



LICENSING COMMITTEE
WEDNESDAY 9TH JANUARY 2013 AT 5.30 P.M.
COUNCIL CHAMBER, PARK NORTH, NORTH STREET, HORSHAM

Councillors:

Christian Mitchell (Chairman)	Brian Donnelly
Jim Sanson (Vice-Chairman)	David Jenkins
Peter Burgess	Gordon Lindsay
George Cockman	Chris Mason
David Coldwell	Josh Murphy
Christine Costin	Sue Rogers
Helena Croft	David Skipp
Leonard Crosbie	

You are summoned to the meeting to transact the following business

TOM CROWLEY
Chief Executive

AGENDA

	Page No.
1. Apologies for absence	
2. To approve as a correct record the minutes of the meeting of the Committee held on 31 st May 2012	1
3. To receive any declarations of interest from Members of the Committee	
4. To receive the minutes of the:	
- meeting of the Licensing Sub-Committee held on 15 th July 2012	5
- meeting of the Licensing Sub-Committee held on 23 rd November 2012	7
5. To receive any announcements from the Chairman of the Committee or the Chief Executive	
6. To consider the following reports of the Head of Planning & Environmental Services:	
(i) Public Health and Licensing – Licence Fees For 2013/2014	9
(ii) Review of Licensing Policy (Gambling Act 2005)	14



(iii)	Early Morning Restriction Orders	49
(iv)	The Late Night Levy	59

7. Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances

LICENSING COMMITTEE
31st May 2012

Present: Councillors: Peter Burgess, George Cockman, Christine Costin, Helena Croft, Leonard Crosbie, Brian Donnelly, Christian Mitchell, Sue Rogers, Jim Sanson, David Skipp

Apologies: Councillors: David Coldwell, David Jenkins, Gordon Lindsay, Chris Mason, Josh Murphy

LI/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Councillor Christian Mitchell be elected Chairman of the Committee for the ensuing Council year.

LI/2 **APPOINTMENT OF VICE-CHAIRMAN**

RESOLVED

That Councillor Jim Sanson be appointed Vice-Chairman of the Committee for the ensuing Council year.

LI/3 **MINUTES**

The minutes of the meeting held on 2nd February 2012 were approved as a correct record and signed by the Chairman.

LI/4 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LI/5 **ANNOUNCEMENTS**

There were no announcements.

LI/6 **HACKNEY CARRIAGE FARES – RATE INCREASE**

The Head of Planning & Environmental Services reported that, due to the significant increases in the price of fuel and insurance costs, and the fact that fares had not risen since November 2008, a proposal had been made by the Horsham Licensed Carriage Association and a majority of the independent hackney drivers for an increase in hackney carriage fares.

It was proposed that the flag rate (the initial price shown on the meter) should

LI/6 Hackney Carriage Fares – Rate Increase (cont.)

increase from £3.40 to £3.80, with the distance travelled on the flag rate being decreased from 1350 metres to 1200 metres, and that the journey distance travelled should be changed from 10p for each 90 metres to 10p for each 85 metres covered. This would mean that the first mile of each journey would increase from £3.70 to £4.30, and each mile thereafter would increase from £1.80 to £1.90. This proposal would equate to an increase of 12.7% over a two mile journey, which was the average journey nationally for a hackney carriage.

Members were asked to approve the proposal for consultation purposes.

RESOLVED

- (i) That the proposed fares, as set out at in the report, be approved for statutory consultation with both the hackney trade and the public.
- (ii) That, subject to there being no representations received as a result of the consultation, the Chairman of the Licensing Committee be authorised to agree the implementation of proposed new fares.

REASONS

- (i) To set standard fares throughout the District.
- (ii) To prevent fraud and overcharging of passengers.

LI/7 **TEMPORARY EVENTS NOTICES - DELEGATION OF AUTHORITY TO THE ENVIRONMENTAL HEALTH & LICENSING MANAGER AND THE LICENSING OFFICER TO AUTHORISE THE ADDITION OF RELEVANT CONDITIONS**

The Head of Planning & Environmental Services reported that, following on from the adoption by Parliament of the Police Reform and Social Responsibility Act 2011, the Licensing Act 2003 and the Statutory Guidance issued under section 182 had been amended. One of the new provisions was the power for the Licensing Authority to impose conditions on Temporary Event Notices (TEN), under certain circumstances, if the notice was in connection with licensable activities at licensed premises.

If such a notice were received, it was possible that the Police or Environmental Health might wish to impose one or more of the existing premises licence conditions on the TEN (insofar as such conditions were not inconsistent with the event), if considered appropriate for the promotion of the licensing objectives.

LI/7 Temporary Events Notices - Delegation of Authority to the Environmental Health & Licensing Manager and the Licensing Officer to Authorise the Addition of Relevant Conditions (cont.)

However, in order for such conditions to be added to a TEN, the decision would need to be authorised by the Licensing Committee, unless such decisions had been delegated to an officer. Therefore, in order to avoid unnecessary bureaucracy, it was proposed that, in cases where all parties were in agreement with such conditions being imposed, the decision should be delegated to both the Environmental Health & Licensing Manager and the Licensing Officer.

RESOLVED

That, where all parties were in agreement, the Environmental Health & Licensing Manager and the Licensing Officer be authorised to approve the addition of relevant conditions to Temporary Event Notices without the need for a sub-committee hearing.

REASONS

- (i) To ensure compliance with legislative requirements.
- (ii) To ensure efficiency in decision making.

LI/8 **APPOINTMENT OF THE ENVIRONMENTAL HEALTH & LICENSING MANAGER AS THE PERSON RESPONSIBLE FOR MAKING REPRESENTATIONS UNDER THE LICENSING ACT 2003 ON BEHALF OF THE AUTHORITY**

The Head of Planning & Environmental Services reported that, following on from the adoption by Parliament of the Police Reform and Social Responsibility Act 2011, the Licensing Act 2003 and the Statutory Guidance issued under section 182 had been amended.

One of the new provisions was to include the Licensing Authority as a Responsible Authority under the 2003 Act. The amendments made by this section (s103 (4)(a) & (b)) applied to applications relating to premises licence or club premises certificates and notices under section 165(4) of the Licensing Act 2003 (closure orders).

Whilst the Licensing Officer had been delegated a number of functions, including all matters relating to administration and enforcement of the provisions of the 2003 Act, in order to protect the authority and ensure fairness it was desirable for the Committee to nominate an officer, other than the Licensing Officer, to make representations on behalf of the Committee where appropriate.

LI/8 Appointment of the Environmental Health & Licensing Manager as the Person Responsible for Making Representations Under The Licensing Act 2003 on Behalf of the Authority (cont.)

It was therefore proposed that the Environmental Health & Licensing Manager should be appointed as the person responsible for making representations and/or making an application to review a Premises Licence and/or Club Premises Certificate on behalf of the authority.

RESOLVED

That the Environmental Health & Licensing Manager be appointed as the person responsible for making representations and/or making an application to review a Premises Licence and/or Club Premises Certificate on behalf of the authority.

REASONS

- (i) To ensure compliance with legislative requirements.
- (ii) To ensure efficiency in decision making.

LI/9 LICENSING ACTIVITY 2011/12

The Head of Planning & Environmental Services submitted a summary of licensing activity in 2011/12, including numbers of licences and notices issued, varied and transferred. Future summaries would include comparison figures for previous years.

The meeting ended at 5.48pm having commenced at 5.30pm

CHAIRMAN

LICENSING SUB-COMMITTEE
15TH JULY 2012

Present: Councillors: Helena Croft, Brian Donnelly, Jim Sanson

Also present: Councillor: Stuart Ritchie

LIS/6 **ELECTION OF CHAIRMAN FOR THE MEETING**

RESOLVED

That Councillor Brian Donnelly be elected Chairman for the meeting.

LIS/7 **APOLOGIES FOR ABSENCE**

Councillor Christian Mitchell.

LIS/8 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LIS/9 **ANNOUNCEMENTS**

There were no announcements.

LIS/10 **TO CONSIDER THE APPLICATION FOR A PREMISES LICENCE IN RESPECT OF WARNHAM COMRADES CLUB, HOLLANDS WAY, WARNHAM**

DETAILS OF APPLICATION: To allow Regulated Entertainment, The Sale by Retail of Alcohol and the Provision of Late Night Refreshment.

The Licensing Officer presented a report, which set out details of the application and representations made by interested parties. The report also referred to the relevant parts of the Council's Statement of Licensing Policy for Regulated Entertainment and the Sale and Supply of Alcohol (dated December 2011).

LIS/10 To consider the application for a new premises licence (cont):

Representations had been received from:

Interested Parties: Four members of the public.

The Chairman set out the procedure for the hearing and heard from the Licensing Officer, the applicant and two members of public. Ward Councillor, Councillor Stuart Ritchie, also spoke at the meeting. The sub-committee had regard to the written representations from members of the public.

Members considered all the evidence and submissions before them including the representations made on the application, and the answers to questions given to the sub-committee by those present.

RESOLVED

That the application for a Premises Licence to allow Regulated Entertainment, the Sale by Retail of Alcohol and the Provision of Late Night Refreshment for 30 minutes less than currently permitted from Sunday to Thursday and a variation to the grant of the application so that the hours of midnight were substituted for 00.30 on Fridays and Saturdays throughout the application, be granted and the conditions in the operating schedule imposed.

The parties were informed of the rights of appeal and the Licensing Authority's position on Enforcement of Conditions.

The meeting closed at 11.55am having commenced at 10.00am.

LICENSING SUB-COMMITTEE
23RD NOVEMBER 2012

Present: Councillors: David Coldwell, Brian Donnelly, Christian Mitchell, Jim Sanson

LIS/1 **ELECTION OF CHAIRMAN FOR THE MEETING**

RESOLVED

That Councillor Christian Mitchell be elected Chairman for the meeting.

LIS/2 **APOLOGIES FOR ABSENCE**

There were no apologies.

LIS/3 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LIS/4 **ANNOUNCEMENTS**

There were no announcements.

LIS/5 **TO CONSIDER AN APPLICATION FOR THE VARIATION OF AN EXISTING PREMISES LICENCE IN RESPECT OF THE BEST KEBAB, 44 EAST STREET, HORSHAM**

DETAILS OF APPLICATION: To extend the hours of permitted Late Night Refreshments in the existing Premises Licence from 02.30am Thursday to Saturday to 03.00am Thursday to Saturday, and on every Bank Holiday and on 23rd December (being the evening before Christmas Eve and New Years Eve closing at 03:00 hours on New Years Day.

The Licensing Officer's report set out details of the application and representations made by interested parties. The report also referred to the Council's Statement of Licensing Policy for Regulated Entertainment and the Sale and Supply of Alcohol (dated December 2010).

Representations:

Responsible Authorities: There had been no objection from Sussex Police, or any other responsible authority, to this application.

It was noted that the Council's Public Health and Licensing Department and the Police had agreed conditions.

Interested Parties: Two members of the public had submitted letters of complaint.

The Ward Members: Ward Members had not commented on the application.

The Chairman set out the procedure for the hearing and questioned the applicant, who was represented by the landlord of the premises.

The applicant confirmed that he had agreed, and adhered to, the seven conditions that had been recommended by the Council's Public Health and Licensing Officer on 22nd October 2012. The Sub-Committee was advised that there had been significantly fewer objectors to the application than at a previous application in July 2011 and it was noted that the objectors to the application had not attended to express their concerns.

Members considered all the evidence and submissions before them including the representations made on the application, and the answers to questions given to the Sub-Committee by those present.

The Sub-Committee was satisfied that the grant of a Variation to the Premises Licence would not be detrimental to the achievement of the licensing objectives and that the agreed conditions were appropriate to meet those objectives.

Whilst not made subject to a condition, the applicant agreed to extend the area that was cleared of litter to include Denne Parade.

RESOLVED

That the application for a Variation of Premises Licence LI/05/0848/PREM, for the sale of Late Night Refreshments to continue on Thursday to Saturday inclusive from 23:00 hours until 03:00 hours the following day and for the same provision on every Bank Holiday and on 23rd December (being the evening before Christmas Eve) and New Years Eve, closing at 03:00 hours on New Years Day be granted.

The meeting closed at 11.30am having commenced at 10.25am.

CHAIRMAN

Report to Licensing Committee

9th January 2013

By the Head of Planning and Environmental Services

DECISION REQUIRED

Not exempt



Horsham
District
Council

serving our towns and villages

PUBLIC HEALTH AND LICENSING – LICENCE FEES FOR 2013/2014

Executive Summary

Set out at Appendix 2 to this report are the proposed fees for 2013/2014 for the various licences issued by the Public Health and Licensing Department. The agreed fees will take effect on 1st April 2013.

Recommendations

The Committee is recommended:

- i) To approve the fees set out at Appendix 2 to this report to take effect from 1st April 2013

Reasons for Recommendations

- i) The setting of fees for licences is the responsibility of the Licensing Committee, and
- ii) To ensure openness and transparency in decision making.

Background Papers: Budget Working Papers

Consultation: Finance Department

Wards affected: All

Contact: John Batchelor Ext 5417

Background Information

1 Introduction

The purpose of this report

- 1.1 Set out at Appendix 2 to this report, for the Committee's consideration, are the proposed fees for 2013/2014 for Licences issued by the Environmental Health and Licensing Department. The new fees once approved will take effect from 1st April 2013. The individual licence fees are calculated to recover the cost of issuing the licence and enforcing the requirements of the legislation. Taxi and Private Hire fees have already been set by the Licensing Committee up to 31st March 2015. There are other Licences issued by the Environmental Health and Licensing Department which are set by statute and these can not be changed.

2 Statutory and Policy Background

Statutory background

- 2.1 This is set out in the various Acts under which licences are issued.

Relevant Government policy

- 2.2 This is set out in the various Acts under which licences are issued.

Relevant Council policy

- 2.3 The Council's policy is to set fees to recover the costs of services provided, where appropriate. As such the Public Health and Licensing Department seeks to recover from applicants the cost of issuing and enforcing licences so that these costs do not fall on the general Charge Payer.

3 Details

- 3.1 The fees are calculated taking into account officer time, transport and any external costs that the Council incurs. The Council has recommended that fees and charges should go up by a minimum of 2.5% for the financial year commencing 1st April 2013.

4 Next Steps

- 4.1 The Committee are recommended to agree the various licence fees set out at Appendix 2 to this report to take effect on 1st April 2013.

5 Outcome of Consultations

5.1 None

6 Other Courses of Action Considered but Rejected

6.1 None

7 Staffing Consequences

7.1 There are no staffing consequences arising from this report.

8 Financial Consequences

8.1 The financial consequences of the review of fees and charges have been incorporated into the budgets for 2013 / 2014.

Appendix 1

Consequences of the Proposed Action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached No</p>	<p>Not to increase the fees to cover the cost of issuing and enforcing licenses would mean the extra costs being met by the general charge payer.</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>The fees and charges set out in the Appendix seek to recover the Council's legitimate costs in enforcing the licence conditions.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The fees and charges set out in the Appendix seek to recover the Council's legitimate costs in providing these services.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p> <p>Equalities Impact Assessment attached Not relevant</p>	<p>No negative impact on the equalities groups was foreseen directly as a result of this report</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The fees and charges set out in the Appendix seek to recover the Council's legitimate costs in providing these services.</p>

Appendix 2

Proposed Fees and charges 2013/ 14

	2012/2013 Current Fee	2013/2014 Proposed Fee
Riding Establishments Act 1964		
Less than 5 horses	£237.00	£243.00
5 – 15 horses	£283.00	£290.0
More than 15 horses	£365.00	£374.00
Animal Boarding Establishments Act 1963		
	£104.00	£107.00
Pet Animals Act 1950		
	£104.00	£107.00
Dangerous Wild Animals Act 1976		
	£450.00	£461.00
Breeding of Dogs Act 1973		
New license	£251.00	£260.00
Renewal	£104.00	£107.00
Street Trading		
Annual Consent	£727.00	£745.0
Consent for special occasions	£44.00	£45.00
Sex Establishments		
Application fee	£3476.00	£3563.00
Renewal	£3476.00	£3563.00
Transfer	£3476.00	£3563.00
Acupuncture, Tattooing, Ear Piercing and Electrolysis		
	£95.00	£98.00
Motor Salvage Operators		
	£98.00	£101.00

Report to Licensing Committee

Date of meeting: 9 January 2013

By the Head of Planning & Environmental Services

DECISION REQUIRED/ INFORMATION REPORT

Not exempt



Report Title: Review of Licensing Policy (Gambling Act 2005)

Executive Summary

The Gambling Act 2005 currently requires Licensing Authorities to publish at least every three years a statement of their licensing policy.

Applications for licences under the Gambling Act 2005 have to be made in accordance with the Licensing Authority's Licensing Policy. The policy, which has to be approved by full Council (as the Licensing Authority), has to be the subject of public consultation and the comments received have to be taken into account before formally adopting the policy.

As the Council have not received any negative comments on its existing policy and as no relevant responses were made to the previous consultations, no changes were recommended to the new policy other than the removal of references to the transitional period. Therefore the Chairman of the Licensing Committee, Cllr Christian Mitchell approved the draft policy for consultation.

This report sets out a revised draft policy at Appendix 3 for consideration by the Committee for recommendation to full Council on 13 February 2013.

Recommendations

The Committee is recommended to:

- i) Recommend to the full Council the adoption of the draft Gambling Licensing Policy at Appendix 3 as this Council's Gambling Licensing Policy to take effect immediately following adoption by Council, and
- ii) To make copies of the adopted policy available where requested in hard copy and electronically to both the gambling licensed trade and all persons affected by it.

Reasons for Recommendations

- i) To comply with legislative requirements, and
- ii) To ensure openness and transparency in the Council's decision making, and

Background Papers: None

Consultation: Principle Solicitor

Wards affected: All

Contact: Ahmed Ramiz (Licensing Officer) Extension number:
5578

Background Information

1.0 INTRODUCTION

The purpose of this report

- 1.1 The purpose of this report is to seek the Committee's approval to the draft Gambling Licensing Policy at Appendix 3 for recommendation to Council on 13 February 2013.

2.0 Statutory background

- 2.1 Gambling Act 2005

Relevant Government policy

- 2.2 Guidance issued under Section 25 Gambling Act 2005

Code of Practice on Consultation

Relevant Council Policy

- 2.3 Existing Policy approved by Horsham District Council on 16th December 2009

3.0 DETAILS

- 3.1 The draft Gambling Licensing Policy was sent to a wide range of consultees including: -

- All Statutory Consultees (Police, Fire and Rescue Service, Health and Safety, Planning, Social Services)
- All Members
- All Parish and Neighbourhood Councils
- All Licensed Betting Establishments (Betting Shops)
- Trade Representative Bodies
- All Licensed Betting Shop Operators conducting business in the district
- The Gambling Commission
- The consultation was also published on Horsham District Council's website and the local press were informed.

No Responses were received from the above.

- 3.2 Set out at Appendix 3 to this report is the revised draft Gambling licensing Policy having taken into account the comments received following the consultation process.

- 3.3 The Committee is recommended to approve the draft policy subject to any alterations agreed at the Committee meeting and to recommend to

Council at its meeting on 13 February 2013 its adoption as the Council's (as the Licensing Authority) Gambling Licensing Policy.

4.0 **NEXT STEPS**

- 4.1 After its adoption by the Council the Gambling Licensing Policy will be published on the HDC website and on request can be provided to anyone requesting a hard copy.

5.0 **OUTCOME OF CONSULTATIONS**

- 5.1 Only two responses were received as a result of the consultation exercise, unfortunately the comments made fall outside of the remit set by the Act in respect of this report, see Appendix 2.

6.0 **OTHER COURSES OF ACTION CONSIDERED BUT REJECTED**

- 6.1 None

7.0 **STAFFING CONSEQUENCES**

- 7.1 None arising from this report.

8.0 **FINANCIAL CONSEQUENCES**

- 8.1 None arising from this report

Appendix 1

Consequences of the Proposed Action

What are the risks associated with the proposal? Risk Assessment attached Yes/No	This is a Statutory Requirement under the provisions of the Gambling Act 2005 and failure to comply could lead to adverse publicity and possible action against the authority instigated by the relevant Government Department. No
How will the proposal help to reduce Crime and Disorder?	One of the licensing objectives is preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
How will the proposal help to promote Human Rights?	None at this stage
What is the impact of the proposal on Equality and Diversity? Equalities Impact Assessment attached Yes/No/Not relevant	There will be no impact on race relations issues arising from this report Not relevant
How will the proposal help to promote Sustainability?	

Appendix 2

Response 1:

From: Keith & Sandra Artes
Sent: 06 November 2012 09:52:30
To: Licensing
Subject: Statement of Gambling Policy
Auto forwarded by a Rule

We refer to the notice in this week's West Sussex County Times.

We are not sure of the contents of this Statement, but having just watched the BBC Panorama programme on Problem Gambling, we decided that it was time for more action. The programme highlighted violence in Betting Shops, but did not mention violence on the street and in the home. The problem is very much overshadowed by attention to drink and drugs.

We have a close relative who is afflicted with Problem Gambling, and we are very aware of the terrible problems caused by this.

We would like to see a much stricter policy towards Betting Shops, a reduction in their numbers, and a specific ban on FOBT machines, which are an extreme problem, particularly for those addicted to gambling, according to the programme.

Additionally, the shop managers should be trained to recognise Problem Gamblers, and should be empowered to ban those known to have a problem, from their shop. If they do not comply, their company should be subject to heavy fines.

We realise that you may not have the power to enforce these measures, but we are also lobbying our MP to do something about this.

Regards,
Keith and Saqndra Artes

cc. Francis Maude MP

Response 2:

From: Chris Dow
Sent: 16 November 2012 10:57:49
To: Licensing
Subject: Council reviewing its policy on gambling regulations
Auto forwarded by a Rule

I would urge the Council to at least leave the policy the same, and certainly not relax it. Streets full of betting shops are a sign of an area in decline, gives any town a poor image and attracts undesirable folk.



**Horsham
District
Council**

**Horsham District Council's
Statement of Principles in
respect of the Gambling Act
2005**

DECEMBER 2012

CONTENTS

	CHAPTER	PAGE
1.	Statement of Principles	
2.	Legislation, Policies and Strategies	
3.	Decision Making	
4.	Local Standards	
5.	Prevention of Crime and Disorder	
6.	Ensuring that Gambling is Conducted in a Fair and Open Way	
7.	Protection of Children and Other Vulnerable Persons	
8.	Complaints against Licensed Premises	
9.	Further Information	
	APPENDICES	
A	Delegation of Licensing Functions	
B	Horsham District Council Area	
C	Categories of Gaming Machines	

1 STATEMENT OF PRINCIPLES

1.1 Introduction

Horsham District Council is the Licensing Authority under the Gambling Act 2005. This Council is responsible for granting premises licences, permits and registrations in the Horsham District Council area in respect of those classes of premises set out at paragraph 1.6 below.

The Gambling Act 2005 requires the Council to prepare and publish a “Statement of Licensing Policy” that sets out the policies that the Council will generally apply when making decisions on applications made under the Act.

This “Statement of Principles” has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the duties of the Licensing Authority under the Gambling Act 2005.

The Statement of Principles will be available on the Council’s website.

The Statement of Principles first came into effect on the date of its adoption by the Council in December 2006. It was subsequently reviewed in accordance with the statutory provisions and will be reviewed as necessary, and at least every three years from the date of adoption.

1.2 Horsham District Council Area

Horsham District Council is situated in the County of West Sussex, which comprises 7 District Councils and 1 County Council. The Council area has a population of 131,300 (2011 Census) making it the third largest in the County in terms of population. In terms of area it is the second largest, covering 205 square miles. A map of the district is contained in Appendix B.

1.3 Glossary of Terms

Within this draft Statement of Policy, the following words and terms are defined as stated:

Licensing As defined in section 1.4 below

Objectives:

Council: Horsham District Council

District: The area of West Sussex administered by Horsham District Council (Map appended at Appendix B)

Licences: As defined in section 1.4 below

Applications: Applications for licences and permits as defined in section 1.6 below

Notifications: Means notification of temporary and occasional use notices

Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Machine Categories	Defined in Paragraph 16.29 of the Gambling Commission Guidance and set out at Appendix C for ease of reference.
Mandatory Condition:	Means a specified condition provided by Regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Horsham District Council
Responsible Authority:	<p>For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ol style="list-style-type: none"> 1. The Licensing Authority in whose area the premises are wholly or mainly situated (“Horsham District Council”); 2. The Gambling Commission; 3. Sussex Police; 4. West Sussex Fire and Rescue Service; 5. Head of Planning, Planning Department, Horsham District Council; 6. Environmental Protection Team, Horsham District Council; 7. West Sussex Children’s Safeguarding Board 8. HM Customs and Excise.
Interested Party:	<p>For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-</p> <ol style="list-style-type: none"> a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities; b) Has business interests that might be affected by the authorised activities; c) Represents persons who satisfy a) or b) above.

1.4 Licensing Objectives

The Gambling Act 2005 requires that the Council carries out its various licensing functions having regard to the following three licensing objectives:-

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is carried out in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.5 Types of Licence

This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for:-

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act;
4. Registrations as required under the Act.

1.6 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming and Prize Gaming Permits;
9. Temporary Use Notices;
10. Registration of small society lotteries.

General Principles

Nothing in this Statement of Principles will:-

1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to consider applications in accordance the requirements of Section 153 of the Gambling Act 2005. Conditions will only be considered where they are needed to meet the requirements of the Licensing Objectives, and any conditions applied will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

All applicants for Premises Licences will be required to set out how they will comply with the Licensing Objectives, as specified in section 1.4 above, and what measures they intend to employ to ensure compliance with them.

When determining an application to grant a Premises Licence or review a Premises Licence, regard will be taken regarding the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. It should be noted that this policy does not preclude any application being made and each application will be decided on its merits, with the opportunity for the applicant to show how potential concerns can be overcome.

Licensing is about the control of licensed premises, temporary use notices or occasional use notices within the terms of the Act. Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may by regulation provide for specified conditions to be attached to a premises licence as either "mandatory" or "default" conditions. In determining an application the Council may not have regard to the expected demand for the facilities which it is proposed to provide.

The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:-

1. Planning controls;
2. Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
3. Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
4. The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

Objectors will be required to relate their objection to one of more of the Licensing Objectives, as specified in section 1.4 above, before the Council will be able to consider it.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

1.7 Consultees

The Statement of Licensing Policy will be subject to formal consultation with:-

1. Sussex Police and other responsible authorities, and
2. Representatives of the holders of the various licences for premises within the District who will be affected by this Policy, and
3. Persons/bodies representing the interests of persons likely to be affected by this policy.

1.8 Information exchange

In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Council will conform to the requirements of data protection and freedom of information legislation in accordance with the Council's existing policies.

Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed on the Council's website in accordance with its existing policies on the disclosure of information.

2 LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:-

1. Section 17 of the Crime and Disorder Act 1988;
2. Human Rights Act 1998;
3. Health and Safety at Work Act 1974;
4. Environmental Protection Act 1990;
5. The Anti-Social Behaviour Act 2003;
6. The Race Relations Act 1976 (as amended);

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

2.2 Relationship with Planning Policies

When determining an application, the Licensing Authority cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

2.3 National Strategies

The Council will also seek to discharge its responsibilities identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

2.4 Local Strategies and Policies

Where appropriate, the Council will consider applications with reference to other adopted local strategies and policies, including the following:-

1. The Council's Corporate Strategy;
2. The Community Safety Strategy;
3. Enforcement Policy.

2.5 Integrating Strategies

There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

The Council recognises in particular the importance of the co-ordination and integration of the Gambling Policy with other plans aimed at the management of town centres and the night-time economy.

Relevant plans and strategies include:-

- Crime and Disorder Strategy – The Council will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.
- The Café Culture and Town Centre Management. As far as possible, any licensing decisions will be in line with the aspirations of this strategy.
- Racial Equality – The Council is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The impact on these issues of the Gambling Policy will be monitored and amendments will be made as necessary.
- Human Rights – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:-
 - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for his home and private and family life;
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- Proper integration will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to its

Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.

- The Council will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local economy to ensure that these are reflected in their considerations.
- Economic Strategies – The Council will ensure that the Licensing Committee is apprised of the employment situation in the area and the need for new investment and employment where appropriate.
- Enforcement Policy – All licensing enforcement will be conducted in accordance with the Enforcement Concordat and the Public Health and Licensing General Enforcement Policy and the Council's Licensing Enforcement Policy which will be amended to reflect the requirements of the Gambling Act and the advice of the Gambling Commission once it is published.

In order to avoid duplication with other statutory regimes, the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether to grant a licence, but only if relevant representations are received.

3 DECISION MAKING

3.1 Committee Terms of Reference

A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

The Licensing Committee will also sit to determine general licensing matters that have been delegated to it by the full Council that are not associated with the Gambling Act 2005.

Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

The Licensing Sub-Committee will also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing Committee will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations in accordance with the timescales set out in any Regulations. A summary of the decision shall also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

The Council's Policy with regard to the determination of applications for gaming machine permits in premises licensed under the Licensing Act 2003 is that all applications for permits for 3 or more machines will be determined by a Licensing Sub Committee on their individual merits. Appendix C sets out in detail the permitted number of gaming machines by category in different types of premises.

The Council's Head of Planning and Environmental Services will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by the Council's Licensing Officer in consultation with the Environmental Health and Licensing Manager, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

3.2 Allocation of Decision Making Responsibilities

The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Council Officers.

The table set out at Appendix A sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.

This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

3.3 Licensing Reviews

The Council will carry out a review of a Premises Licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may include issues relating to the following:-

1. Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
2. Use of licensed premises for the sale and distribution of illegal firearms;
3. Use of licensed premises for prostitution or the sale of unlawful pornography;
4. Use of licensed premises as a base for organised crime activity;
5. Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;

6. Use of licensed premises for the sale of smuggled tobacco or goods;
7. Use of licensed premises for the sale of stolen goods;
8. Children and/or vulnerable persons being put at risk.

Due consideration will be given to all relevant representations unless they fit the following:-

- a) The grounds are frivolous;
- b) The grounds are vexatious;
- c) The grounds are irrelevant;
- d) The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- e) The grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- f) The grounds are substantially the same as representations made at the time the application for a premises licence was considered.

A premises licence may also be reviewed by the Licensing Authority of its own volition.

LOCAL STANDARDS

3.1 Applications

An application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR has made an application for an operating licence which has not yet been determined.

Applications for the grant, transfer or variation of a Premises Licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule. The applicant may ask the Council for advice as to the scope of information to be provided.

The level of detail to be provided will be advised by the Council and will be proportional to the scale and nature of the application made.

Definitions of “Responsible Authorities” and “Interested Parties” who are able to make representations under this Act can be found in the glossary of terms in section 1.3.

3.2 Assessment of Need

Unmet demand is not a criterion that will be taken into consideration when determining an application for a Premises Licence under the Gambling Act 2005.

3.3 Conditions

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned or are required by law. The Council will draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case.

However, there will be a number of measures that the Licensing Authority will commonly consider utilising in order to pursue the Licensing Objectives. These may include such measures as the supervision of entrances, segregation of gambling areas from non gambling areas frequented by children. The Licensing Authority will expect applicants to offer their own suggestions as to ways in which the Licensing Objectives can be met effectively through the use of conditions.

Conditions attached to Premises Licences will, so far as possible, reflect local crime prevention strategies. For example, closed circuit television cameras may be appropriate in certain premises.

Enforcement

The Council is a signatory to the Enforcement Concordat and will follow the principles set out in it. The concordat is based around the principles of consistency, transparency and proportionality.

The Enforcement Concordat (available upon request) proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Sub-Committee, the issue of a Formal Caution or a referral for prosecution.

The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the District for unlicensed premises.

The Council recognises that in respect of bookmaker's premises it is likely that certain bookmakers may have a number of premises within the Council's area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Licensing Authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

The Council will seek to work actively with the Police in enforcing licensing legislation and intends to establish protocols with Sussex Police, West Sussex Trading Standards Department and West Sussex Fire and Rescue Service on enforcement issues to ensure an efficient deployment of police and council officers.

4.5 Casinos

There are currently no casinos operating within the District. At its meeting on 7th June 2006 the Council agreed that with effect from 13th December 2006 its policy with regard to Casino Premises Licences was not to issue any Casino Premises Licences in respect of the District of Horsham. This remains the council's policy.

4.6 Prize Gaming Permits

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

A prize gaming permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises. The application must be made to the Authority in whose area the premises are wholly or partly situated. Applications for Prize Gaming Permits will be subject to formal consultation with Sussex Police.

4.7 Unlicensed Family Entertainment Centres

Where premises do not hold a Premises Licence but wish to provide gaming machines, it may apply to the licensing authority a gaming machine permit.

An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the Chief Officer of Police has been consulted on the application. Relevant considerations to take into account would be the applicant's suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about crime and disorder.

In respect of premises licensed under Licensing Act 2003, premises will be automatically entitled to two Category D machines. Where premises apply for a permit for more than two machines each application will be considered on its own merits. Categories of Gaming Machines are defined in Appendix C

4.8 Licensed Family Entertainment Centres

Licensed Family Entertainment Centres (FECs) are a new category of premises introduced by the Act. Persons operating an FEC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Authority. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives to cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry

- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

4.9 Bingo Premises

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted this licensing authority will ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

4.10 Betting Premises

The Act contains a single class of licence for betting premises. However, within this single class of licence, there will be different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises, although betting intermediaries usually offer their services via remote communication, such as the internet. In principle, however, there is nothing to stop a betting intermediary applying for a betting premises licence to offer intermediary services upon the premises.

The Authority is aware of its power to restrict the number of betting machines. In the event that the Authority considers whether to impose a condition on a licence it may, among other things, take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

4.11 Tracks

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Gaming machines - JG 4 8 1 C 4 B 1 B 1 A 3 DB B H H D C
awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

Condition on rules being displayed – The licensing authority may attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”

Applications and plans - This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but is in

accordance with the Gambling Commission's guidance which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

The authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

4.12 Adult Gaming Centres

Adult gaming centres (AGCs) are a new category of premises introduced by the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Authority.

No-one under the age of 18 is permitted to enter an AGC. This Authority will have particular regard to the location of and entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives to cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

4.13 Club Gaming Permits

The Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming and games of chance as prescribed in regulations.

The Authority will only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B, C or D. The club is permitted to choose the combination of machines on its premises. The Authority may grant or refuse a permit, but it may not attach any conditions to a permit.

4.14 Prize Gaming & Prize Gaming Permits

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

A prize gaming permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises. The application must be made to the Authority in whose area the premises are wholly or partly situated.

4.15 Temporary Use Notices

The Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.

A temporary use notice may only be granted to a person or company holding a relevant operating licence. For example, the holder of a betting operating licence could apply to provide betting facilities at a snooker tournament.

The Secretary of State will prescribe in regulations the gambling activities that may be specified in a temporary use notice as well as combinations of activities that may not be specified, and activities that may not be combined with any other.

4.16 Occasional Use Notices

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

4.17 Registration of Small Society Lotteries

In carrying out its functions in relation to Lotteries the Authority will have regard to the Act, the guidance issued by the Gambling Commission from time to time and any Regulations issued by the Secretary of State.

PREVENTION OF CRIME AND DISORDER

The Council places a considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough. A high standard of control is therefore expected to be exercised over licensed premises.

The Council will, when determining applications, consider whether the grant or a Premises Licence will result in an increase in crime and disorder.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Sussex Police before making a formal application.

In considering licence applications, the Council will particularly take into account the following:-

1. The design and layout of the premises;
2. The training given to staff in crime prevention measures appropriate to those premises;
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
5. The likelihood of any violence, public order or policing problem if the licence is granted.

4 ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence). Both of these options fall under the purview of the Gambling Commission.

If any matters of complaint are made to the Licensing Authority concerning gambling not being conducted in a fair and open way the Licensing Authority will refer the complaint to the Gambling Commission for investigation.

PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS

4.1 Access to Licensed Premises

With limited exceptions, the access of children and young persons to those gambling premises which are adult only environments will not be permitted.

The Council will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

The Council will consult with the person responsible for child protection issues at West Sussex County Council on any application that indicates there may be concerns over access for children or vulnerable persons.

The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:-

1. Supervision of entrances;
2. Segregation of gambling areas from areas frequented by children;
3. Supervision of gaming machines in non-adult gambling specific premises.

The 2005 Act provides for a Code of Practice on access to Casino premises by children and young persons and the Council will work closely with the Police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

4.2 Vulnerable Persons

The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that "vulnerable persons" include:

1. People who gamble more than they want to;
2. People who gamble beyond their means;
3. People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

(Reference Para 5.21 Gambling Commission Guidance to Licensing Authorities)

5 COMPLAINTS AGAINST LICENSED PREMISES

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.

As set out in 6 above any complaints relating to gambling not being conducted in a fair and open way will be referred to the Gambling Commission.

Due consideration will be given to all relevant representations unless they fit the exceptions in 3.3 above.

6 FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Licensing Policy or the application process can be obtained from:-

The Licensing Officer
Horsham District Council
Park House
North Street
HORSHAM
West Sussex
RH12 1RL

Tel: 01403 215402
Fax: 01403 215461
E-mail: licensing@horsham.gov.uk

Information is also available from:-

Gambling Commission
Berkshire House
168-173 High Holborn
London
WC1V 7AA

Tel: 020 7306 6219
Website: www.gamblingcommission.gov.uk

APPENDIX A

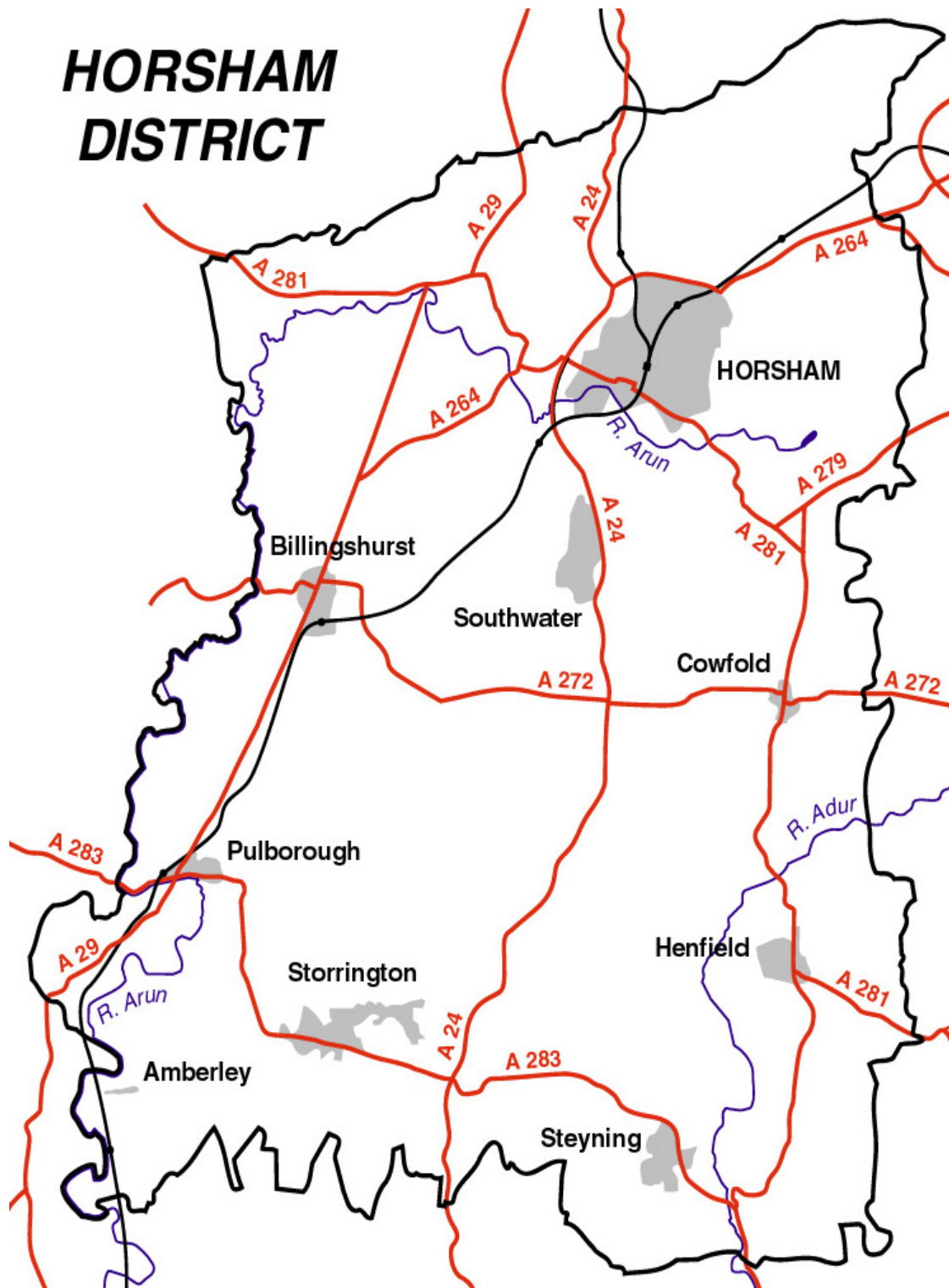
TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Cabinet Member)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licens premises gaming machi permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Source: Gambling Commission "Guidance to Local Authorities". Dated April 2006

APPENDIX B

**HORSHAM
DISTRICT**



APPENDIX C
CATEGORIES OF GAMING MACHINES

Premises Type	MACHINE CATEGORY						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines. Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines. Any combination of machines in categories B to D, within a total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines. Any combination of machines in categories B to D, within a total limit of 80 (subject to table ratio)					
Pre - 2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D or C or D machines instead					
Betting premises and tracks occupied by pool betting			Maximum of 4 machines categories B2 to D				
Bingo premises				Maximum of 4 machines in category B3 or B4		No limit C or D machines	
Adult gaming centre				Maximum of 4 machines in category B3 or B4		No limit C or D machines	
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes with permits				Maximum of 3 machines in categories B3A to D			
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic on notification	
Qualifying alcohol licensed premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D

Categories of machines are defined in Section 16.9 of the Gambling Commission "Guidance to Local Authorities". Dated April 2006.

Report to Licensing Committee

Date of meeting 9 January 2013

By the Head of Planning & Environmental Services

DECISION REQUIRED/ INFORMATION REPORT

Not exempt



Report Title: Early Morning Restriction Orders

Executive Summary

The regulations allowing the implementation of Early Morning Restriction Orders (EMROs) came into force on 31 October 2012. These measures were introduced as part of the Police Reform and Social Responsibility Act 2011. This is a power which enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area. It affects all premises which are authorised to sell alcohol during these times, including those operating under a Temporary Event Notice.

EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol related ant-social behaviour which is not directly attributable to specific premises.

The Licensing Authority must consider the desirability of introducing EMROs across the district or part of the district as part of its Licensing Policy.

Recommendations

The Committee is recommended:

- i) To consider whether or not it is desirable to introduce EMROs across all or part of the Horsham District.

Reasons for Recommendations

- i) To comply with legislative requirements, and
- ii) To ensure openness and transparency in the Council's decision making.

Background Papers:

The Licensing Act 2003 and amended guidance issued under section 182 of the Licensing Act 2003 issued on 31 October 2012.

Consultation: Principle Solicitor

Wards affected: All

Contact: Ahmed Ramiz (Licensing Officer) Xtn: 5578

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to brief members on the provisions of the Early Morning Restriction Orders (EMROs) to assist the committee in making its decision whether or not, based on the evidence available, there is a need to introduce EMROs across the district or part of the district.

2 Statutory and Policy Background

Statutory background

- 2.1 Licensing Act 2003 (as amended) and
The Police Reform and Social Responsibility Act 2011

Relevant Government policy

- 2.3 Amended guidance issued under section 182 of the Licensing Act 2003 and Home Office guidance on EMROs published on 31 October 2012 attached as Appendix 2.

Relevant Council policy

- 2.4 This will form part of the Council's Licensing Policy adopted on 15th December 2004, last amended in 2010 and due to be updated in 2013.

3 Details

- 3.1 The regulations allowing the implementation of Early Morning Restriction Orders (EMROs) came into force on 31 October 2012. These measures were introduced as part of the Police Reform and Social Responsibility Act 2011. This is a power which enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area. It affects all premises which are authorised to sell alcohol during these times, including those operating under a Temporary Event Notice.
- 3.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol related ant-social behaviour which is not directly attributable to specific premises.
- 3.3 The decision to introduce EMROs is for the licensing authority to make. The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to

determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

- 3.4 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The Guidance states that the licensing authority should consider whether other measures such as a Cumulative Impact Policy or reviewing licences of specific problem properties, may address the problems they have identified as the basis for introducing an EMRO. Currently there is no evidence to demonstrate that the introduction of an EMRO is appropriate for the promotion of the licensing objectives within the Horsham District.

4 Next Steps

- 4.1 This will depend on the decision of the committee as regards the desirability of introducing an EMRO.

5 Outcome of Consultations

- 5.1 The need for consultation depends on the decision of the committee.

6 Other Courses of Action Considered but Rejected

- 6.1 None

7 Staffing Consequences

- 7.1 None at this stage

8 Financial Consequences

- 8.1 None at this stage but the committee should take notice of the restrictions placed upon it by the regulations and should the decision of the committee be to consult on a proposal to introduce EMROs the entire cost of the consultation must be borne by the authority.

Appendix 1

Consequences of the Proposed Action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached Yes/No</p>	<p>This is a new piece of legislation and is seen by the Government as a key policy designed to assist in reducing alcohol related crime, disorder and anti social behaviour.</p> <p>No</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>One of the licensing objectives is to promote the prevention of Public Nuisance and crime and disorder.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>None at this stage</p>
<p>What is the impact of the proposal on Equality and Diversity?</p> <p>Equalities Impact Assessment attached Yes/No/Not relevant</p>	<p>There will be no impact on race relations issues arising from this report</p> <p>Not relevant</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>If adopted, the likely effect is that Premises Licence Holders who currently operate late at night would be prevented from doing so resulting in a reduction of the number of late night venues across the district. This could lead to a reduction in the night time economy, together with the potential for a loss of jobs across the areas affected by an EMRO within the Horsham District.</p>

APPENDIX 2

16. Early morning alcohol restriction orders

GENERAL

16.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders (“EMROs”). The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in sections 172A to 172E of the 2003 Act. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

16.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

16.3 An EMRO:

- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
- applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
- applies to the whole or any part of the licensing authority’s area;
- will not apply to any premises on New Year’s Eve (defined as 12am to 6am on 1 January every year);
- will not apply to the supply of alcohol to residents by accommodation providers between 12 am and 6am, provided the alcohol is sold through mini-bars and/or room service; and
- will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

THE EMRO PROCESS

16.4 An EMRO can apply to the whole or part of the licensing authority’s area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.

16.5 If the licensing authority already has a Cumulative Impact Policy (“CIP”) in its Licensing Policy Statement, it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

EVIDENCE

16.6 The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of

applications for the grant of premises licences. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

16.7 When establishing its evidence base, a licensing authority may wish to consider the approach set out in paragraph 13.23 to 13.26 of this Guidance which includes indicative types of evidence, although this should not be considered an exhaustive list of this type of evidence which may be relevant.

INTRODUCING AN EMRO

16.8 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. As set out in paragraphs 9.38-9.40 of this Guidance, when determining whether a step is appropriate to promote the licensing objectives, a licensing authority is not required to decide that no lesser step will achieve the aim, but should consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives. Other measures that could be taken instead of making an EMRO might include:

- introducing a CIP;
- reviewing licences of specific problem premises;
- encouraging the creation of business-led best practice schemes in the area; and
- using other mechanisms such as those set out in paragraph [13.39] of this Guidance.

16.9 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- the days (and periods on those days) on which the EMRO would apply;
- the area to which the EMRO would apply;
- the period for which the EMRO would apply (if it is a finite period); and
- the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order.

ADVERTISING AN EMRO

16.10 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of “days” means a period made up of any days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:

- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
- premises users in relation to TENs to which the proposed EMRO would apply;
- those who have received a provisional statement in respect of a premises to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.

16.11 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.

16.12 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

REPRESENTATIONS

16.13 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:

- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
- be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
- be received within the deadline; and
- if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious.

Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.

16.14 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).

16.15 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:

- residents;
- employees of affected businesses;
- owners and employees of businesses outside the proposed EMRO area; and
- users of the late night economy.

HEARINGS

16.16 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.

16.17 Licensing authorities should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.27 to 9.37). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:

- the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
- the hearing do not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers it to be in the public interest;
- a licensing authority must give its determination within 10 working days of the conclusion of the hearing; and
- the authority is not required to notify those making representations of its determination so that the determination may be put before the full council of the authority to decide whether or not to make the EMRO.

16.18 The licensing authority will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing authority determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.

16.19 As a result of the hearing, the licensing authority has three options:

- to decide that the proposed EMRO is appropriate for promotion of the licensing objectives;
- to decide that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- to decide that the proposed EMRO should be modified. In this case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations are capable of being made.

FINAL EMRO

16.20 If the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision.

16.21 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 16.18. The order must be set out in the prescribed form and contain the prescribed content.

16.22 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.

16.23 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.

16.24 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.

16.25 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.

16.26 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

EXCEPTIONS TO AN EMRO

16.27 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

ENFORCEMENT OF EMROS

16.28 The supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 19 of the Criminal Justice and Police Act 2001 as a precursor to an application for a closure order under section 21 of that Act. This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance.

16.29 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.

Report to Licensing Committee

Date of meeting: 9 January 2013

By the Head of Planning & Environmental Services

DECISION REQUIRED/ INFORMATION REPORT

Not exempt



Report Title: The Late Night Levy

Executive Summary

The regulations allowing the implementation of the Late Night Levy (the levy) came into force on 31 October 2012. These measures were introduced as part of the Police Reform and Social Responsibility Act 2011. The levy is a power which enables licensing authorities to charge a levy to premises licensed to sell alcohol at any time between the hours of midnight and 6am the following day, in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.

The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The Licensing Authority must consider the desirability of introducing the levy in relation to the matters described in 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs towards policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6.00am. The Levy is an annual fee which is paid by the Premises Licence Holder to the local authority. The authority is allowed to retain a maximum of 30% of the levy after taking out its expenses and must pay at least 70% of the net levy revenue to the police.

Recommendations

The Committee is recommended:

- i) To consider whether or not it is desirable to introduce the levy across the Horsham District.

Reasons for Recommendations

- i) To comply with legislative requirements, and
- ii) To ensure openness and transparency in the Council's decision making.

Background Papers:

The Late Night Levy (Application and Administration) Regulations 2012

Home Office Guidance on the Late Night Levy issued on 31 October 2012;

Consultation: Principle Solicitor

Wards affected: All

Contact: **Ahmed Ramiz (Licensing Officer) Xtn: 5578**

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to brief members on the provisions of the Late Night Levy (the Levy) to assist the committee in making its decision whether or not it is desirable to introduce the levy across the Horsham District.

2 Statutory and Policy Background

Statutory background

- 2.1 Licensing Act 2003 (as amended) and
The Police Reform and Social Responsibility Act 2011

Relevant Government policy

- 2.3 Amended guidance issued under section 182 of the Licensing Act 2003 and Home Office guidance on the Late Night Levy published on 31 October 2012 attached as Appendix 2.

Relevant Council policy

- 2.4 This will form part of the Council's Licensing Policy adopted on 15th December 2004, last amended in 2010 and due to be updated in 2013.

3 Details

- 3.1 The regulations allowing the implementation of the levy came into force on 31 October 2012. These measures were introduced as part of the Police Reform and Social Responsibility Act 2011. The levy is a power which enables licensing authorities to charge a levy to premises licensed to sell alcohol at any time between the hours of midnight and 6am the following day, in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 3.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The Licensing Authority must consider the desirability of introducing the levy in relation to the matters described in 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs towards policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6.00am.
- 3.3 The Levy is an annual fee which is paid by the Premises Licence Holder to the local authority. The authority is allowed to retain a maximum of 30% of the levy after taking out its expenses and must pay at least 70% of the net levy revenue to the police.

3.4 The decision to introduce a levy is for the licensing authority to make and the guidance recognises that some licensing authorities will not consider that it is appropriate to introduce the levy. The licensing authority should decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that many licensing authorities, including Horsham District Council, do not have a large number of premises which are licensed to sell alcohol during the late night supply period and that the levy would not generate sufficient revenue to make the levy a viable option in their area. In making its decision the committee should take note of the fact that Horsham District does not have a large number of premises which are licensed to sell alcohol during the late night supply period and it is unlikely that the levy will generate enough revenue to make it a viable option in this area.

3.4 When considering whether to introduce a levy the Committee should note that any financial risk (for example lower than expected revenue) rests at a local authority level and should be fully considered prior to any decision. In this respect it is worth noting that Premises Licence Holders with a relevant late night authorisation may make a free of charge variation to their licence to reduce their licensed hours to avoid operating in the late night supply period and therefore avoid the levy.

4 Next Steps

4.1 This will depend on the decision of the committee as regards the desirability of introducing the levy.

5 Outcome of Consultations

5.1 The need for consultation depends on the decision of the committee.

6 Other Courses of Action Considered but Rejected

6.1 None

7 Staffing Consequences

7.1 None at this stage

8 Financial Consequences

8.1 None at this stage but the committee should take notice of the restrictions placed upon it by the Regulations should it decide to introduce the levy, namely:

The net levy revenue must be split between the licensing authority and the relevant Police and Crime Commissioner (PCC). The licensing authority must pay at least 70 per cent of the net levy revenue to the police.

There are no restrictions on what and where the PCC's portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds.

The licensing authority will be able to retain no more than 30 per cent of the net levy revenue and it must be used to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy.

Appendix 1

Consequences of the Proposed Action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached Yes/No</p>	<p>This is a new piece of legislation and is seen by the Government as a key policy designed to assist in reducing alcohol related crime, disorder and anti social behaviour. Should the levy be introduced any financial risk (for example lower than expected revenue) rests with the authority.</p> <p>No</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>One of the licensing objectives is to prevent crime and disorder issues.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>None at this stage</p>
<p>What is the impact of the proposal on Equality and Diversity?</p> <p>Equalities Impact Assessment attached Yes/No/Not relevant</p>	<p>There will be no impact on race relations issues arising from this report</p> <p>Not relevant</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The likely effect is that Premises Licence Holders who currently hold a late night provision on their licence are likely to take advantage of the opportunity to vary their licence free of charge, thereby opting out of having to pay the levy. The knock on effect will be a reduction in the number of late night venues across the district and could lead to a reduction in the night time economy, together with the potential loss of jobs across the Horsham District.</p>

Appendix 2

HOME OFFICE GUIDANCE ON THE LATE NIGHT LEVY

1.1 The late night levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy.

1.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s area, which authorise the sale or supply of alcohol on any days during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6am.

1.3 A licensing authority is the authority which carries out licensing functions under the Licensing Act 2003 (“the 2003 Act”). The main licensing authorities, as defined in the 2003 Act, are:

- the council of a district in England;
- the council of a county in England in which there are no district councils;
- the council of a county or county borough in Wales;
- the council of a London borough.

1.4 It is recommended that the decision to introduce, vary or end the requirement for the levy is made by the full council. Other decisions in relation to the introduction and administration of the levy may be delegated in the manner which the licensing authority considers most appropriate.

INTRODUCTION OF THE LEVY

1.5 The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police and crime commissioner (“PCC”) for the police area in which it is proposed the levy will be introduced.¹ Local residents can use existing channels and forums to put forward views and call for the implementation or not of the levy in their area.

1.6 When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.

1.7 The licensing authority will decide the design of the levy. This includes the late-night supply period, any exemptions or reductions that may apply and the proportion of revenue (after the licensing authority’s costs are deducted) which will be paid to the PCC, with the remainder being retained by the licensing authority to fund other activities as set out in paragraph 1.42.

1.8 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.

1.9 The late night supply period must begin at or after midnight and end at or before 6am. The period can be for any length of time within these parameters but must be the same every day. If licensing authorities decide that it would be appropriate that certain types of premises should not pay the levy, they can set the late night supply period to suit the opening times of premises in their local area (for example the supply period could begin at 1am).

1.10 The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.

1.11 The licensing authority should discuss the need for a levy with the relevant PCC and the relevant chief officer of police. The licensing authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. The consultation document will state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue.

1.12 The licensing authority will publish the consultation online and in a local newspaper. It will also send written details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy will apply. The consultation is intended to be targeted at those affected by the levy, particularly businesses, the police, residents and other interested parties. The consultation process, including the period, is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal.

1.13 The licensing authority will assess consultation responses and make a final decision about whether to introduce (or vary) the levy and, if so, its design. The decision to introduce the levy, and its design, will then be put to the full council to approve.

1.14 If the full council approves the introduction (or variation) of the levy, it is recommended that the licensing authority notifies adjoining authorities. It would be helpful if licensing authorities also notified the Secretary of State for transparency purposes, via the Home Office^{1.8} The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.

IMPLEMENTATION OF THE LEVY

1.15 The licensing authority must notify the relevant chief officer of police, the PCC and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period ("relevant late night authorisation") of the start date for the levy, the late night supply period, any exemptions and reductions, and how the revenue will be shared between the police force and licensing authority. Holders of relevant late-night authorisations should also be notified of the date before which any applications for a minor variation must be made to the authority, as set out in paragraph 1.16. We recommend that licensing authorities set the start date of the levy no less than three months after those notifications have been sent.

1.16 Holders with a relevant late-night authorisation may make a free variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period. It is recommended that licensing authorities may wish to allow holders no less than two months to make such applications. The cost of processing free variations will be a deductible expense from the levy receipts in Year zero. Year zero is the first year in which the levy is introduced by the licensing authority.

1.17 The licensing authority must publish on their website an estimate of the costs it will deduct from the levy revenue each year. The licensing authority will determine the manner in which any statement is published.

1.18 The levy will apply indefinitely until the licensing authority decides that the levy will cease to apply in its area. Licensing authorities may wish to review the requirements for the levy at appropriate intervals. A decision that the levy should cease to apply can only be made at the end of a levy year. Licensing authorities may wish to notify holders of a relevant late night authorisation of any such decision.

DESIGN OF THE LEVY

1.19 The levy must apply to the whole of the licensing authority's area. It will apply to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority's area. Any such holder will be liable to pay the levy, regardless of whether the holder's premises are actually operating during the period. For example, a holder in relation to a supermarket with a 24 hour licence will be required to pay the levy regardless of its actual opening hours.

1.20 As set out in paragraph 1.9, the late night supply period must begin at or after midnight and end at or before 6am. The licensing authority can decide the times within the late-night supply period at which the levy will apply (which must be the same every day). The late-night supply period cannot apply on different days or times.

1.21 The levy will apply to boats, which are licensed at the place where they are usually moored or berthed. It will also apply to mobile bars, which are required to be licensed at the place where they are parked and carry on the licensable activity.

1.22 The levy will not apply to Temporary Event Notices (TENs)

EXEMPTIONS FROM THE LEVY

1.23 Licensing authorities may consider that there are some types of premises in relation to which the holder should not make a contribution towards the cost of policing the night-time economy through the levy. This is a local decision – the licensing authority should make its decision based on its knowledge of the night-time economy in the area, including information gathered through the consultation process.

1.24 Licensing authorities are not able to choose a category of premises for an exemption from the levy, if it is not prescribed in regulations. Likewise, licensing authorities are not able to exempt specific premises from the requirement to pay the levy.

1.25 Licensing authorities can decide, when considering the levy design, if any of the following permitted categories of premises should be exempt from the requirement to pay the levy. These exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

1.26 Premises with overnight accommodation: This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.

1.27 Theatres and cinemas: Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises. Licensing authorities should be satisfied that premises which are eligible for this exemption are bona-fide theatres or cinemas, and that the sale of alcohol is not the primary purpose of their businesses.

The definition of a “cinema” or a “theatre” should be readily understood by its plain, ordinary meaning.

1.28 Bingo halls: Premises in this category must be licensed and regulated under the Gambling Act 2005.

1.29 Community Amateur Sports Clubs (“CASCs”): Premises in this category must have relief from business rates by virtue of being a CASC (Section 658 of the Corporation Tax Act 2010).

1.30 Community premises: Premises in this category must have successfully applied for the removal of the mandatory designated premises supervisor (“DPS”) requirement and demonstrated that they operate responsibly.

1.31 Country village pubs: In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000. The definition of a rural settlement appears in the qualifications for rural rate relief in Part III of the Local Government Finance Act 1988.

1.32 New Year’s Eve: Licensing authorities can offer an exemption from the levy for holders in relation to premises which only have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year

1.33 Business Improvement Districts (“BIDs”): Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus. Licensing authorities have the discretion to determine whether the BIDs in their area are eligible.

REDUCTIONS FROM THE LEVY

1.34 Licensing authorities may wish to use the late night levy to promote and support participation by premises in other business-led best practice schemes. Licensing authorities can decide, when considering the levy design, if holders whose premises participate in such schemes should benefit from a reduction to the amount they are required to pay under the levy.

1.35 Eligible premises will receive a 30 per cent reduction from the levy. There will be no cumulative discounts available for holders in relation to premises that are eligible for more than one reduction category. Licensing authorities can offer a reduction to best practice schemes that meet the following benchmarks specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:

- a clear rationale as to why the scheme’s objectives and activities will, or are likely to, result in a reduction of alcohol-related crime and disorder;
- a requirement for active participation in the scheme by members; and
- a mechanism to identify and remove in a timely manner those members who do not participate appropriately.

1.36 Licensing authorities have discretion as to how best practice schemes can demonstrate that they meet these benchmarks. We expect licensing authorities to use their existing partnerships with best practice schemes, and understanding of a scheme’s operation in their area, to identify eligible schemes in their areas. Licensing officials could visit representatives from best practice schemes in their area, or request written details of the scheme’s objectives, if they decide to consider this reduction category.

1.37 Licensing authorities can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief (as specified in Part III of the Local Government Finance Act 1988) and have a rateable value of £12,000 or less. This reduction is only available to

holders in relation to premises that supply alcohol for consumption on the premises. The relevant billing authority may have information on which premises in the licensing authority area are in receipt of Small Business Rate Relief.

1.38 If the licensing authority decides to introduce or remove categories of exemption and/or reduction after Year zero, they will need to follow the same procedure for consultation as set out in 1.11-1.13 though the consultation should only refer to the new proposal. If a licensing authority chooses to remove categories of exemption and/or reduction after Year zero, they should consider that the opportunity for businesses to make a free variation to their licence is only available when the levy is initially introduced.

LEVY REVENUE

1.39 The net levy revenue must be split between the licensing authority and the relevant PCC. The licensing authority must pay at least 70 per cent of the net levy revenue to the police. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy

2 This excludes documents that are operationally sensitive or those that would compromise national security

1.40 There are no restrictions on what the PCC's portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds. The PCC's proportion will be subject to the same transparency measures as those that apply in relation to other aspects of the operation of the PCC. The Police and Crime panel will be able to request any documents of the PCC in order to hold them to account in the allocation and use of their funds.²

1.41 We recommend that the licensing authority should use its existing partnership with the police to discuss the police intentions for their share of the levy revenue. We also recommend that the PCC should consider allocating the funds raised from the levy back to local commanders to allow the revenue to be spent on tackling alcohol-related crime and disorder in the area in which the levy was raised.

1.42 The licensing authority will be able to retain up to 30 per cent of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:

- the reduction of crime and disorder;
- the promotion of public safety;
- the reduction or prevention of public nuisance; or
- the cleaning of any relevant highway or relevant land in the local authority area.

1.43 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Regulations have prescribed descriptions of expenses which may be deducted. As set out in paragraph 1.6, any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level.

1.44 These deductible costs may include (but are not necessarily limited to) the following:

- the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;
- the collection of levy payments;
- the enforcement of levy payments; and
- the cost of processing applications for a variation in relation to the introduction of the levy.

1.45 There will be no specific restrictions on the amount of the expenses which licensing authorities can claim in expenses, however licensing authorities will have to account for their expenses following existing procedures. The Government may specify a cap on the amount of expenses in further regulations if considered necessary.

LEVY CHARGE AND COLLECTION PROCESS

1.46 The amount of the levy will be prescribed nationally. The annual charges for the levy will be:

Levy Annual Fees:

Band A = £299.00

Band B = £768.00

Band C = £1,250.00

Band D = £1,365.00

Band E = £1,493.00

Band D = £2,750.00 x 2 if premises used primarily or exclusively for sale of alcohol

Band E = £4,400.00 x 3 if premises used primarily or exclusively for sale of alcohol

A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises. This will ensure that larger clubs and bars make a higher contribution towards the levy.

1.47 The levy charges are based on the current licence fee system under the 2003 Act, with holders being placed in bands based on their premises rateable value. A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises to ensure that larger clubs and bars make a higher contribution towards the levy. Regulations include provision for premises that do not have a rateable value (Band A) or premises that are in the course of construction (Band C).

1.48 The levy will be collected at the same time as the annual licence fee (except in relation to holders premises who obtain a relevant late night authorisation during a levy year). The holder will, therefore, be required to pay the levy on an annual basis. For holders whose licences exist at the time that the first levy year begins, the payment year will be the same as the levy year³. These holders will make their first levy payment when they pay their annual fee. For holders who are granted a licence in the first or subsequent levy years, the payment year runs from the date of the grant of the licence and for each year thereafter. Their first payment will be made 14 days after the grant of the licence, and thereafter when they pay their annual fee.

1.49 In the following circumstances, licensing authorities can adjust a holder's liability to the levy:

- a licence lapses under section 27 of the 2003 Act (that is if the holder of the licence dies, becomes mentally incapable, becomes insolvent, if the partnership holding the license is dissolved or if it is a club, ceases to be a recognised club);

- an EMRO is made which prohibits premises from serving alcohol at any time when the levy applies; or
- the amount of the levy reduction is the amount found by applying the formula: $R = (L/365) \times N$ (see footnote4).

1.50 Licensing authorities have discretion to adjust a holder's liability if the licence is surrendered (for instance, because the licence holder ceases to trade). The circumstance for surrendering a licence will vary considerably from case to case; for instance, a licensing authority might chose to exercise this discretion for a long-term illness, but not when a licence holder surrendered a licence in anticipation of it being revoked. Holders whose licences are revoked for contravening the licensing objectives would not be eligible for a reduction.

1.51 Any payment of the levy which is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.

Notes:

1. In this guidance, a reference to a PCC include a reference to the holder of the Mayor's Office for Policing and Crime. Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) take place on 15th November 2012. Once appointed, PCCs will be expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.
2. This excludes documents that are operationally sensitive or those that would compromise national security.
3. The payment year is the period by reference to which a licence holder's liability to the levy is determined. The levy year is the period during which the levy applies.
4. R is the levy reduction, L is the amount of the late night levy payable by the holder of the relevant late night authorisation and N is the number of days in the payment year beginning on the day following the date on which the relevant event occurred.