



LICENSING COMMITTEE
THURSDAY 7TH NOVEMBER 2013 AT 5.30 P.M.
COUNCIL CHAMBER, PARK NORTH, NORTH STREET, HORSHAM

Councillors:	Christian Mitchell (Chairman)	
	Jim Sanson (Vice-Chairman)	
	Peter Burgess	David Jenkins
	George Cockman	Gordon Lindsay
	David Coldwell	Josh Murphy
	Christine Costin	Sue Rogers
	Helena Croft	David Skipp
	Leonard Crosbie	Diana van der Klugt
	Brian Donnelly	

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 6 th June 2013 | 1 |
| 3. | To receive any declarations of interest from Members of the Committee | |
| 4. | To receive any announcements from the Chairman of the Committee or the Chief Executive | |
| 5. | To consider the following reports of the Head of Planning & Environmental Services: | |
| | (a) Review of Licensing Policy (Licensing Act 2003) | 3 |
| | (b) Review of Horsham District Council's Enforcement Policy | 55 |
| | (c) Environmental Health & Licensing – Licence Fees for 2014/2015 | 65 |
| | (e) Adoption of the Model Skin Piercing byelaws | 71 |
| | (d) Implementation of the Scrap Metal Dealers Act 2013 | 85 |
| 6. | 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 | |

Blank

LICENSING COMMITTEE
6th June 2013

Present: Councillors: George Cockman, David Coldwell, Helena Croft, Leonard Crosbie, Brian Donnelly, Gordon Lindsay, Christian Mitchell, Josh Murphy, Sue Rogers, Jim Sanson

Apologies: Councillors: Peter Burgess, Christine Costin, David Jenkins, David Skipp, Diana van der Klugt

Also present: Councillor John Bailey

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 9th January 2013 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 **REVIEW OF LICENSING POLICY (LICENSING ACT 2003)**

The Head of Planning & Environmental Services reported that under the Licensing Act 2003, a statement of the Council's Licensing Policy had to be published every three years. The Council's first licensing policy had come into force on 7th January 2005 and the current policy had come into effect on 7th January 2011.

LI/6 Review of Licensing Policy (Licensing Act 2003) (Cont.)

Whilst this period for review was likely to be extended to five years commencing November 2013, owing to significant changes to the Licensing Act 2003, including the Police Reform and Social Responsibility Act 2011, the current policy was no longer considered fit for purpose and an updated policy was required.

The draft policy would be subject to public consultation and have to be approved by Council, acting as the Licensing Authority, before being formally adopted. Were the Committee to approve the draft policy for consultation, there would be a three month consultation period beginning by 1 July 2013. Comments would be invited from a wide range of consultees, including statutory consultees, Members, parish and neighbourhood councils, some licensed premises, trade representative bodies and the public via the Council's website.

A final draft policy would be presented to a meeting of the Committee in November 2013 for recommendation to the Council on 11th December 2013.

The draft Licensing Policy was considered by the Committee and Members agreed to approve the proposal for consultation purposes. The Committee agreed that the date of the next Licensing Committee would be Thursday 7th November 2013.

RESOLVED

- (i) That the draft Licensing Policy submitted be approved as a consultation policy.
- (ii) That the Head of Planning & Environmental Services consult on the draft policy for a period of three months, with a deadline for responses of 30th September 2013.
- (iii) That a further Report be submitted to a meeting of the Committee in November 2013 with the outcomes of the consultation and recommendations for a revised policy.

REASONS

- (i) To comply with legislative requirements.
- (ii) To ensure openness and transparency in the Council's decision making.
- (iii) To ensure that those persons affected by the policy have the opportunity to have an input into it.

The meeting ended at 5.45pm having commenced at 5.30pm

CHAIRMAN

Report to Licensing Committee

Date of meeting: 7th November 2013

By Head of Planning & Environmental Services

DECISION REQUIRED

Not exempt



Review of Licensing Policy (Licensing Act 2003)

Executive Summary

At its meeting, held on 6 June 2013 the Licensing Officer presented a report to the Committee advising them that the Licensing Act 2003 (as amended) currently requires Licensing Authorities to publish at least every three years a statement of their Licensing Policy. However, this period for review is to be extended to five years commencing in October 2013. Applications for licences under the Licensing Act 2003 have to be made in accordance with the Act and the relevant Licensing Authority's Licensing Policy. The Council's first Licensing Policy following consultation and adoption by the council came in to force on 7 January 2005. It was subsequently reviewed and the current Policy came into effect on 7 January 2011. A number of changes to the parent Act and other associated legislation made it desirable to review this authority's Licensing Policy.

The policy, which has to be approved by the full Council (acting as the Licensing Authority), has to be the subject of a public consultation and the comments received have to be taken into account before formally being adopted. In order to meet the statutory requirements the policy has to be published at least one month before it comes into force.

At its meeting in June 2013 the Committee agreed a draft for consultation and comments were sought on this draft. The period of public consultation closed on 30th September 2013. Set out at Appendix 2 to this report are the summaries of the replies received through that consultation and the Officer comments on them.

These comments have been used to inform a revised draft which is attached at Appendix 3 of this report.

Recommendations

The Committee is recommended:

- i) Recommend to Council the adoption of the Draft Licensing Policy at Appendix 3 as this Council's Licensing Policy to take effect immediately following adoption by Council

Reasons for Recommendations

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

Background Papers: None

Consultation: Council 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 seek the committee's approval to draft Licensing Policy for recommendation to the Council at its meeting on 11th December 2013.

2 Statutory and Policy Background

Statutory background

- 2.1 Licensing Act 2003 (as amended)

Relevant Government policy

- 2.2 Amended Guidance issued under section 182 of the Licensing Act 2003 and the Cabinet Code of Practice on consultation.

Relevant Council policy

- 2.3 Licensing Policy adopted on 15th December 2004 and subsequently reviewed and amended in 2007 and 2010.

3 Details

- 3.1 Set out at Appendix 2 are the consultation replies received on the consultation draft. A total of 8 replies were received.
- 3.2 Set out at Appendix 3 to this report is the amended Statement of Licensing Policy to be considered by the committee.
- 3.2 The Committee is recommended to approve the Draft Policy and to recommend to Council at its meeting in December 2013 its adoption as the Council's (as the Licensing Authority) Licensing Policy.

4 Next Steps

- 4.1 After its adoption by Council the Licensing Policy will be posted on the Council's website.

5 Outcome of Consultations

- 5.1 8 response letters were received as a result of the consultation exercise. The responses received did not address the policy under review or raised issues which could not be included as part of the authority's policy.
- 5.2 The results of the consultation process have been included with this report including the reasons why the representation was not considered to be relevant.

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

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 Licensing Act 2003 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 to prevent crime and disorder issues.
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

Responses to consultation:

As part of the consultation process letters were sent out to ALL Licensed Premises and Premises Licence Holders together with All Responsible Authorities as defined under the 2003 Act, All Ward Councillors, All Parish Council Chairs and Secretary's, all Neighbourhood Council Chair and Secretary's, and other interested parties as set out below.

The consultation process was also notified to the local papers, was advertised on the council's own website and circulated to all of Horsham District Council's Staff via email.

As a result, disappointingly the authority received only eight responses none of which addressed the policy under review or raised issues which could not be included as part of the authority's policy.

The relevant emails/letters and responses are attached.

Licensing Policy Review Consultees

Child Protection ~ WSCC

Children's Access Point,
4th Floor, County Hall North,
Chart Way, Horsham,
West Sussex,
RH12 1XH

Chief Officer of Police

Police Divisional Licensing Officer
Police Station, Hurst Road
Horsham
West Sussex
RH12 2DJ

Fire Safety Office

West Sussex Fire and Rescue Service
Horsham Fire Station, Hurst Road
Horsham
West Sussex
RH12 2DN

Mrs J. Irving

Sussex Police HQ
Malling House
Church Lane
Lewes, East Sussex
BN7 2DZ

The Police and Crime Commissioner

c/o: Sussex Police HQ
Malling House
Church Lane
Lewes, East Sussex
BN7 2DZ

Mr M. Richard QPM, Chief Constable

Sussex Police HQ
Malling House
Church Lane
Lewes, East Sussex
BN7 2DZ

Security Industry Authority

4th Floor
50 Braidway
London
SW1H 0SA

Trading Standards Service

Centenary House
Durrington Lane
Worthing
West Sussex
BN13 2QB

Director of Public Health

Public Health Licensing,
West Sussex County Council,
1st Floor, The Grange,
County Hall Campus, Chichester
PO19 1QT

J D Wetherspoon Plc

Wetherspoon House
Central Park,
Reeds Crescent
Watford, Herts,
WD24 4QL

TLT Solicitors

One Radcliffe Street
Bristol
BS1 6TP

British Institute of Innkeepers

Wessex House
80 Park Street
Camberley
Surrey
GU15 3PT

Budgens Stores Limited

Musgrove House
Wide Water Place
Moorhill Road, Harefield
Middlesex
UB9 6NS

Association of Licensed Multiple Retailers

9b, Walpole Court
Ealing Studios
London
W5 5ED

Dobsons Solicitors

4 Northgate
Chichester
West Sussex
PO19 1BB

Education Welfare Officer

Education Office (South)
Inclusion and Learning Support
Centenary House, Durrington Lane
Worthing, West Sussex
BN13 2QB

Foshett Marr Gadsby and Head

181 High Street
Epping
Essex
CM16 4BQ

Enterprise Inns

Licensing Department
3 Monkspath Hall Road
Shirley
Solihull
B90 4SJ

Gosschalks Solicitors

Queens Gardens
Hull
HU1 3DZ

Greene King Brewing & Retailing Ltd

Westgate Brewery
Bury St Edmunds
Suffolk
IP33 1QT

Hall and Woodhouse

Licensing Department
The Brewery
Blandford St Mary
Dorset
DT11 9LS

Mr Philip Day

Horsey Lightly Fynn Solicitors
3 Poole Road
Dorset
BH2 5QJ

The Horsham Society

Hon Secretary
Mr R. Cuming
3 Whitehorse Road
Horsham RH12 4UL

J D Wetherspoon Plc

Wetherspoon House
Central Park, Reeds Crescent
Watford
Herts
WD24 4QL

Marks and Spencer

Licensing Department
PO Box 288
Warrington
WA5 7AZ

Marston's PLC

Marstons House
Brewery Road
Wolverhampton
WV1 4TJ

McCoys Pub Brokers Limited

Barnes Wallis House
25, Barnes Wallis Way
Segensworth East
Fareham
Hants, PO15 5TT

Nelson Nichols Solicitors

36A London Road
North End
Portsmouth
Hampshire
PO2 0LN

One Stop Stores Ltd

Apex Road
Brownhills
Walsall
West Midlands
WS8 7TS

Poppleston Allen

37 Stoney Street
The Lace market
Nottingham
NG1 1LS

Punch Taverns

Jubilee House
Second Avenue
Burton upon Trent
DE14 2WF

Sainsbury Licensing Department

Sainsbury's Supermarkets Ltd
33 Holborn
London
EC1N 2HT

TESCO Licensing Team

Cirrus Building C
Shire Park
Welwyn Garden City
Hertfordshire
AL7 1ZR

West Sussex Mediation Service

Alphacom House
8A Oakhill Road
Horsham
West Sussex
RH13 5SB

Sussex Enterprise

Greenacre Court
Station Road
Burgess Hill
RH15 9DS

Local Safeguarding Board

The Grange
Tower Street
Chichester
West Sussex
PO19 1QT

ACRE

Nyton Lodge
Nyton Road
Westergate, Chichester
West Sussex
PO20 6UL

Association of Convenience Stores

Federation House
17 Farnborough Street
Farnborough
Hampshire
GU14 8AG

Association of Licensed Multiple Retailers

3rd Floor, International House
Ealing
London
W5 5DB

British Retail Consortium

Second floor,
21 Dartmouth Street
London
SW1H 9BP

Budgens

PO Box 9
Stonefield Way
Ruslip
Middlesex

Sussex County Cricket Club

County Ground
Eaton Road
City of Brighton and Hove
East Sussex
BN3 3AN

Sussex County Lawn Tennis Association

26 Tongdean Lane
Withdean
City of Brighton and Hove
BN1 5JE

Sussex County Football Association

Football Development Officer
Culver Road
Lancing
West Sussex
BN15 9AX

Sussex Rugby Football Union

Rugby Development Officer
Brighton and Hove City Council
Kings House, Grand Avenue
Hove, BN3 2ST

British Institute of Innkeeping

Wessex House
80 Park Street
Camberley
Surrey
GU15 3PT

Institute of Licensing

c/o Lilac Cottage
Aller
Somerset
TA10 0RA

Waverley District Council

The Bury
Godalming
Surrey
GU7 1HR

Arun District Council

Licensing Officer
Arun Civic Centre
Maltravers Road
Littlehampton
BN17 5LF

Brighton & Hove City Council

Bartholomew House
Bartholomew Square
Brighton,
East Sussex
BN1 1JP

Crawley Borough Council

The Town Hall
The Boulevard
Crawley
West Sussex
RH10 1UZ

NALEO

3 Tyne Close
Liverpool
L4 1XP

Horsham Chamber of Commerce & Industry

PO Box 171
Billingshurst
West Sussex
RH14 0YF

Mole Valley District Council

Head of Environmental Health
Pippbrook, Dorking
Surrey
RH4 1SJ

Adur District Council

Civic Centre
Ham Road
Shoreham by Sea
BN43 6PR

Chichester District Council

East Pallant House
East Pallant
Chichester
West Sussex
PO19 1TY

Mid Sussex District Council

Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

West Sussex PCT

The Causeway
Goring by Sea
West Sussex
BN12 6BT

HM Customs and Excise

3rd Floor West, Ralli Quays
3, Stanley Street
Salford
M60 9LA

WSCC Highways

West Sussex County Council
County Hall, West St,
Chichester,
West Sussex
PO19 1RG

South Coast Strategic Health Authority

York House
18 Massetts House
Horley
Surrey
RH12 7DE

West Sussex Drug & Alcohol Action Team

First Floor, City Gate
2 – 4 Southgate
Chichester
West Sussex
PO19 2DJ

The Citizen Advice Bureau

Lower Tanbridge Way
Horsham
West Sussex
RH12 1PJ



DRAFT

**Horsham District Council's Statement of
Licensing Policy for Regulated
Entertainment, Late Night Refreshment and
the Sale and Supply of Alcohol**

January 2014

CONTENTS

CHAPTER	PAGE
1 INTRODUCTION	2
2 SCOPE	4
3 MAIN PRINCIPLES	5
4 LOCAL IMPACT	6
5 THE POLICIES	8
6 CONDITIONS	23
7 ENFORCEMENT	24
8 INTEGRATION OF STRATEGIES	26
9 OTHER REGULATORY REGIMES	28
 <u>APPENDICES</u>	
A ADMINISTRATIVE PROCEDURES	29
B ADDRESSES FOR RESPONSIBLE AUTHORITIES	31
C GLOSSARY OF TERMS	33

This Policy was approved and adopted by Council as the Licensing Policy for Horsham District on the

This Policy takes effect from 31 January 2014

1. INTRODUCTION

- 1.1 Horsham District Council (The Licensing Authority), in pursuance of its duties and powers under the Licensing Act 2003 (as amended) (LA 2003), hereby formally makes a statement as to its Policy in respect of the provisions of that Act and will use this Policy as the framework against which licensing decisions will be made by the Authority.
- 1.2 A number of revisions have been made by Parliament in the light of experience of the Act and suggestions from its practitioners. These include:
- Minor variation orders which introduce a simplified system to enable minor variations to a licensed premises whilst still maintaining local public consultation;
 - A provision to allow Community Premises in certain circumstances, to disapply the need for a Designated Premises Supervisor and allow a Management Committee to supervise the Sale and Supply of Alcohol;
 - The introduction of additional Mandatory Conditions which disallow irresponsible drinks promotions, a requirement for Premises Licence Holders to impose an age verification scheme, free tap water for customers on premises serving alcohol for consumption on the premises, smaller glass sizes, no drinking games involving alcoholic drinks being poured directly into another's mouth;
 - Members of the Licensing Authority (local Councillors) are now interested parties in their own right.
 - The Licensing Authority is now a responsible authority under the Act.
 - The 2003 Act requires licensing authorities to suspend a premises licence or club premises certificate if the annual fee has not been paid when it becomes due.
 - The introduction of changes to Temporary Event Notice Applications to allow for late notices to be submitted within certain statutory limits and an increase in the number and duration of events permitted under the Act (as amended).
 - The Introduction of the Late Night Levy and Early Morning Restriction Orders.
 - The introduction of the Live Music Act which in effect deregulates certain live and recorded music activities from the need for licensing within limits set by the Act.
 - The removal of the need for entertainment licences between 8am and 11pm for performance of plays, exhibition of dance (up to audience limits of 500 people) and indoor sports up to audiences of 1000 people.
 - The removal of the need to licence the provision of facilities for music, dancing and any entertainment of a similar description.

Full details of the relevant changes are contained in the Authority's guidance on the Licensing Act 2003 which is available on the council's website.

- 1.3 The aim of the Licensing Authority's policy is to promote the Licensing Objectives set out in the Act whilst securing the safety and amenity of residential communities and facilitating a sustainable entertainment and cultural industry. There is a presumption that a licence will be granted unless there are compelling reasons to refuse the licence.

1.4 The Licensing Objectives are:-

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm (Section 4(2) LA 2003)

1.5 The Licensing Authority has had regard to the Guidance issued by the Secretary of State in drawing up this statement of Licensing Policy. (Guidance issued under Section 182 LA 2003, by the Department for Culture Media and Sport).

1.6 In undertaking its licensing function, the Licensing Authority is also bound by other legislation such as:

- Section 17 of the Crime and Disorder Act 1998 requiring the Licensing Authority to do all that it reasonably can to prevent crime and disorder in its locality;
- Amended Statutory Guidance issued under Section 182 of the Licensing Act 2003;
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998; placing a duty on public authorities to protect the rights of individuals in a variety of circumstances;
- Health and Safety at Work Act 1974; and regulations made thereunder;
- Food Safety Act 1990; and regulations made thereunder;
- Environmental Protection Act 1990;
- Criminal Justice and Police Act 2001;
- The Anti-Social Behaviour Act 2003;
- The Equality Act 2010;
- Disability Discrimination Act 1995;
- The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009;
- The Policing and Crime Act 2009;
- The Police Reform and Social Responsibility Act 2011;
- The Late Night Levy (Application and Administration) Regulations 2012.
- The Licensing Act 2003 (Description of Entertainment) (Amendment) Order 2013.
- The protection of Freedoms Act 2012

1.7 The Licensing Authority will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the Licensing Objectives. Such Strategies include:

- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
- National Alcohol Harm Reduction Strategy for England (AHRSE) 2004;
- Local Alcohol Strategy;
- Safer Clubbing.

- 1.8 In addition, the Licensing Authority will consider applications with reference to other adopted policies, such as:
- The relevant Community Safety Strategy;
 - Horsham Evening Economy;
 - Health Promotion Strategy;
 - The statutory of practice for regulators
 - Enforcement Concordat;
 - Core Strategy of the Local Development Framework;
 - Pub Watch scheme;
 - 'Citizen Card' Proof of age scheme.
- 1.9 The Licensing Authority, in adopting this licensing policy, recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to the local economy and vibrancy of the district.
- 1.10 The Policy provides guidance to applicants, objectors and interested residents on the general approach the Licensing Authority will take in terms of licensing. Although each licence application must be considered separately on its individual merits, in adopting the licensing policy, the Licensing Authority is making it clear that wider considerations other than the fitness of the applicant and suitability of the premises will be taken into account.
- 1.11 The Policy may be revised at any time there is considered to be a need for adjustment and we will comply with any statutory requirements. Where required, there will be public consultation before any revision of the policy.
- 1.12 The Policy is written in pursuance of the Licensing Act 2003 and incorporates Horsham District Council's adopted policies in respect of Equal Opportunities.
- 1.13 Set out at Appendix 1 are the administrative procedures that have been adopted by the Licensing Authority to administer applications received under the provisions of the Licensing Act 2003.

2. SCOPE OF THE POLICY

2.1 The 2003 Act provides a unified system of regulation of the activities for the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. The system is achieved through the granting of Personal Licences, Premises Licences, Club Premises Certificates and Temporary Event Notices.

2.2 Activities that require a licence under the Licensing Act 2003 and covered by this policy include:

- Retail sale of alcohol for consumption both on and off the premises
- Supply of hot food or drink from a premises from 23.00 to 05.00 hours for consumption both on and off the premises
- Supply of alcohol or provision of regulated entertainment to club members
- Provision of entertainment listed below (known as regulated entertainment) to the public or club members or with a view to profit:
 - a performance of a play;
 - an exhibition of a film;
 - An indoor sporting event;
 - A boxing or wrestling entertainment;
 - A contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”);
 - A performance of live music;
 - Any playing of recorded music;
 - A performance of dance;
 - Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

The provision of certain Regulated Entertainment is exempt under the Live Music Act 2012.

2.3 The scope of the policy covers new applications, renewals, transfers and variations of licences and certificates, including where applicable temporary event notices. It will also include review of licences and certificates. Such a review could lead to the revocation of a licence or certificate.

2.4 This amended policy will take effect on 31 January 2014 and remain in force for such period as is determined by Parliament or is subject to review by the Licensing Authority. Any revisions may be the subject of statutory consultation.

3. MAIN PRINCIPLES

- 3.1 The main principles of the policy are to implement the key aims of the legislation which are defined as follows: -
- a) To reduce crime and disorder;
 - b) To reduce public nuisance;
 - c) To protect children from harm;
 - d) To protect the public; and
 - e) To reduce alcohol misuse;
- 3.2 The Policy is also intended to ensure that the provision of additional opportunities for licensable activities is matched by additional measures enabling the Police and licensing authorities to act promptly to maintain public order and safety. It is also important that these additional opportunities for licensable activities are balanced and in accordance with the Core Strategy of the Local Development Framework (LDF) retail/town centre policies and objectives. This balancing should ensure that there is not an over provision of such uses in the town and village centres, which may undermine their vitality and viability.
- 3.3 The Policy sets out a general approach to the making of licensing decisions and underpins the provisions of the Licensing Act. It does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 3.4 Similarly, this Policy does not override the right of any person to make representations on an application or seek a review of a licence or certificate, where provision has been made for them to do so under the LA 2003.
- 3.5 Licensing is about the control of licensed premises, qualifying clubs and temporary events, within the terms of the LA 2003. Any terms and conditions that are attached to various permissions will be focused on those matters which are within the control of individual licensees and others who are granted relevant permissions. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises.
- 3.6 The Licensing Authority will focus primarily on the direct impact that activities taking place at licensed premises may have on members of the public living, working or engaging in normal activity in the area concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding a licence, certificate or relevant permission.

4. LOCAL IMPACT

- 4.1 Views will be taken, as part of the consultation process, as to the effect an expansion of licensing may have on any one area. Regard will be had to the Licensing Objectives which are: -
- Prevention of crime and disorder;
 - Public safety;
 - Prevention of public nuisance;
 - Protection of children from harm.
- 4.2 The impact of additional food and drink uses on the character of the area and the effect on local amenity, traffic and parking will be a matter for Horsham District Council, as the Local Planning Authority, to determine. Licence conditions which address the cumulative impact of licensed premises within an area will, however, reflect the particular circumstances in that area which may have an impact on nuisance, crime and disorder.
- 4.3 Quotas will not normally be imposed but the overall impact will be addressed and this may have an impact on the number of licensed premises in any given area.
- 4.4 It may be that in the future the Licensing Authority will have to adopt a special policy to address the saturation effect. In such a case before any policy is formulated, consideration will be given to:-
- Identifying any serious or chronic concerns about nuisance and disorder
 - Assessing the causes;
 - Identifying the area from which problems are arising and the boundaries of that area and;
 - Adopting a policy about future licence applications from that area.
- 4.5 Should any “Special Policy” be implemented it will be kept under review.
- 4.6 This policy underlines Horsham District Council’s duties under Section 17 of the Crime and Disorder Act 1998, in respect of crime and disorder and to the Licensing Objectives of the LA 2003.
- 4.7 This policy also states that when considering the grant of applications or variations before the Licensing Authority, it will consider representations based on those issues that impact on the promotion of the licensing objectives in Horsham District Council’s area generally.
- 4.8 The policy clarifies that the onus will be on the objector to any licence application to lay an evidentiary base for any assertion that the grant of a licence would result in a detrimental impact when compared with the Licensing Objectives.

4.9 Issues of cumulative impact will therefore be addressed via the following mechanisms:-

- Planning Controls;
- Positive measures to create a safe and clean environment in partnership with local businesses, transport operations and other departments of Horsham District Council and other local authorities;
- Application of the powers of Horsham District Council to adopt legislation to control the consumption of alcohol in designated public places;
- Police enforcement of the law concerning disorder and anti-social behaviour;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Enforcement by Trading Standards against under-age sales including the use of test purchasing;
- Application of police powers to instantly close for up to 24 hours, any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder, or excessive noise emanating from the premises;
- Application of powers of the police, other responsible authorities, local residents or businesses to seek a review of the licence or certificate in question.

5. THE POLICIES

The policies are set out in **bold type**, with the explanation and justification for each area of policy in normal type.

- GEN/1** **These policies will normally apply to any licence application determined after the date that the Licensing Authority resolved to make these policies operational, irrespective of the date on which the application was made.**
- GEN/2** **In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its individual merits.**
- GEN/3** **This policy shall avoid duplication with other regulatory regimes.**
- GEN/4** **This policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children.**
- GEN/5** **It is the current policy of this authority not to introduce the Late Night Levy and Early Morning Restriction Orders.**
- 5.1 The Licensing Authority is keen to promote the artistic and cultural life of the District and the Licensing Authority's approach will be to encourage new and innovative forms of regulated entertainment that are consistent with the licensing objectives.
- 5.2 The Horsham District Council will, through its Leisure and Economic Development Departments, seek to licence appropriate public places under its control in order to facilitate the entertainment outlined above as part of the implementation of its Cultural Strategy.
- 5.3 The views of vociferous minorities should not be allowed to dominate the general interests of the community. In determining what conditions should be attached to licences and certificates, the promotion of the licensing objectives will be the overriding determining factor. The Licensing Authority is aware of the need to avoid measures which deter live music, dancing and theatre, such as imposing indirect costs of a substantial nature.

5.4 Licensing Hours

LICHR5/1 Consideration will be given to the individual merits of each and every application. However, it is recognised, following Government recommendation, that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. For the avoidance of doubt and to give the public clarity each premises licence will have a “Starting” and “Terminal” Hour fixed. The Operating Schedule shall therefore include proposed times of operating and details of how the applicant intends to promote the Licensing Objectives.

5.4.1 The Licensing Authority will expect to see within the operating schedule a series of times setting out when: -

- Customers may first enter the premises;
- The time from when Licensable Activities will take place;
- The time for last orders for the sale of alcohol;
- The “terminal hour” for the premises.

5.4.2 Applicants should carefully consider the hours that they wish to operate and when to close their premises for the entry of customers and when to require customers to leave. The Licensing Authority will generally require that customers should not be allowed to remain on the premises later than 30 minutes after the Licensable Activities have ceased.

5.4.3 The benefits of “cooling down” periods after the last sales of alcoholic drinks, while food and non-alcoholic drinks are still available; when the volume and tempo of music is reduced and the levels of lighting increased are widely recognised as helping to reduce crime and disorder and public nuisance. In certain types of premises applicants should consider the benefits of stopping the sale of alcohol well before other Licensable Activities stop and more than 30 minutes before the premises close and customers are required to leave.

5.4.4 Fixed and early closing times can, in the case of sales of alcohol, result in rapid binge drinking close to closing times; leading to disorder, disturbance and other nuisance behaviour, particularly in and around late night fast food outlets, taxi ranks and other sources of transport.

5.4.5 The Licensing Authority recognises the benefit of reducing concentrations and achieving slower dispersal of people from licensed premises through longer opening times.

LICHR5/2 By promoting later hours of opening it is anticipated that customers will leave for a variety of reasons over a longer period. To assist in this aim, in areas containing a number of licensed premises, the Licensing Authority will encourage licensees to stagger their closing times to avoid large numbers of customers leaving premises simultaneously. Where voluntary arrangements cannot be obtained or are unsuccessful and problems of crime, disorder or nuisance arise, the Licensing

Authority will consider whether it is appropriate to limit the hours of the individual licensed premises. This will particularly be the case in noise-sensitive areas.

LICHR5/3 The Licensing Authority shall have regard to the need to disperse people quickly and safely from town/village centres to avoid concentrations which may produce disorder and disturbance.

5.4.6 The aim of this policy is to minimise disturbance and strain on transport systems. It is also designed to prevent the replication of the previous mass exodus of patrons to the detriment of the licensing objective of preventing public nuisance.

5.4.7 The Licensing Authority will work with the local Licensing Officer with responsibility for Hackney Carriage and Private Hire Operators to provide mechanisms to encourage sufficient and appropriate licensed means of transport to get patrons home.

5.5 Zoning

5.5.1 Zoning refers to the setting of fixed trading hours within designated areas. Experience in Scotland has demonstrated that zoning leads to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary. It is further recognised that zoning risks treating residents in one area preferentially over others simply because they have chosen to live in the busy central area of the town. As such, the Licensing Authority will not fix predetermined closing times for particular areas.

5.5.2 Accordingly, all residents living in the vicinity of licensed premises have the equal right to make representations concerning applications for premises licences and hours of trading, and to have those representations given equal weight regardless of the area of the district in which they live.

5.5.3 In each individual case that arises following representation, the Licensing Authority will consider the potential for nuisance associated with the style, characteristics and activities of the business involved; examine the potential steps which could be taken to reduce the risk of nuisance, particularly in areas of dense residential accommodation; and consider restricting the hours of trading only as a last resort because of the potential impact on disorder and anti-social behaviour from fixed and artificially early closing times.

5.6 Planning

PLAN/1 To avoid inoperative premises licences being granted the Licensing Authority will not normally determine an application unless the applicant can demonstrate that the premises have either an appropriate (in terms of activity and hours of use sought) planning consent, or that is otherwise lawful. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should be considered although the planning status of the premises has not been finalised.

This will not apply to an application for a provisional statement under section 29 of the Licensing Act 2003.

5.6.1 This policy is simply to avoid unnecessary duplication and thus complies with the Guidance. Generally, any premises for which a licence is required must also have an appropriate authorised use under town planning legislation.

5.6.2 Attention is drawn to the following:

- (i) The existing planning permission might, and if recently granted is very likely to have conditions restricting the use of the premises in some way: e.g. the hours of operation. In that case, anybody seeking a licence to operate beyond those hours would first need to obtain a revised planning consent or a relaxation or removal of the condition.
- (ii) The existence of a planning permission (or lawful use) where there is no condition on the usage does not mean that a licence for late hours of operation or a particular entertainment would necessarily be appropriate. Similarly, if an existing planning permission has conditions on the hours of operation, it does not follow that a licence for a particular activity will be granted up to the hours specified in the planning permission.
- (iii) Where a long standing planning permission has no condition on hours, or where there is lawful use without planning permission, it is likely there has been no rigorous consideration of late night impact during the planning process. Experience has revealed the importance of these issues and planning permissions are no longer likely to be granted without such constraints.

5.7 The Late Night Levy and Early Morning Restriction Orders

PL&CPC/10 The Late Night Levy

It is the policy of the Licensing Authority, having given the matter serious consideration not to introduce the Late Night levy at this time. The authority retains the right to revisit this decision at a later date if necessary.

PL&CPC/11 Early Morning Restriction Orders

It is the policy of the Licensing Authority, having given the matter serious consideration not to introduce an Early Morning Restriction Order at this time. The authority retains the right to revisit this decision at a later date if it considers it to be necessary.

In deciding not to impose the levy the Local Authority took into account:

- a. 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, and
- b. Having regard to these costs, the desirability of raising revenue to be applied in accordance with statute.

Should the authority consider it necessary to revisit either of these decisions they will, before implementation be subject of a consultation process.

5.8 Personal Licences

PERL/1 Where appropriate, following a representation from the Police The Licensing Authority will consider whether granting the licence will be in the interests of the crime and disorder prevention objective. The Licensing Authority will consider the seriousness of any relevant conviction(s), the period that has elapsed since any offence(s) were committed and any mitigating circumstances. The Licensing Authority will only grant the application if it is satisfied that doing so will promote this objective.

- 5.8.1 Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of Horsham District Council under the Crime and Disorder Act 1998. Granting a licence to a known criminal may undermine rather than promote the crime prevention objective and the authority will give due consideration to this when determining applications for a Personal Licence.
- 5.8.2 The Licensing Authority recognises it has very little discretion regarding the granting of these licences. In general, provided an applicant has an approved qualification and does not have certain relevant criminal convictions, the application has to be granted.
- 5.8.3 If an applicant has a relevant conviction the police can oppose the application. If an objection is lodged a hearing has to be held unless all parties agree that a hearing is not necessary.

5.9 Premises Licences and Club Premises Certificates

PL&CPC/1 The Licensing Authority will expect the premises to be constructed or modified to the highest possible standards of safety. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation. The Licensing Authority will also expect the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times.

5.9.1 Public safety is a very important licensing objective as it is about protecting the safety and even the lives of patrons. It is the Licensing Authority's wish that anyone visiting a licensed venue can do so in complete safety as they will be visiting premises that have been constructed with safety in mind and are well managed and maintained.

5.10 Operating Schedules

PL&CPC/2 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule. It will expect the operating schedule to have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

5.10.1 In particular it will expect the applicant to be proposing practical steps to prevent disturbance to local residents. The Licensing Authority will expect the applicant to have carried out sound tests to ascertain whether there is sound leakage. This noise could relate not only to music but also from air handling equipment, or patrons. If there is sound leakage the Licensing Authority will expect this to have been addressed in practical ways such as: -

- Keeping doors and windows closed and providing adequate mechanical ventilation;
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level;
- Installing soundproofing measures to contain sound and vibration.

5.10.2 The Licensing Authority will expect popular venues, which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is away from residential accommodation.

5.10.3 However, excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can also help stop drug dealers from passing on drugs during the queuing process but the prime purpose is to prevent noise and disturbance. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities and be adequately supervised.

5.10.4 In terms of patrons leaving the premises particularly late at night or early in the morning the Licensing Authority will expect the applicant to have included in the operating schedule such practical steps as: -

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors;
- At appropriate times making loudspeaker announcements within the premises to the same effect;
- Instructing door supervisors to ask patrons leaving the premises to leave the area quietly;
- Having measures in place to prevent bottles and glasses being removed from the premises;
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down;
- Where appropriate considering car jockey schemes;
- Increasing the availability of licensed taxis or mini-cabs to take patrons from the premises;
- In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it;
- Banning from the premises people who regularly leave in a noisy fashion.
- Increasing outside lighting levels but without causing nuisance from light pollution;
- Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after 11 p.m.
- At take away food venues encouraging customers not to consume food in the immediate vicinity of the premises.

5.10.5 One of the greatest irritations to residents trying to sleep is the sound of music escaping from licensed premises. Such an escape of sound might preclude the grant of a licence or if one has already been granted for it to be reviewed with a view to possible revocation. It might also lead to a Noise Abatement notice being issued under the Environmental Protection Act 1990. Responsible applicants and licensees will wish to avoid the need for such action, as they will wish to comply with the licensing objective of preventing public nuisance.

5.10.6 There can be little doubt that a well-managed licensed venue can benefit the local community. Against that, there is clearly a risk of local residents being disturbed particularly if the venue is open late at night. This is because people leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Patrons may be less inhibited about their behaviour and may be unaware of the noise they are creating.

5.10.7 Late at night and during the early hours of the morning the area will be quieter and any noise will, therefore, be amplified and provide more disturbance for residents. Clearly a responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance by introducing practical measures such as those referred to in paragraph 5.10.4 to prevent such nuisance.

5.10.8 Alcohol has an effect on many aspects of the local environment including:

- The consequences of overindulging in alcohol such as urinating and vomiting in public places and on private property;
- Increased street refuse – cans, bottles, and other alcohol related paraphernalia;
- Alcohol related criminal damage (vandalism);
- Alcohol related violence and aggression.

PL&CPC/3 The Licensing Authority will expect the applicant to indicate in the operating schedule the measures proposed to prevent crime and disorder. Dependent upon the nature and style of the premises these may include:

- Who will be responsible for ensuring compliance with the operating schedule and/or any conditions imposed by a Licensing Sub Committee following a hearing.
- The provision, operation and maintenance of closed circuit television in accordance with the specification required by The Licensing Authority following consultation with the Sussex Police;
- Search facilities and procedures;
- Use of safe drinking vessels (e.g. plastic and safer forms of glass cups/bottles);
- Access to appropriately priced non-alcoholic facilities/products;
- Display of information about responsible drinking including unit levels, the sensible drinking message and the risks of “drink driving”;
- Clear and prominent sign up to a “designated driver scheme” (whereby people are encouraged to designate a driver for the evening who will not drink alcoholic drinks);
- Measures to prevent the use or supply of illegal drugs;
- Measures to prevent the “spiking” of drinks;
- Employment of licensed door supervisors and other appropriately trained staff;
- To consider food serving and “cool down” times – e.g. introducing periods before closing during which food and soft drinks only are sold;
- Good design and management of premises creating more seating areas to avoid the health and violence implications of “vertical” drinking;
- Having measures in place to prevent bottles and glasses being removed from the premises;
- Employing glass collectors to ensure that drinking vessels do not accumulate;
- Procedures for risk assessing promotions and events for the potential to cause crime and disorder and plans for minimising such risks;

- **The participation in an appropriate Pub Watch scheme or other body designed to ensure effective liaison with the local community is encouraged;**
- **Participation in any alcohol harm reduction campaigns run by Horsham District Council, The National Health Service and/or Sussex Police is encouraged.**

5.10.9 Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of Horsham District Council under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective. Integrated responses to night life issues which encompass public health, as well as crime and disorder issues, can facilitate the implementation of initiatives as well as reduce costs and repetition.

PL&CPC/4 The Licensing Authority believes that there should be reasonable facilities and access for people with disabilities.

5.10.10 It is only right that wherever practicable, disabled people should not be treated in a less advantageous way than able-bodied people. In addition there are responsibilities under the Disability Discrimination Act 1995 not to treat disabled people in a less advantageous way.

5.10.11 In some cases it may be helpful to all concerned for officers from Horsham District Council to discuss with applicants and/or their advisers a draft of their operating schedule before it is formally submitted. This will help ensure it properly addresses all the issues of concern.

5.11 Retail premises

PL&CPC/5 Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for normal shopping, unless there are very good reasons for restricting those hours.

5.11.1 Where the law permits the shop to open for 24 hours or limits such opening, for example on Sundays, the Licensing Authority will generally permit the sale of alcohol during those hours.

5.11.2 Normally the sale of alcohol from a garage will be prohibited. Where, however, it can be shown that the main activity of the premises is not a garage, applications may be considered but each case will be considered on its merits. (Section 176 Licensing Act 2003 and Paragraph 5.28 of the Guidance).

5.11.3 Good reasons for imposing a limitation may be appropriate, for example, following police representations in the case of isolated shops known to be a focus of disorder or disturbance because youths gather there and engage in anti-social behaviour, including pressurising shop staff to make unlawful sales of alcohol.

5.11.4 In determining an application for a Premises Licence and the hours during which the premises might provide licensable activities to the public, it is not for the Licensing Authority to consider such matters as the rights of the workers employed on the premises who may be asked to work longer hours.

5.11.5 Against this background, the impact on workers of extended hours permitted by a premises licence is a contractual matter to be resolved between the employer and employee, and the Licensing Authority will not seek to intervene in these matters.

5.12 Tables and Chairs outside Premises

PL&CPC/6 With a view to ensuring no adverse impact on the safety and amenity of local residents, the Licensing Authority will generally not permit late hours of operation for those areas of the premises that are in the open air. In respect of any area on which the applicant has been given permission by Horsham District Council to erect tables and chairs, the Licensing Authority will expect their removal at the conclusion of the operational hours for that area.

PL&CPC/7 In the case of tables and chairs on private land the Licensing Authority will expect the applicant to agree to these hours as part of the operating schedule. If an applicant is not prepared to accept these hours the Licensing Authority will consider the likely effect of this refusal on the licensing objective of preventing nuisance.

5.12.1 The provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. Horsham District Council want to promote, in certain areas of the town centre a café style culture to encourage eating and drinking outside appropriately located venues.

5.12.2 Horsham District Council will continue to review the need for designating areas using the powers in the Police and Criminal Justice Act 2001.

5.12.3 This policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent safety and nuisance problems.

5.13 Sex Related Activities

PL&CPC/8 The Licensing Authority will not, as a general rule grant licences which involve a sex related element near schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend. Where such licences are granted the Licensing Authority may impose conditions designed to ensure the protection of children and to prevent crime and disorder problems. However, each application will be considered on its own merits.

5.13.1 Where the activities proposed under the licence include those of a sex related nature (e.g. strip-tease or table dancing) the Licensing Authority will take into account the increased risk to the licensing objectives. For the sake of convenience the term “strip-tease” in this part of the policy should be taken to refer to any entertainment or service involving exposure of genitalia or the sexual stimulation of patrons.

5.13.2 Where such licences are granted, conditions will be imposed and designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems.

For example:

If strip-tease is proposed any performance shall:

- Be in a position where the performance cannot be seen from the street;
- Be in a designated area of the premises with segregation from the audience;
- Be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

5.13.3 Whilst strip-tease entertainment is taking place no person under the age of 18 shall be allowed to enter or view that part of the licensed premises where such entertainment is taking place and a clear notice shall be displayed, at each entrance to the premises or that part of the premises where such entertainment is taking place, in a prominent position so that it can be easily read by persons entering the premises, in the following terms:

“NO PERSON UNDER 18 WILL BE ADMITTED”

5.13.4 To prevent the possibility of children seeing unsuitable advertisements, the policy will be to attach the following condition;

“Except with the consent of the Licensing Authority and the appropriate advert consent there shall be no external advertising of the striptease entertainment either at the premises or in its immediate vicinity.”

5.13.5 In considering the grant of applications involving strip-tease the Licensing Authority will also have regard to the risk of nuisance to nearby residents and will consider rejecting the application or attaching appropriate conditions.

5.13.6 These policies are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts. They are also designed to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by sex workers.

5.13.7 Horsham District Council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982. The Council’s policy on Sexual Entertainment Venues can be found on the Council’s web site.

5.13.8 In most circumstances an additional licence would be required and once this licence is in place any conditions on the Premises Licence relating to Adult Entertainment on the Premises Licence have to be removed.

5.14 Drugs

PL&CPC/9 The Licensing Authority will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent tragedies as a result of drug misuse.

5.14.1 The Misuse of Drugs Act 1971 is intended to prevent the non-medical use of certain drugs. Drugs subject to this legislation are known as “controlled” drugs. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength. This can put people taking such drugs in danger. It is a criminal offence for people to knowingly allow premises they own, manage or have responsibility for to be used by any other person for:

- Administration or use of any controlled drugs;
- Supply of any controlled drugs;
- Production or cultivation of controlled drugs.

5.14.2 The Licensing Authority recognises that drug use by people in a club environment is not something that is relevant to all licensed premises. However, many licensed premises and entertainment venues can be popular both with drug misusers and suppliers.

5.14.3 The Licensing Authority would expect staff at premises to contact Sussex Police with any suspicion or evidence of the use of drugs on their premises.

5.14.4 The Licensing Authority will consider imposing conditions on premises Licences to address drug related issues.

5.14.5 The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing a tragic loss of life caused by drug misuse, overheating and other factors.

5.15 Children

CHLIC/1 **The Licensing Authority will take necessary measures to protect children from harm. Examples of premises where the introduction of additional controls are likely to be necessary are:**

- **Premises where there have been convictions for serving alcohol to a minor or with a reputation for under-age drinking**
- **Premises with a known association with drug taking or dealing**
- **Premises where there is an element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)**
- **Premises where entertainment of an adult or sexual nature is provided**

Children and cinemas

CHLIC/2 **In the case of premises giving film exhibitions, the Licensing Authority will impose conditions that children will be restricted from viewing age-restricted films.**

5.15.1 Nothing in this statement of policy limits the access of children to licensed premises unless it is necessary for the prevention of harm to children. No statement of policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and as such, general rules will be avoided. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

5.15.2 It is acknowledged that complete bans will be rare but the options for limiting the access of children, where necessary, for the prevention of harm to children, include the following: -

- Limitations on the hours when children may be present;
- Age limitations (below 16);
- Limitations or exclusions when certain activities are taking place;
- Requirements for an accompanying adult;
- Full exclusion of people under 16 from the premises when any licensable activities are taking place.

5.15.3 In order to address issues concerning under age persons illegally gaining access to alcohol, the Licensing Authority will expect staff training programs to include and address this specific issue. The Licensing Authority would also recommend that such training should include sections on the checking of identification and recognition of false identification.

5.15.4 Applicants requiring advice and support relating to compliance with their obligations with the licensing objective relating to the "Protection of Children from harm should contact the authority responsible for Child Protection whose address is given in Appendix B.

6 Conditions

- SC/1** **The Licensing Authority will attach appropriate conditions where they are necessary for the promotion of one or more of the Licensing Objectives, such conditions will be tailored to the individual styles and characteristics of the premises and events concerned.**
- SC/2** **Specific conditions may be attached to premises licences to reflect local crime and disorder prevention strategies. Such conditions may include the use of closed circuit television cameras, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of licensed door supervisors, specialised lighting requirements, hours of opening, and designation of seating areas within premise.**
- 6.1 Each licence will be individual to the premises to which it applies and the conditions attached to the licence will be individual to that premises and deal in a proportionate manner with those issues that relate to that premises. There will not be any standard conditions that will be automatically applied to any premises other than the Mandatory Conditions required to be attached to all licences. However, the Licensing Authority may draw upon a pool of conditions which may be relevant to the majority of applications and from which appropriate and proportionate conditions may be drawn in particular circumstances.

7. Enforcement

- ENF/1 The enforcement of licensing law and the inspection of licensed premises is detailed in the Protocol between Sussex Police, West Sussex County Council, West Sussex Fire and Rescue Service and Horsham District Council. This protocol reflects the need for a more efficient deployment of Police, Fire and Local Authority staff commonly engaged in licensing enforcement.**
- 7.1 Horsham District Council as the Licensing Authority is responsible for the enforcement of the requirements of the Licensing Act 2003. In fulfilling this responsibility the Licensing Authority will liaise with the Sussex Police, West Sussex Fire and Rescue Service, West Sussex Trading Standards, West Sussex Children's Services, The Health and Safety Executive, the local National Health provider and HM Revenue and Customs and Excise to ensure that enforcement is co-ordinated and targeted appropriately.
- 7.2 The Licensing Authority has adopted the Governments current Regulators Compliance Code and will as matter of course adopt and comply with any statutory policies under that or any future relevant code or legislation.
- 7.3 The Licensing Authority has adopted and published a general enforcement policy setting out its general approach to enforcement. In addition the Licensing Authority has adopted and published a Licensing Enforcement Policy. All of these policies are available from the Horsham District Council's Licensing Team whose contact details can be found at Appendix B. They are also available on-line at www.horsham.gov.uk
- 7.4 The Licensing Authority will undertake inspections, including joint inspections and enter into other working arrangements with Sussex Police, West Sussex Fire and Rescue Service and other agencies to support the licensing objectives.
- 7.5 Protocols used by the enforcement agencies will provide for the targeting of agreed problem and high-risk premises requiring greater attention. Those premises which are shown to be well managed with good working practices and well maintained can expect a "light touch" approach to enforcement.
- 7.6 The Licensing Authority considers that membership and active involvement in the local "Pub Watch" scheme is evidence of good working practice.
- 7.7 The Licensing Authority will inspect premises licensed under the 2003 Act to ensure compliance with the licensing objectives and this policy.
- 7.8 The Licensing Authority will also inspect every premises on receipt of an application for the grant of a Premises Licence or Club Premises Certificate or to vary the an existing licence or certificate, save where only a minor change is being proposed.
- 7.9 Monitoring of premises will be on a risk-assessed basis, to be undertaken when judged necessary. The table below sets out that risk based approach.

Risk Status	Enforcement and Monitoring
High	<p>Following a review or an incident on the premises where one or more of the Licensing Objectives may have been compromised. These are premises where intelligence has been received relating to the conduct of staff, customers or activities which the authority believe may compromise the promotion of one or more of the four licensing objectives. This includes where the operating schedule or any statutory provision contained in the Act have not been, or are not being complied with.</p> <p>Inspection of Premises by Authority or Police at least every 6 months</p> <p>Monitoring Inspection during operating hours at least once within 12 months of initial incident.</p>
Medium	<p>Where the premises has been identified as High Risk but the issues identified at that time have been addressed or intelligence indicates that the Licensing Objective may no longer be being compromised.</p> <p>Contact with Licence Holder or where relevant Designated Premises Supervisor once a year</p> <p>Monitoring Inspection during operating hours at least once within 18 months of initial incident.</p>
Low	<p>Contact with Licence Holder or where relevant Designated Premises Supervisor every 2 years</p> <p>Large scale retail premises where the sale of alcohol is not the major product being offered for sale</p>
Very Low	<p>Contact with Licence Holder or where relevant Designated Premises Supervisor once every 4 years</p> <p>All clubs which operate under a Club Premises Certificate and all small retail premises where the sale of alcohol is not the major product being offered for sale, together with small rural pubs that have not been identified as being a risk.</p>

8. INTEGRATION OF STRATEGIES

- 8.1 The Licensing Authority liaises with local crime prevention agencies, planning, transport, health groups, youth, tourism, cultural bodies and licensed premises.
- 8.2 Regard will also be had to any local byelaws and/or strategies relating to the control of the consumption of alcohol in designated public places. The Licensing Authority will have regard to the need to disperse people quickly and safely from town/village centres to avoid concentrations which may produce disorder and disturbance.
- 8.3 This policy shall avoid unnecessary duplication or inefficiencies by properly separating the planning and licensing regimes in operation. Where appropriate, matters for consideration in licensing applications will not duplicate matters considered as part of any planning application. Licensing decisions will take into account any relevant planning decisions.

9. OTHER REGULATORY REGIMES

The following notes are made with regard to specific regimes:

Health and Safety: premises subject to a Premises Licence will normally have been visited by the Horsham District Council's Planning and Environmental Services staff with regard to health and safety enforcement at the premises. Certain premises will not fall under this regime and will be the subject of health and safety enforcement by the Health and Safety Executive (HSE). These regimes place a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated Regulations should not be the subject of conditions unless they are necessary for the promotion of the licensing objectives. It should be noted that such regulations will not always cover the unique circumstances that arise in connection with entertainment and may include exemptions on the assumption that licensing controls will provide the necessary coverage. (See Appendix B for contact details).

Fire Safety: premises and their operators are required to comply with the requirements of the Fire Regulatory Reform Order in relation to Fire Safety. Operators will need to demonstrate that they have carried out a Fire Risk Assessment and implemented the findings. (See Appendix B for contact details).

Food Hygiene: premises selling alcohol and/or premises engaged in a food business will be registered and subject to risk-based food hygiene inspections at regular intervals under the Food Safety Act 1990, by Horsham District Council's Planning and Environmental Services staff. (See Appendix B for contact details).

Food Safety: premises are subject to inspection by West Sussex Trading Standards on a risk assessed basis regarding food descriptions (incorporating substitution and adulteration), pricing and weights and measures legislation. (See Appendix B for contact details).

Health Act 2006: The Health Act 2006 introduced legislation prohibiting smoking inside buildings or partially enclosed spaces to which the public have access or where staff are employed. Persons using the outside areas of licensed premises may in certain circumstances cause conflict with Premises Licence conditions. Licence Holders should ensure that there are no Licence Conditions that restrict the use of outside areas for any reason.

Noise: Statutory and Public nuisances are dealt with by Horsham District Council's Planning and Environmental Services staff under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may often fall under this regime. (See Appendix B for contact details).

Door Supervisors: Any activities that are of a security nature and carried out in relation to licensed premises when they are open to the public will be licensable. This means that anyone providing door supervisory work in licensed premises open to the public will need a licence under the Private Security Industry Act 2001 issued by the Security Industries Authority. (See Appendix B for contact details).

ADMINISTRATIVE PROCEDURES

The Licensing Committee are responsible for setting and approving the council's Statement of Licensing Policy. This is a statutory requirement under the Act and the legislation sets out a number of administrative procedures that have to be complied with.

- 1 Set out below are the administrative procedures that have been adopted by the Licensing Authority to administer applications received under the provisions of the Licensing Act 2003. Set out at the end of this Appendix is the table of delegations that will be operated by the Licensing Authority in handling applications.

Note: These delegations are set out in the Guidance issued by the Government and cannot be altered.

- 2 Opposed applications will be heard by a sub-committee comprising of at least three members drawn from the Licensing Committee. The members selected to hear the application will be selected on the basis that they come from wards in a different part of the Council's area, such that they will not be a local member for the ward to which the application pertains.
- 3 Hearings of the sub-committee will take place during the day where possible, although it may be necessary to hold meetings during the evening. Day time meetings will usually commence at 10.00a.m and evening meetings at 5.30p.m.

The procedure for the hearing of opposed licensing applications by the Licensing Committee will be in accordance with the Regulations issued under the LA 2003 (Section 197).

- 4 The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence will be suspended. There is no statutory requirement for authorities to issue invoices or reminders but it is the policy of this authority to issue an invoice at least one month before the fee becomes due.
- 5 Businesses, organisations and individuals who want to sell or supply alcohol must have a licence or other authorisation from the licensing authority. The law and policy governing this area is overseen by the Home Office. The Police Reform and Social Responsibility Act 2011 introduced a power for the Home Secretary to prescribe, through regulations that fee levels under the 2003 Act are set locally on a cost-recovery basis.

- 6 Where an annual fee has not been paid and no dispute has been registered before the due date the authority will issue a suspension notice on the next working day following the due day giving the Premises Licence Holder notice that the licence will be suspended with effect from midnight on the third day following the day on which the notice is issued. Notices will be posted to the Premises Licence Holder by first class and a copy of the notice will be served on the Designated Premises Supervisor at the premises before the suspension comes into force.
- 7 All application fees are non refundable.
- 8 Where payment is made by cheque and is returned by the bank marked as “refer to drawer” the application will be invalid and will not be progressed. If an applicant wishes to progress the application/variation then a new application will have to be made including a new application fee. Before any such application will be considered the outstanding application fee and/other fees **MUST** be paid in full.

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application for personal licence			If no objection is made
Application for personal licence, with unspent convictions		If an objection is made	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for a minor variation to an existing premises licence- club premises certificate.			All cases
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for Interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of an objection to a standard temporary event notice Where the applicant has not agreed To the addition of conditions.		All cases	
Determination of an objection to a late temporary event notice			All cases
Determination of an application for a Temporary Event where the applicant has agreed to the addition of conditions.			All cases

Original Source:

Guidance issued under Section 182 LA 2003, by the Department for Culture Media and Sport, Paragraph 3.63.)

ADDRESSES FOR RESPONSIBLE AUTHORITIES

CHIEF OFFICER OF POLICE

The Chief Officer of Police

Police Divisional Licensing Officer

Police Station

Hurst Road

Horsham

West Sussex

RH12 2DJ

01273 470101 or 101 and ask for relevant department or office(r)

ws_licensing_hor@sussex.pnn.police.uk

FIRE AUTHORITY

West Sussex Fire and Rescue Service

The Fire Safety Team

Horsham Fire Station

Hurst Road

HORSHAM

West Sussex

RH12 2DJ

01403 213280

protection.northernteam@westsussex.gov.uk

LICENSING AUTHORITY

Horsham District Council

Planning and Environmental Services

Park House

North Street

HORSHAM

West Sussex

RH12 1RL

01403 215402

HEALTH AND SAFETY ENFORCING AUTHORITY

Horsham District Council

Planning and Environmental Services

Park House

North Street

HORSHAM

West Sussex

RH12 1RL

01403 215453

LOCAL PLANNING AUTHORITY

Horsham District Council
Development Control Department
Park House
North Street
HORSHAM
West Sussex
RH12 1RL
01403 215187

AUTHORITY RESPONSIBLE FOR CHILD PROTECTION

Child Protection ~ WSCC
Children's Access Point
4th Floor, County Hall North
Chart Way
Horsham
West Sussex
RH12 1XH
01403 229900

WEST SUSSEX TRADING STANDARDS SERVICE

WSCC Trading Standards Service
4th Floor, County Hall North
Chart Way
Horsham
West Sussex
RH12 1XH
Tel 01243 642124
email: trading.standards@westsussex.gov.uk

AUTHORITY RESPONSIBLE FOR HEALTH

The Director of Public Health
Public Health Licensing
West Sussex County Council
1st Floor, The Grange
County Hall Campus
Chichester
PO19 1QT
PublicHealth.licensing@westsussex.gov.uk

OTHER CONTACT DETAILS

Horsham District Council
Licensing Team
Park House
North Street
HORSHAM
West Sussex
RH12 1RL
01403 215578/215525
Email: licensing@horsham.gov.uk

AUTHORITY RESPONSIBLE FOR PROTECTING THE ENVIRONMENT

Horsham District Council
Planning and Environmental Services
Park House
North Street
HORSHAM
West Sussex
RH12 1RL
01403 215609

Security Industry Authority

4th Floor
50 Broadway
LONDON
SW1H 0SA
020 7227 3600
www.the-sia.org.uk

Health and Safety Executive

Operations Manager,
Field Operations Directorate
South and South East
Health and Safety Executive
Phoenix House, 23-25 Cantelupe Road
EAST GRINSTEAD
West Sussex RH19 3BE
Tel: 01342 334200

South Downs National Park

Hatton House
Bepton Road
Midhurst
West Sussex
GU29 9LU
T: 0300 303 1053

GLOSSARY OF TERMS

In this Statement of Policy, the following definitions are included to provide an explanation of certain terms included in the Licensing Act 2003 and therefore in this policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used the reader must refer to the Licensing Act 2003.

Reference to an Act of Parliament refers to the Act as it applies at the date of this licence or any later amendment or re-enactment of it.

Ambulance Authority

South East Coastal Ambulance Service.

Authorised Officer

An Officer authorised by Horsham District Council, Sussex Police Authority or Fire Authority or Ambulance Authority.

Car Jockey Schemes

A scheme whereby the customer's car is parked by staff at the licensed premises and returned to the customer at the main entrance to the premises at the time of departure, whether for a fee or not.

Chief Officer of Police

The Chief Constable of Sussex Police. All issues relating to local Licensing Issues should be addressed to the local Sussex Police Licensing Team. They can be contacted at:

The Chief Officer of Police

Police Divisional Licensing Officer
Police Station
Hurst Road
Horsham
West Sussex
RH12 2DJ
01243 520280
ws_licensing_hor@sussex.pnn.police.uk

Other licensing issues should be addressed to

The Chief Officer of Police

Sussex Police Headquarters
Malling House
Church Lane
Lewes,
East Sussex,
BN7 2DZ
0845 607 0999

Children

Individuals who are under 16 years of age.

Club Premises Certificate

A certificate granted by the Licensing Authority in respect of premises occupied by and habitually used for the purposes of a club, specifying the qualifying club activities and meeting the Statutory Requirements.

The certificate comes in two parts, namely ;

The Club Premises Certificate itself (Part (A) document which includes the authorised plan showing where the licensable activities can take place, and

The Club Premises Certificate Summary (Part (B) document which **MUST** be displayed in a prominent position within the premises where it can be easily read.

Both parts of the certificate including the plan, or certified copies thereof **MUST** be kept on the premises and readily available to be consulted by any person having the authority to request its production.

Conditions

The conditions attached to the licence whether mandatory, proffered by the applicant or imposed by the Licensing Authority following a sub committee hearing form part of the Operating Schedule and must be complied with. Failure to do so could result a review of the licence and/or legal action which could result in a fine and/or imprisonment.

Early Morning Restriction Orders (EMROs)

This provision enables licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6 am, if they consider this appropriate for the promotion of the licensing objectives. The licensing authority needs to be satisfied that an EMRO is appropriate in a particular area for the promotion of the licensing objectives under the Licensing Act 2003. EMROs have not been applied in this authority area.

Fire Authority

West Sussex Fire and Rescue Service.

The Fire Safety Team

Horsham Fire Station

Hurst Road

HORSHAM

West Sussex

RH12 2DJ

protection.northernteam@westsussex.gov.uk

01403 213280

Guidance

Refers to the Statutory Guidance issued under Section 182 Licensing Act 2003, by the Department for Culture Media and Sport

Head of Development and Environment

The Head of Development and Environment of Horsham District Council.

LA 2003

Licensing Act 2003 (as amended).

Late Night Levy

The late night levy ('the levy') enables licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. This is a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority's area. However, the licensing authority will also choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations. It is the current policy of this authority not to apply the levy in the district.

Late Night Refreshment

The supply of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises; at any time between the hours of 11.00pm and 5.00am. Exemptions relate to some clubs, hotels and employees at their place of work.

Licensable activities

- i) the sale by retail of alcohol;
- ii) the supply of alcohol by or on behalf of a club, or to the order of, a member of the club;
- iii) the provision of regulated entertainment;
- iv) the provision of late night refreshment.

Licensed Door Supervisors

Licensed individual working as a door supervisor and responsible for security, protection, screening the suitability of people entering premises or dealing with conflict in pubs, clubs and other licensed premises open to the public.

Licensee (Premises Licence Holder)

The person, business or company, to whom the licence, to which these conditions apply, has been granted, renewed or transferred by the Licensing Authority. Whenever there is more than one person named as a Licensee the Conditions may be enforced against all of them jointly and against each individually.

Licensing Authority

Horsham District Council.

Park House
North Street
HORSHAM
West Sussex
RH12 1RL
01403 215578/215525
licensing@horsham.gov.uk

Noise Sensitive Areas

Residential properties and hospitals, libraries, place of worship, hotels, school and other similar premises when these are in use. (Institute of Acoustics)

Operating Schedule

Document which includes a statement of the following matters –

- i) the relevant licensable activities;
- ii) the times during which it is proposed that the relevant licensable activities are to take place;
- iii) any other times during which it is proposed that the premises are to be open to the public;
- iv) where the applicant wishes the licence to have effect for a limited period, that period;
- v) where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the designated premises supervisor;
- vi) where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both;
- vii) the steps which it is proposed to take to promote the licensing objectives;
- viii) such other matters as may be prescribed.
- ix) The name or position of the person responsible for ensuring compliance with the operating schedule, i.e. The Premises Licence Holder, The Designated Premises Supervisor or a person nominated by them in writing.

Personal Licence

A licence granted by the licensing authority, to an individual authorising that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.

Premises

This means the premises to which the licence or club premises certificate applies.

Premises Licence

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities.

The Licence comes in two parts, namely ;

The Premises Licence itself (Part (A) document which includes the authorised plan showing where the licensable activities can take place, and

The Premises Licence Summary (Part (B) document which MUST be displayed in a prominent position within the premises where it can be easily read.

Both parts of the licence including the plan, or certified copies thereof MUST be kept on the premises and readily available to be consulted by any person having the authority to request its production.

Prescribed Form

Any form issued by the Licensing Authority.

Qualifying Club Activities

- i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place;
- iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.

Regulated Entertainment

Means any entertainment subject to the provisions of a licence issued under the 2003 Act. The entertainment or entertainment facilities are provided –

- i) to any extent for members of the public or a section of the public;
- ii) exclusively for members of a club which is a qualifying club in relation to the provision of regulated entertainment, or for members of such a club and their guests, or;
- iii) if not within i) or ii) above, for consideration and with a view to a profit.

Entertainment means

- a performance of a play;
- an exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment;
- contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”);
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

Where the entertainment takes place in the presence of an audience (including spectators) and is provided for the purpose of entertaining that audience.

Live music in licensed venues

Live music ceases to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- when it is unamplified and takes place between 8am and 11pm; and
- when it is amplified and takes place in the presence of an audience of 200 persons or less and is provided between 8am and 11pm.

The premises must be open for the sale of alcohol during the time that the live music is provided for the exemption/s to take effect.

Additionally, any condition attached to the Premises Licence relating to live music ceases to have effect in respect of the live music unless the Licensing Authority states otherwise on the licence pursuant to a Review hearing.

Live music in venues which are not licensed

For those premises which are not licensed for alcohol sales, the 2012 Act states that live music is not regulated entertainment when it is unamplified and takes place between 8am and 11pm. Amplified live music in non-licensed venues will still require formal authorisation from the Licensing Authority, such as a Premises Licence or Temporary Event Notice.

Provision of facilities for making music and dancing

In addition the Act removes the provision of facilities for making music and dancing as forms of regulated entertainment.

Relevant Standard

Any relevant British, European or International standard or regulation currently in force.

Stage

Any structure on which performance takes place and any banks of loudspeakers adjoining the structure.

Terminal Hour

The hour at which all or any of the Licensable Activities have finished and the premises have been closed to the public. No one should be allowed to enter or re-enter the premises after the terminal hour has passed.

Temporary Event Notices

A notice to the Licensing Authority of a proposed use of a premises for one or more licensable activities for a period not exceeding 168 hours duration.

Young Person

A person who is over sixteen years of age but has yet to attain the age of 17 years.

Zoning

The setting of fixed trading hours within a designated area.

APPENDIX 4 - (Remove when final policy has been agreed)

CHANGES TO THE EXISTING POLICY

Amended Paragraphs (original numbering):

5.4.7

This paragraph has been amended to accurately reflect the consultation process currently operating within the authority and removes persons from the policy who are not classed as Statutory Consultees under the provisions of the Act.

5.11.2

This paragraph has been removed as the placing of tables and chairs on the highway are the responsibility of West County Council. The local authority operates under a delegated authority and is only allowed to issue permits in a very small defined area of the town centre. A large number of these are for non licensable activities and fall outside the remit of the 2003 Act.

5.11.3

This paragraph has been deleted in accordance with policy GEN3 in that it duplicates primary legislation namely, alcohol disorder zones introduced under the provisions of the Violent Crime Reduction Act 2006. To date none have been applied for anywhere in the country.

5.13.3

This paragraph has been removed as the contents are now out of date and in light of ever changing “guidance” relating to the classification and misuse of drugs. To retain it would breach the Wednesbury principles as it is no longer relevant.

5.13.5

This paragraph has been removed and is now covered in the new paragraph 5.13.4.

5.14.4

This paragraph has been removed as these requirements are covered by other primary legislation.

5.14.5

This paragraph has been removed as these requirements are covered by other primary legislation.

7.7 Enforcement and Monitoring table

This table has been amended to accurately reflect the current levels of monitoring and enforcement undertaken with the resources available to the authority to ensure compliance with this policy and legislation.

Amended Policy:

CHLIC/3

This policy has been removed as the requirements are covered by other primary legislation which is far more exacting in that it covers the activity as a whole rather than just controlling access and egress.

Report to Council Licensing Committee

Date of meeting: 7th November 2013

By Head of Planning & Environmental Services

DECISION REQUIRED

Not exempt



**Horsham
District
Council**

Review of Horsham District Council's Enforcement Policy

Executive Summary

The current enforcement policy was recommended by the Cabinet to Council on 30th March 2006 and was subsequently adopted by the full Council 19th April 2006. The policy is regularly reviewed and now requires formally updating to take into account a number of changes to Horsham District Council's own administrative procedures and changes to Licensing Guidance.

Views on the policy and its implementation are sought from members to ensure it continues to meet the principles of good enforcement.

Recommendations

The Committee is recommended:

- i) To agree the revised draft Licensing Enforcement Policy set out at Appendix 2 to this report for recommendation to the Cabinet Member with responsibility for a Safer and Healthier District.

Reasons for Recommendations

- i) Policy issues are a matter for Cabinet.

Background Papers: None

Consultation: Council Solicitor

Wards affected: All

Contact: Ahmed Ramiz, Licensing Officer (5578)

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to seek Committee approval for a revised Licensing Enforcement Policy to be recommended to the Cabinet Member with responsibility for a Safer and Healthier District for adoption.

Background/Actions taken to date

- 1.2 The current enforcement policy was recommended by the Cabinet to Council on 30th March 2006 and was subsequently adopted by the full Council 19th April 2006. The policy is regularly reviewed and now requires formally updating to take into account a number of changes to Horsham District Council's own administrative procedures and changes to Licensing Guidance and legal practice.

2 Statutory and Policy Background

Statutory background

- 2.1 Regulators Compliance Code.

Relevant Government policy

- 2.2 Government policy is that local authorities should have enforcement policies that have been agreed by members and are publicly available to ensure consistency and transparency of enforcement.

Relevant Council policy

- 2.3 The Council conforms to the principles of good enforcement.

3 Details

- 3.1 The Licensing Enforcement Policy is part of the Council's Licensing Policy and needs to be read in conjunction with the general Enforcement Policy for the Environmental Health and Licensing Department.
- 3.2 The policy is regularly reviewed and now requires formally updating to take into account a number of changes to Horsham District Council's own administrative procedures and changes to Licensing Guidance and legal practice. The revised draft Licensing Enforcement Policy is set out at Appendix 2.
- 3.3 The policy will be regularly reviewed as required

4 Next Steps

- 4.1 The Committee is recommended to recommend this revised policy to Cabinet Member with responsibility for a Safer and Healthier district for adoption by the Council.

5 Outcome of Consultations

- 5.1 The Councils Solicitor has agreed the revisions to this policy.

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

Appendix 1

Consequences of the Proposed Action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached No</p>	<p>This is a Statutory Requirement under the provisions of the Licensing Act 2003 and failure to comply could lead to adverse publicity and possible action against the authority instigated by the relevant Government Department.</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>The policy will help ensure fair, consistent and transparent enforcement</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 equality groups is foreseen directly as a result of this report</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The policy will help ensure fair, consistent and transparent enforcement</p>

Appendix 2

DRAFT LICENSING ENFORCEMENT POLICY

1.0 Objectives

- 1.1 It is the Council's objective to ensure that all Premises Licences and Personal Licences issued under Licensing Act 2003 are issued in accordance with the Council's approved Licensing Policy, of which this Enforcement Policy forms part, and the Statutory Guidance issued under Section 182 Licensing Act 2003.
- 1.2 It is also the Council's objective to ensure that Premises and Personal Licence Holders comply with the conditions laid down in each specific licence. The Council will work in conjunction with The Sussex Police and other Responsible Authorities to ensure compliance with the requirements of the Licensing Act 2003.
- 1.3 In meeting these objectives, the Council's enforcement action (verbal warnings, written warnings, reviews and prosecutions) will be primarily based on a risk assessment of the compliance with the conditions laid down in the licence and the implications of this on the promotion of one or more of the licensing objectives. This Licensing Enforcement Policy has to be read in conjunction with the Council's General Enforcement Policy for Public Health and Licensing.

2.0 Guidance

- 2.1 In making any decision the Licensing Authority is cognizant of the Statutory Guidance issued under Section 182 of the Licensing Act 2003, amendments to the 2003 Act and other legislation which has a direct impact on licensable activities and the promotion of the licensing objectives.

3.0 Implementation of the Policy

- 3.1 All authorised officers will fully acquaint themselves with this document and should have regard to it when making enforcement decisions. Any departure from the policy must be exceptional, capable of justification and should have been considered by the following officers (unless it is considered that there is significant risk to the public in delaying the decision): -

Head of Planning and Environmental Service (HPES)
Environmental Health and Licensing Manager (EHLM)

4.0 Training

- 4.1 The Licensing Officer is responsible for carrying out or arranging training for staff employed in the administration of the Licensing Act 2003 in matters relevant to this policy. This includes the individual training of new staff and the ongoing training of existing staff, as the need arises.

5.0 Decision Making - Proceedings

- 5.1 The power to institute, prosecute or terminate proceedings is delegated to the Council Solicitor, in consultation with the EHLM.
- 5.2 Any officer intending to recommend a prosecution or review for any contravention of the 2003 Act must consult with the Licensing Officer in the first instance. If the proposal is being initiated by the Licensing Officer then that person will consult with the EHLM or in his absence the HPES.

- 5.3 If following this consultation, it is proposed to recommend prosecution; the officer initiating the action will contact the Council Solicitor.
- 5.4 If prosecution is still the chosen option, the officer initiating the action will complete the proforma requesting the Council Solicitor to authorise the institution of proceedings.

The proforma MUST be signed by HPES or his absence the EHLM.

6.0 **Enforcement Options**

- 6.1 In considering enforcement options, officers will ensure, in the interests of balanced, consistent, proportionate and fair enforcement that the guidance contained in the Guidance issued under Section 182 Licensing Act 2003 is taken into account and followed where appropriate.
- 6.2 The Licensing Authority operates on the principle of seeking compliance through information, education, co-operation and only if necessary through relevant enforcement action.
- 6.3 In deciding which enforcement option to adopt, officers will have regard to the following criteria before making a decision: -

- seriousness of the offence
- the past history of the business
- confidence in the management of the premises
- the consequences of non-compliance
- the likely effectiveness of various enforcement options
- whether the offence will continue to be committed without enforcement action

The above list is not exhaustive and other factors may be taken into account in the circumstances of a particular case.

- 6.4 The options for action are: -

- no action
- informal action (verbally or through an advisory letter)
- formal written warning
- formal caution
- review and/or prosecution

The Council asserts its right to decide on the form of action to be taken in any particular case, notwithstanding the relevant guidance.

7.00 **Informal Action**

- 7.1 This includes offering verbal and/or written advice, verbal warnings, request for action and the use of letters. All such advice and warnings are recorded.
- 7.2 Examples of circumstances in which it is appropriate to use informal action are where: -
- the act or omission is not serious enough to warrant formal action, or
 - from the company's past history it can be reasonably expected that informal action will achieve compliance, or
 - confidence in the individual / company's management involved is high, or
 - Informal action will be more effective than a formal approach.

7.3 When adopting a formal approach to secure compliance with legislation, officers must ensure that any documentation issued: -

- contains all the information necessary for the recipient to understand what work is required and why it is necessary; and
- indicates the regulation or conditions contravened, measures which will enable compliance with the legal compliance and that other means of achieving the same effect may be chosen; and
- indicates the timescale (with the proprietor) within which the required work must be completed, and
- Clearly indicates recommendations of good practice for the process involved as separate from the legal requirements.

8.0 Prosecution and/or Review of Premises Licence

8.1 In general, prosecution will be restricted to those persons who blatantly disregard the law, refuse to comply with the requirements of the Licensing Act 2003, the associated regulations and guidance and who undermine the promotion of one or more of the Licensing Objectives.

8.2 The circumstances which are likely to warrant a review and/or prosecution will be characterised by one or more of the following: -

- a) where the alleged contravention of the 2003 Act and is such that one or more of the Licensing Objectives are compromised, or
- b) where there has been a repeated failure to comply with conditions of the licence, or
- c) where licensable activities are being conducted on a premises in breach of the 2003 Act, or
- d) Where there is a history of similar offences for that specific premises.

The above list is not exhaustive and other factors may arise in individual cases.

8.3 To enable a prosecution or review to proceed, the EHL and Council Solicitor must be satisfied that there is relevant, admissible, substantial and reliable evidence that a breach of the Act or a failure to comply with the premises operating schedule has compromised one or more of the licensing objectives. In the case of a prosecution there must be a realistic prospect of conviction.

8.4 In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, the officers must make a positive decision, based on relevant criteria that it is in the public's interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which should be considered, including relevant public interest criteria.

8.5 When deciding whether to prosecute, the EHL and the Council Solicitor should have regard to the guidance contained in the statutory guidance and this may include: -

- (a) The seriousness of the offence: -
 - The risk or harm to public health,
 - The availability of identifiable victims.
 - Failure to comply with a statutory notice served for a significant breach of legislation,
 - Disregard of public health for financial reward.

- (b) The previous history of the party concerned: -
 - Offences following a history of similar offences,
 - Failure to respond positively to past warnings,
 - Failure to comply with statutory notices.
- (c) The ability of any important witnesses and their willingness to co-operate
- (d) The willingness of the party to prevent a recurrence of the problem
- (e) The probable public benefit of a prosecution and the importance of the case.
- (f) Whether any other action, such as issuing a formal caution in accordance with Home Office Circular 016/2008 would be more appropriate or effective.
 - See Section 9 of this document with regard to Formal Cautions.
- (g) Any explanation offered by the company or suspected offender: -
 - Where appropriate suspected offenders may be invited to an interview under caution and given the opportunity to offer an explanation before prosecution decisions are finalised.

8.6 This Policy is not to be interpreted as a rigid constraint. For example, it may be appropriate to prosecute a first time offender for a serious breach of the relevant legislation. The final decision on whether a prosecution proceeds will always rest with the Council.

8.7 Once a decision to prosecute has been taken, the officer initiating the action must refer the matter to the Council Solicitor without undue delay.

9. **FORMAL CAUTIONS**

9.1 Before deciding whether a prosecution should be taken, the officers concerned will consider whether other action, such as issuing a formal caution in accordance with Home Office Circular 016/2008, would be more appropriate or effective.

9.2 Guidance on the use of the Formal Caution procedure is contained in general file EH/67.

9.3 The purpose of the formal caution is: -

- To deal quickly and simply with less serious offences,
- To divert less serious offences away from the Courts,
- To reduce the chances of repeat offences.

9.4 The significance of a formal caution, the fact that a record will be kept and may be cited in court if the offender is subsequently found guilty of an offence and that a previous formal caution may influence the decision to prosecute in a future case must all be explained to the suspected offender. The following conditions must be fulfilled before a formal caution is administered: -

- There must be sufficient evidence of the offence to give a realistic prospect of conviction, and
- The suspected offender must admit the offence, and
- The suspected offender must understand the significance of a formal caution and give an informed consent to the caution, and

- any child (aged under 14) or young person (aged 14 to 17years) must understand that what he/she did was wrong and in such circumstances the caution must be issued in the presence of the minor's parents or guardian who have agreed to the caution being administered.

9.5 Formal cautions may be issued by the following officers only: -

Chief Executive
Council Solicitor
Head of Planning and Environmental Service
Environmental Health and Licensing Manager

9.6 Where a person declines the offer of a formal caution, consideration must be given to taking alternative action. Whilst probable, it is not inevitable that a prosecution will follow. A decision to issue a written warning may still be taken.

10.0 **Policy Review**

10.1 The policy will be reviewed as and when required. Views on the policy and its implementation will be sought to ensure it continues to meet the principles of good enforcement.

10.2 This Policy was adopted by the Council at the meeting of the Cabinet held on

Blank

Report to Licensing Committee

7th November 2013

By Head of Planning & Environmental Services

DECISION REQUIRED

Not exempt



Environmental Health and Licensing – Licence Fees for 2014/2015

Executive Summary

Set out at Appendix 2 to this report are the proposed fees for 2014/2015 for the various licences issued by the Environmental Health and Licensing Department. The agreed fees will take effect on 1st April 2014.

Recommendations

The Committee is recommended:

- i) To approve the fees set out at Appendix 2 to this report to take effect from 1st April 2014

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 2014/2015 for Licences issued by the Environmental Health and Licensing Department. The new fees once approved will take effect from 1st April 2014. The individual licence fees are calculated to recover the cost of issuing the licence and ensuring compliance with 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 where the fees 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 Environmental Health and Licensing Department seeks to recover from applicants the cost of issuing the licence and ensuring compliance with the licence conditions 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 wherever possible fees and charges should go up by a minimum of 3% for the financial year commencing 1st April 2014 to allow for inflation.
- 3.2 In setting licence fees local authorities must have regard to any guidance issued by the government and with all licence fees the European Court Directive is clear they must be based on cost recovery of the process and cannot be set to make surplus for the authority. An important point arising out of the recent Hemming v Westminster case is that fees cannot be used to pay for enforcement against unlicensed premises or operatives.

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 2014.

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 2014 / 2015.

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 administering the licensing regimes and ensuring compliance 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 Appendix 2 seek to recover the Council's legitimate costs in ensuring compliance with the licence conditions.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The fees and charges set out in Appendix 2 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 Appendix 2 seek to recover the Council's legitimate costs in providing these services.</p>

Appendix 2

	2013/2014 Current Fee	2014/2015 Proposed Fee
Riding Establishments Act 1964		
Less than 5 horses	£243.00	£250.00
5 – 15 horses	£290.00	£299.00
More than 15 horses	£374.00	£385.00
Animal Boarding Establishments Act 1963	£107.00	£110.00
Pet Animals Act 1950	£107.00	£110.00 + Vet if necessary
Dangerous Wild Animals Act 1976	£461.00	£461.00
Breeding of Dogs Act 1973		
New license	£260.00	£268.00
Renewal	£107.00	£110.00 + Vet if necessary
Street Trading		
Annual Consent	£745.00	£745.00
Consent for special occasions	£45.00	£46.00
Sex Establishments		
Application fee	£3563.00	£3563.00
Renewal	£3563.00	£3563.00
Transfer	£3563.00	£3563.00
Acupuncture, Tattooing, Ear Piercing and Electrolysis	£98.00	
Premise plus Operatives		£110.00
New/Additional Operatives		£30.00
Scrap Metal Dealers		
Site licence application		£345.00
Site licence renewal		£345.00
Site licence variation		£75.00
Collector's licence application		£245.00
Collector's licence renewal		£245.00
Collector's licence variation		£75.00

Proposed Fees and charges 2014/15

Blank

Report to Licensing Committee

Date of meeting: 7th November 2013

By Head of Planning & Environmental Services



Horsham
District
Council

KEY DECISION REQUIRED

Not exempt

Adoption of the model skin piercing byelaws

Executive Summary

The Local Government Act 2003 amended the Local Government Miscellaneous Provisions Act 1982 to include cosmetic (body) piercing and semi permanent skin colouring within the list of treatments the Local Authority can regulate. In 2005 Byelaws were adopted and issued to register practitioners and premises undertaking cosmetic piercing and semi permanent skin colouring. Earlier Byelaws adopted in 1987 covering acupuncture, tattooing, electrolysis and ear piercing were not updated. This proposal seeks to bring all requirements up to the current standards using the model Byelaws produced by the Department of Health as well as consolidating the existing sets of Byelaws into one.

Recommendations

The Cabinet is recommended:

- i) To pass resolutions to adopt model byelaws for the regulation of skin piercing activities in accordance with sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 120 of the Local Government Act 2003 and to authorise the Councils Solicitor to apply to the Secretary of State for confirmation.
- ii) That the relevant registration requirements come into effect from the date on which the byelaws referred to above are confirmed by the Secretary of State and the current byelaws revoked.

Reasons for Recommendations

- i) To update and consolidate the existing sets of Byelaws into one to improve operating efficiency and reduce burden on businesses.

Background Papers: Department of Health: Regulation of cosmetic piercing and skin colouring businesses –February 2004.

Consultation: Council solicitor

Wards affected: All

Contact Karen Aslett x5428

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to recommend adopting a new single consolidated set of Byelaws, produced by the Department of Health, to regulate acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.
- 1.2 Frequently the registered practitioners and premises undertake treatment for more than one activity and so by consolidating the Byelaws the effect will be to improve operational efficiency and help local businesses to more easily understand the regulatory activity.
- 1.3 It is important for this industry to be effectively regulated due to the risks associated with the treatments being offered. There is the potential risk of transmission of blood borne viruses (BBV), for example HIV, Hepatitis B and C, as well as other infections, potential physical damage and bleeding if the treatment is completed incorrectly.

Background/Actions taken to date

- 1.4 Persons and premises used for conducting the skin piercing activities of acupuncture, tattooing, semi permanent skin-colouring, cosmetic piercing and electrolysis are required to register and comply with the one of more of the Byelaws dated 1987 and 2005. The Byelaws do not extend to skin piercing activities if they are carried out by or under the supervision of a person who is registered as a dentist (for acupuncture) or a medical practitioner (for all skin piercing activities).
- 1.5 The Byelaws set out criteria relating to the hygiene of premises, practitioners and equipment.
- 1.6 There are currently 60 premises registered under the existing Byelaws by Horsham District Council's Environmental Health and Licensing Department.

2 Statutory and Policy Background

Statutory background

- 2.1 Sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 120 of the Local Government Act 2003.

Relevant Government policy

- 2.2 Model byelaws have been provided by the Department of Health which consolidate previous separate byelaws into one multi-purpose set of model byelaws that can be used for one, several or all types of skin piercing/skin colouring currently regulated.

- 2.3 The Health and Safety Executive have issued Local Authority Circulars (LAC) providing guidance to enforcement officers and others on health and safety issues relating to skin piercing and cosmetic treatment.
- 2.4 In August 2013 the Chartered Institute of Environmental Health and Public Health England launched a new Tattooing and Body Piercing Guidance Toolkit to provide an authoritative source of scientific and practical information to support both local authorities and businesses in adopting safe standards of practice in this area.

Relevant Council policy

- 2.5 Existing Byelaws adopted in 1987 covering acupuncture, tattooing, electrolysis and ear piercing, and subsequent Byelaws adopted in 2005 covering cosmetic piercing and semi permanent skin colouring.

3 Details

- 3.1 The special treatments industry has undergone rapid change in recent years because of rising demand for the piercing of parts of the body other than ears and the use of semi-permanent skin colouring. All these processes, and in particular tattooing and body piercing, carry a potential risk of BBV transmission if infection control procedures are not observed (e.g. use of sterile equipment for each client).
- 3.2 Officers inspect on application to ensure standards of cleanliness and procedures are maintained in line with the Byelaws. Any matters not covered by the Byelaws can often be covered by the Health and Safety at Work etc Act 1974 and associated Regulations.
- 3.4 Certificates of Registration are issued subject to compliance with the Byelaws that relate to each special treatment and subject to the satisfaction of the local authority as to the person's skills, knowledge and suitability to carry out these treatments. The model Byelaws exist to secure the hygiene of the treatment, the practitioner and the treatment room.
- 3.5 The Byelaws for acupuncture, tattooing, electrolysis and piercing were adopted by this Council in 1987. In 2005 Byelaws to register practitioners and premises undertaking cosmetic piercing and semi permanent skin colouring were adopted.
- 3.6 In 2006 the Department of Health produced new model Byelaws to cover all "special treatments". The proposal to merge the existing two sets of Byelaws will update the 1987 Byelaws and will provide a similar and consistent standard across all treatments. It will reduce the burden for businesses for complying with and displaying several sets of Byelaws where more than one type of treatment is offered. Existing businesses will not be charged for updating the Byelaws and therefore there will be no financial impact on business.

4 Next Steps

- 4.1 The Committee is recommended to adopt the model Byelaws provided by the Department of Health and detailed in Appendix 2 of this report.
- 4.2 If agreed by Committee, and subsequently Council, there is a prescribed procedure to be followed by the local authority prior to adoption of the model Byelaws. In summary the procedure involves advertising the intention to adopt the Byelaws in a local newspaper, and having a copy available for the public to view at no charge in named Council offices. After not less than a calendar month the submission can then be made to the Secretary of State for confirmation.
- 4.3 The Department of Health has provided model Byelaws and guidance on applications to the Secretary of State for Health for confirmation of the Byelaws. The guidance includes a model council resolution (see Appendix 3) and a model newspaper notice (see Appendix 4) which officers also intend to use.
- 4.4 By adopting the model Byelaws the Committee shall help to ensure that the regulation of acupuncture, tattooing, semi permanent skin-colouring, cosmetic piercing and electrolysis in the district is consistent and up to date. There shall be an increased level of public health protection and business shall benefit from the simplification of legal requirements.
- 4.5 Once the model Byelaws have been adopted, all premises currently registered by Horsham District Council will be written to informing them about the new Byelaws as well as sending them a copy of the new Byelaws.

5 Outcome of Consultations

- 5.1 The Council Solicitor has been consulted and agrees that the byelaws need updating.

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 There are no financial consequences arising from this report as the registration fees are set to recover the Council's costs in issuing certificates of registration.

Appendix 1

Consequences of the Proposed Action

What are the risks associated with the proposal? Risk Assessment attached Yes/No	There are no risks associated with this proposal. Should the model Byelaws be approved they will assist in improving hygiene standards and infection control in premises who offer skin piercing.
How will the proposal help to reduce Crime and Disorder?	Should the Model Byelaws be approved this will help ensure registered premises operate to current standards.
How will the proposal help to promote Human Rights?	The issues of Human Rights have been taken into consideration in by the Department of Health.
What is the impact of the proposal on Equality and Diversity? Equalities Impact Assessment attached Yes/No/Not relevant	No negative impact on the equalities groups is foreseen as a result of this report.
How will the proposal help to promote Sustainability?	Should the model Byelaws be approved they will help to increase the level of public health protection and business shall benefit from the simplification of legal requirements.

Appendix 2

MODEL BYELAWS

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

1.—(1) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe or upper flat cartilage of the ear, or

(b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

(a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;

(b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;

- (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
- (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—
 - (i) immediately after use; and
 - (ii) at the end of each working day.
- (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
- (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

(2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3)(a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

3.—(1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that—

- (i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—
 - (aa) is clean and in good repair and, so far as is appropriate, is sterile;
 - (bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.
- (ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;
- (iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;
- (iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;
- (v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide—

(i) adequate facilities and equipment for—

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

(ii) sufficient and safe gas points and electrical socket outlets;

(iii) an adequate and constant supply of clean hot and cold water on the premises;

(iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—

(a) shall ensure that an operator—

(i) keeps his hands and nails clean and his nails short;

(ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;

(iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);

(iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;

(v) does not smoke or consume food or drink in the treatment area; and

(b) shall provide—

(i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and

(ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

(a) the client is bleeding or has an open lesion on an exposed part of his body; or

(b) the client is known to be infected with a blood-borne virus; or

(c) the operator has an open lesion on his hand; or

(d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to *state subject matter* that were made by *insert name* on the *insert date* and were confirmed by *insert name of confirmation authority* on *insert date* are revoked.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health
on _____ and shall come into operation on _____

Member of the Senior Civil Service

Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture.***

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment **applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring.***

*The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).***

*The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument.***

*The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a **dentist** applies only to **acupuncture (see section 14(8) of the Act).***

Appendix 3

Model notice of council resolution

1. The Council resolved on [date] that the following provisions of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to the area of this council:

Section 15 – Tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Section 16 – Provisions supplementary to sections 14 and 15

Section 17 – Power to enter premises (acupuncture etc.)

2. The date [s]* on which these provisions will come into force will be: (see note 3 below).

3. The general effect of this resolution is, subject to the exceptions detailed below, that a person who carries on the business of [tattooing]; [semi-permanent skin-colouring]; [cosmetic piercing]; or [electrolysis] must be registered with this Council, and they can only carry on their business in premises which have also been registered. The certificate of registration must be prominently displayed at the place where the business is carried on. The council is empowered to charge fees for registration.

Applications for registration must be accompanied by the following information [to be specified by the local authority – see section 15(4) of the 1982 Act], in particular, details of the premises concerned and particulars of any conviction of the applicant under section 16 of the 1982 Act. A person who contravenes section 15 will be guilty of an offence, and liable, on conviction, to a fine not exceeding £1000, or suspension or cancellation of registration or both. An authorised officer of the Council may apply to a Justice of the Peace for a warrant to enter premises on suspicion that an offence under Section 16 is being committed there.

4. The Council [may apply in due course/will be applying in the near future]* for confirmation of byelaws under this Act with regard to the cleanliness of premises, fittings, persons, instruments, materials and equipment connected with the businesses of [tattooing], [semi-permanent skin colouring], [cosmetic piercing], [electrolysis]* in the area of the Council.

5. Exceptions:

i These provisions of the Act do not extend to the carrying on of the business of [tattooing], [semi-permanent skin-colouring], [cosmetic piercing] or [electrolysis]* by or under the supervision of a registered medical practitioner (i.e. means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act).

ii A person who is registered under the provision of the Act specified in paragraph 1 above will not be committing an offence by engaging in the activity otherwise than at registered premises merely because he sometimes visits people at their request to provide his services.

NOTES – not to form part of the model notice

1. Passages marked []* to be modified by the Council according to the scope of Council's resolution.

2. The local authority should publish this notice in two consecutive weeks in a local newspaper circulating in their area.

3. The Council should specify the date or dates in paragraph 2. These can be the same for all sections listed in paragraph 1, or different, but

a. One month must pass between the day the resolution was passed and the first date of coming into force; and

b. First publication of the notice must not be later than 28 days before the coming into force of the provisions.

Appendix 4

Model newspaper notice

DISTRICT/PARISH

OF

CONFIRMATION OF BYELAWS

Notice is hereby given that the Council of intend, after the expiry of the period mentioned below, to apply to the Secretary of State for Health for confirmation of byelaws made by the Council **(insert description of byelaws and state that they have been made under section 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982.**

Copies of these byelaws will be kept at the offices of the Council at

.....,

and will be open to public inspection without payment on any week day, not being a Bank Holiday, during the usual office hours, for one month from the date of the publication of this notice.

Copies of the byelaws or any part thereof will be supplied at a fee of 10p for each hundred words.

Any objection to the confirmation of the byelaws should be made by letter addressed to Mr G M Robb,

Department of Health,

Room 631B, Skipton House,

80 London Road, London SE1 6LH.

(signed)

Town Clerk/Chief Executive

(Insert date of signature)

Blank

Report to Licensing Committee

7th November 2013

By Head of Planning & Environmental Services

INFORMATION REPORT

Not exempt



**Horsham
District
Council**

Implementation of the Scrap Metal Dealers Act 2013

Executive Summary

The Scrap Metal Dealers Act 2013 (the Act) received Royal Assent on 28th February 2013 and will come fully into force from 1st December 2013.

The Act repeals the existing legislation and brings forward a revised combined regulatory regime for the scrap metal dealing and vehicle dismantling industries. The Act maintains local authorities as the principal regulator and increases their power to better regulate these industries.

Recommendations

The committee is recommended:

- i) To note the contents of this report.

Reasons for Recommendations

- i) To keep the Committee apprised of the contents and implementation of new Scrap Metal Dealers legislation.

Background Papers: none

Consultation: Council Solicitor

Wards affected: All

Contact: Andy Skipper, Licensing Officer, Ext 5326

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of the report is to keep the Committee advised of the contents and implementation of new Scrap Metal Dealers legislation.

Background/Actions taken to date

- 1.2 The Scrap Metal Dealers Act 2013 (the Act) received Royal Assent on 28th February 2013 and will come fully into force from 1st December 2013.
- 1.3 The Act repeals the Scrap Metals Dealer Act 1964 and Part 1 of the Vehicles (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains local authorities as the principal regulator and increases their power to better regulate these industries.

2 Statutory and Policy Background

Statutory background

- 2.1 The Scrap Metal Dealers Act 2013
The Scrap Metal Dealers Act 1964
The Vehicle (Crime) Act 2001

Relevant Government policy

- 2.2 The Scrap Metal Dealers Act 2013 is the Governments response to the rapid rise in metal theft over the past few years.

Relevant Council policy

- 2.3 The provisions of the new Act replace Scrap Metal and Motor Salvage regulations which are regulated by the Council.

3 Details

Previous Legislation

- 3.1 The Scrap Metal Dealers Act 1964 only required local authorities to issue a registration to scrap dealers in their area. The registration lasted for three years, did not attract a fee and had limited other powers. Horsham District Council had 9 registered scrap metal dealers
- 3.2 Motor Salvage Operators were registered under The Vehicles (Crime) Act 2001. The Licence lasted for three years and attracted a small fee of £101. Horsham District Council had one registered motor salvage operator who is also registered as a scrap metal dealer.

- 3.3 Under the previous legislation, whilst the local authority was the principal regulator, enforcement was primarily the responsibility of the police.

Provisions of the Scrap Metal Dealers Act 2013

- 3.4 The Act requires that a scrap metal dealer obtains a licence in order to carry on a business as a scrap metal dealer and it is an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence.
- 3.5 There are two types of licence, a site licence allowing a dealer to carry on the business as a scrap metal dealer at any sites in the Authorities area as listed on the licence, and a collector's licence which covers dealers who do not have a site and regularly collect through door to door collections. A collector's licence will only allow collection in the Authorities area that issued the licence, therefore collectors covering several Council areas will require more than one licence.
- 3.6 Both licences will be issued for a period of three years from the date of issue. A site licence must be displayed on the site premises in an area open to the public. A collector's licence must be clearly on view on any vehicle used by a collector.
- 3.7 The Act introduces a "suitable person" test, similar to the existing "fit and proper person" test used for taxi drivers, requiring councils to be satisfied that any applicant is a suitable person to operate as a dealer. In making a decision as to suitability, councils can consider any relevant information, including a basic DBS check with Disclosure Scotland and other enforcement information from the Police and Environment Agency.
- 3.8 The Council can add conditions, as specified in the Act, to a licence where dealers or their site managers have been convicted of a relevant offence. The power to vary, refuse or revoke a licence is also contained in the Act.
- 3.9 The Act places a requirement on scrap metal dealers to verify the identity and address of any person they receive scrap metal from. The Act also sets out record keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business.
- 3.10 The Act provides that an application for a licence must be accompanied by a fee. The fee will be set locally by each local authority on a cost recovery basis, but local authorities have a duty to have regard to the guidance issued by the Secretary of State.
- 3.11 The Act also requires that a register of licences issued under the Act be set up and maintained by the Environment Agency. Local authorities will have to provide the appropriate information on all licence issued in their geographical areas in order that the register can be up dated regularly.

Implementation of the Act

- 3.12 The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013, made on 6th August 2013, brings into force the Act.
- 3.13 Article 2 of the Order brought into force on the 1st September that part of the Act which enabled local authorities to set a fee payable on application for a licence and requires local authorities to have regard to the guidance issued by the Secretary of State, published on 12th August 2013, in setting the fee.
- 3.14 Article 3 of the Order brought into force the majority of the provisions of the Act on the 1st October 2013.
- 3.15 Article 4 of the Order brings into force the criminal offences in the Act from the 1st December 2013.
- 3.16 Article 5 of the Order sets out the transitional provisions. These enabled scrap metal dealers who were registered by 1st October 2013 under the old legislation to benefit from a deemed licence, provided that they had applied for a new licence by 15th October 2013.

Licence Fees

- 3.17 As a result of the transitional arrangements the Council needed to be in a position to take applications and to charge a fee for application by 1st October 2013.
- 3.18 The Secretary of State issued guidance on licence fee charges on the 12th August 2013. The guidance states that the fee should provide local authorities with the funding they need to administer the regime and ensure compliance. Fees levied by each council should be set with reference to the actual cost. The licence fee can only be used to pay for the cost associated with the licensing process and local authorities must ensure that income from fees charged does not exceed the cost of providing the service.
- 3.19 The guidance states that a local authority should specify a fee for each category of application: assessment of an application for a licence; assessment of an application to vary a licence; and an assessment of an application to renew a licence. It also expects different levels of fee for the two types of licence, the site licence attracting a higher fee than the collector's licence to reflect the extra work involved in processing these licences.
- 3.20 Local authorities should identify what they need to do to assess the type of licence application and calculate their best estimate of the cost. The cost of a licence should reflect the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed. Consulting enforcement records in order to determine the suitability of an applicant is chargeable within the licence fee costs as are the costs associated with contested licence applications.

- 3.21 The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through existing funds.
- 3.22 Having had regard to the licence fee charges guidance issued by the Secretary of State the fees to be charged for a licence application in respect of this new process are:
- Site licence application £345.00
 - Site licence renewal £345.00
 - Site licence variation £75.00
 - Collector's licence application £245.00
 - Collector's licence renewal £245.00
 - Collector's licence variation. £75.00
- 3.33 The calculated fees above have been compared with other Sussex Local Authorities and broadly similar fee levels have been set across Sussex.
- 3.34 The fees will need to be reviewed regularly to check that they remain appropriate.

4 Next Steps

- 4.1 To determine the scrap metal dealers licence applications we have received.
- 4.2 Monitor the implementation of the new licensing regime.

5 Outcome of Consultations

- 5.1 The Council Solicitor has been consulted on these changes and has confirmed that we already have a delegation system in place for regulating licensing and it is drafted in such away that it continues when new legislation is enacted.

6 Other Courses of Action Considered but Rejected

- 6.1 None

7 Staffing Consequences

- 7.1 Whilst these new provisions replaced the Scrap Metal and Motor Salvage regulations, the requirements are much more onerous and there will be an impact on staff. The old legislation required simple registration whilst the new licensing provisions and associated powers will require much more input from staff. As we do not anticipate large numbers of licensed premises the fee income will not fund any additional staff and therefore this additional workload will need to be absorbed by an already stretched Department.

8 Financial Consequences

- 8.1 The proposed fees should provide cost recovery for the service provided. However the fees cannot be used to support enforcement activity against unlicensed scrap metal dealers and any such action will have to be funded through existing funds.

Appendix 1

Consequences of the Proposed Action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached No</p>	<p>The only risks associated with this report are possible enforcement costs for any action taken against unlicensed dealers.</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>The Act aims to raise standards across the scrap metal industry and reduce the growing problem of metal theft</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The issue of Human Rights have been taken into consideration in the licensing regime set by central government</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 equality groups is foreseen directly as a result of this report</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The Act aims to raise standards across the scrap metal industry</p>