restructure to meet saving requirements. 50% of management and 33% of operation staff resources were lost. Also many of the most experienced staff left. This has had a significant impact on the resources available to deliver health and safety across Wolverhampton. Regulatory Services now allocates on approx. 2 FTE to health and Safety.

2.6 The Health and Safety Statutory Plan is a requirement under the 'National Local Authority Enforcement Code for Health and Safety at Work'. This code is mandatory guidance issued by the Health and Safety Executive under Section 18 of the Health and Safety at Work Etc.. Act 1974. The Health and Safety Statutory Plan is one of two statutory service plans implemented by Regulatory Services. The Statutory Plan is a commitment to delivering the service including the resources that will be allocated and creates a standard against which the service can be audited.

2.7 The Health and Safety Statutory Plan for 2015/16 details to resources allocated, priority areas and reduced numbers of proactive inspections.

3.0 Progress, options, discussion, etc.

3.1 It is requested that the Licensing Committee approve the 2015/16 Health and Safety Statutory plan.

4.0 Financial implications

4.1 The overall resource provision required to deliver the requirements of the plan fall within the City Environment portfolio.

4.2 The approved budget for Regulatory Services 2015/16 is 2.4 million, which includes the provision of the Health and Safety. It should be recognised a wide range of other non-health and Safety related services are delivered within this budgetary provision. The level of resource available for the provision of Health and safety activities covered by the Statutory Plan is currently in the region of £100,000. [TK/14072015/A]

5.0 Legal implications

5.1 It is a legal requirement to produce a Health and Safety Statutory Plan.

5.2 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.

5.3 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. The endorsement of the plan is the responsibility of the Licensing Committee.

5.4 Failure to produce or deliver the statutory plan may result in measure being taken against the authority. [SH/14072015/T]

6.0 Equalities implications

- 6.1 The Health and Safety Statutory Plan aligns the support and enforcement activities of Regulatory Services with HSE guidance, all activity is intelligence/ risk based and activity is only undertaken where necessary.
- 6.2 All regulatory Activity is undertaken in accordance with the Regeneration Compliance and Regulatory Policy, previously approved by the Licensing Committee.
- 6.3 Any prosecutions are taken in accordance with the Home Office Code for Crown Prosecutors, which includes an evidential and public interest test. The evidential test is undertaken by Legal Services and final approval for prosecution is via cases panel.
- 6.4 There will be no adverse equality implications.

7.0 Environmental implications

- 7.1 A significant proportion of the activities and functions undertaken 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 None.

Document is Restricted

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