



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**MONDAY 11TH JUNE 2012**  
**AT 6.00 P.M.**

**COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE**

**MEMBERS:** Councillors Mrs. J. M. Boswell, J. R. Boulter, Ms. M. T. Buxton, Mrs. R. L. Dent, S. J. Dudley, K. A. Grant-Pearce, Mrs. J. M. L. A. Griffiths, Miss P. A. Harrison, Mrs. H. J. Jones, R. J. Shannon, S. P. Shannon, Mrs. C. J. Spencer and L. J. Turner

### **AGENDA**

1. Election of Chairman
2. Election of Vice-Chairman
3. To receive apologies for absence and notification of substitutes
4. Declarations of Interest
5. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 16th April 2012 (Pages 1 - 2)
6. Statement of Gambling Principles - Review (Pages 3 - 20)
7. Street Trading Consent Policy - Review (Pages 21 - 38)
8. The Licensing Act 2003 as Amended by the Police Reform and Social Responsibilities Act 2011 (Pages 39 - 52)
9. Licensing Committee Work Programme 2012 / 2013 (Pages 53 - 54)  
To consider the Committee's work programme for the current municipal year.

10. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS  
Chief Executive

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

30th May 2012







## **INFORMATION FOR THE PUBLIC**

### **Access to Information**

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- An electronic register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc. is available on our website.
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- Meeting Agendas
- Meeting Minutes
- The Council’s Constitution

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## Declaration of Interests - Explained

### Definition of Interests

A Member has a **PERSONAL INTEREST** if the issue being discussed at a meeting affects the well-being or finances of the Member, the Member's family or a close associate more than most other people who live in the ward affected by the issue.

Personal interests are also things relating to an interest the Member must register, such as any outside bodies to which the Member has been appointed by the Council or membership of certain public bodies.

A personal interest is also a **PREJUDICIAL INTEREST** if it affects:

- The finances, or
- A regulatory function (such as licensing or planning)

Of the Member, the Member's family or a close associate **AND** which a reasonable member of the public with knowledge of the facts would believe likely to harm or impair the Member's ability to judge the public interest.

### Declaring Interests

If a Member has an interest they must normally declare it at the start of the meeting or as soon as they realise they have the interest.

#### **EXCEPTION:**

If a Member has a **PERSONAL INTEREST** which arises because of membership of another public body the Member only needs to declare it if and when they speak on the matter.

If a Member has both a **PERSONAL AND PREJUDICIAL INTEREST** they must not debate or vote on the matter and must leave the room.

#### **EXCEPTION:**

If a Member has a prejudicial interest in a matter being discussed at a meeting at which members of the public are allowed to make representations, give evidence or answer questions about the matter, the Member has the same rights as the public and can also attend the meeting to make representations, give evidence or answer questions **BUT THE MEMBER MUST LEAVE THE ROOM ONCE THEY HAVE FINISHED AND CANNOT DEBATE OR VOTE.**

However, the Member must not use these rights to seek to improperly influence a decision in which they have a prejudicial interest.

**For further information** please contact Committee Services, Legal, Equalities and Democratic Services, Bromsgrove District Council, The Council House, Burcot Lane, Bromsgrove, B60 1AA

Tel: 01527 873232 Fax: 01527 881414

Web: [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk) email: [committee@bromsgrove.gov.uk](mailto:committee@bromsgrove.gov.uk)

## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**MONDAY, 16TH APRIL 2012 AT 6.00 P.M.**

PRESENT: Councillors Mrs. R. L. Dent (Chairman), Mrs. C. J. Spencer (Vice-Chairman), C. J. Bloore (substituting for R. J. Shannon), Mrs. J. M. Boswell, J. R. Boulter, S. J. Dudley, Mrs. J. M. L. A. Griffiths, Mrs. H. J. Jones and L. J. Turner

Officers: Mrs. S. Sellers, Mrs. A. Heighway, Mr. C. Santoriello-Smith and Mrs. P. Ross

26/11 **APOLOGIES**

Apologies for absence were received from Councillors Miss P. A. Harrison, R. J. Shannon and S. P. Shannon.

27/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

28/11 **MINUTES**

The minutes of the Licensing Committee meeting held on 19th March 2012 were submitted.

**RESOLVED** that the minutes be approved as a correct record.

29/11 **PUBLIC AWARENESS RAISING PROGRAMME FOR DESIGNATED PUBLIC PLACE ORDERS (DPPOS)**

Following on from the meeting held on 5th January 2012, consideration was given to a report that provided Members with details of Bromsgrove District Council's Community Safety Team's plan for delivering a programme of public awareness raising activities with regard to Designated Public Place Orders (DPPOs).

The Senior Community Safety Project Officer introduced the report and in doing so provided the Committee with details of the public awareness raising programme and how it would be achieved. The Community Safety Team had assessed its current work commitments and available resources and had identified activities that could be delivered throughout April to July 2012 as detailed at paragraph 3.16 to the report. Members were asked to note that Community Safety officers in conjunction with the Council's Environmental Services had arranged for all old signage to be replaced with new signage. It was anticipated that all 127 signs would be replaced by the end of May 2012.

Members' attention was drawn to paragraphs 3.19 and 3.20 of the report which provided an update on the recent Home Office consultation on the introduction of new anti-social behaviour tools and powers which included the use of DPPOs. Should the Home Office decide to legislate these new anti-social behaviour tools and powers the use of DPPOs would no longer be available to local authorities.

The Senior Community Safety Officer responded to Councillor C. J. Bloore with regard to statistical information being recorded over the suggested 12 month DPPO review suspension period. Members were informed that the following factors would provide for accurate recording and appropriate statistical analysis on crime and disorder and the use of DPPO powers to be assessed as part of a future DPPO review:

- New legally complaint signage
- Re-briefing of police officers
- Public awareness raising

**RESOLVED**

- (a) that officers undertake the programme of public awareness raising activities as detailed at paragraph 3.16 to the report;
- (b) that the DPPO review be suspended until July 2013, and
- (c) that officers be tasked to report back to the Licensing Committee in June 2013 to provide details of the review process prior to it recommencing and to include details of the proposed public and stakeholder consultation.

The meeting closed at 6.22 p.m.

Chairman



## LICENSING COMMITTEE

11th June 2012

### STATEMENT OF GAMBLING PRINCIPLES - REVIEW

Relevant Portfolio Holder	Councillor Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

#### 1. SUMMARY OF PROPOSALS

- 1.1 To update Members of the required consultation on the Statement of Gambling Principles as part of the statutory triennial review in accordance with Section 349 of the Gambling Act 2005.

#### 2. RECOMMENDATIONS

- 2.1 **The Committee is asked to RESOLVE that**

**To note that a consultation on the Statement of Gambling Principles is forthcoming and findings will be reported back to the Licensing Committee prior to its implementation in January 2013.**

#### 3. KEY ISSUES

##### Financial Implications

- 3.1 There are no financial implications within this report other than statutory consultation with licence holders and other interested parties.

##### Legal Implications

- 3.2 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies.
- 3.3 The Council has delegated its gambling function to its Licensing Committee, Sub Committees and Worcestershire Regulatory Services Licensing Officers referred collectively to as the “Licensing Authority”.
- 3.4 The statement of Policy will last for a maximum of three years but can be reviewed and revised by the authority at any time.

**LICENSING  
COMMITTEE**

**11th June 2012**

- 3.5 This statement re-establishes the important link with the Council's vision and objectives and with the desire to deliver services in an open, transparent and consistent manner

**Service / Operational Implications**

- 3.6 The Gambling Act requires the Council to carry out a review of its Gambling Act 2005 – Statement of Gambling Principles which is used to determine all applications made under the terms of the Act, every three years.
- 3.7 The Council adopted its current Statement of Principles in January 2010. It is now necessary to carry out a review of the current document and to consult with all interested parties, to ensure that the policy continues to reflect the local balance between the commercial interests of the licensed trade and the communities they serve and impact on.
- 3.8 The current Statement of Gambling Principles is set out at Appendix 1.
- 3.7 The Gambling Commission are currently updating the Gambling Act 2005 Guidance and no changes are proposed to the guidance on the Statement of Gambling Principles.
- 3.8 The Licensing Authority is satisfied that its existing Gambling Act 2005 Statement of Principles has been “fit for purpose” as it has not been challenged by applicants or objectors. Members should note that this view is mirrored by all other Licensing Authorities within Worcestershire.
- 3.9 Consultation will take place with all of the interested parties identified in the Guidance; these being any Parish and Town Councils, Relevant Authorities, Trade Associations and Representatives of the Gaming Industry, including suppliers of gaming facilities and machines, all betting offices within the district and a number of voluntary Organisations such as Citizens Advice Bureau and Gamblers Anonymous.
- 3.9 Consultation is required over a 12 week period; once the consultation has closed, results will be collated and evaluated in conjunction with the other district Council's in the County and incorporated, where necessary into the Statement and will enable a further report to be made to this Committee prior to the implementation date for consideration.

**LICENSING  
COMMITTEE**

**11th June 2012**

**4. RISK MANAGEMENT**

- 4.1 Failure to consult on the Statement of Gambling Principles will result in the Council failing to exercise its duty under the requirement of the Gambling Act 2005.

**5. APPENDICES**

Appendix 1 Statement of Gambling Principles.

**AUTHOR OF REPORT**

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# Gambling Act 2005

# Draft Statement of Principles

Draft Policy  
**11th June**  
**2012**



**Bromsgrove**  
District Council  
[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

Page 7



Contents	Page
<b>Introduction</b>	<b>2</b>
<b>Gambling Act 2005</b>	<b>3</b>
<b>General Statement of Principles</b>	<b>3</b>
<b>Preventing gambling from being a source of crime and disorder</b>	<b>4</b>
<b>Ensuring gambling is conducted in a fair and open way</b>	<b>5</b>
<b>Protecting children and vulnerable people from gambling</b>	<b>5</b>
<b>Premises licences</b>	<b>6</b>
<b>Responsible Authorities</b>	<b>7</b>
<b>Interested Parties</b>	<b>8</b>
<b>Licence conditions</b>	<b>9</b>
<b>Gaming Machines</b>	<b>9</b>
<b>Temporary Use Notices</b>	<b>10</b>
<b>Occasional Use Notices</b>	<b>10</b>
<b>Lotteries</b>	<b>10</b>
<b>Exchange of Information</b>	<b>11</b>
<b>Enforcement</b>	<b>11</b>
<b>Reviews</b>	<b>12</b>
Appendices	
<b>Appendix A List of Consultees</b>	

## Statement of Principles – Gambling Act 2005

### 1.0 Introduction

1.1 Bromsgrove District Council is situated in the County of Worcestershire, which contains six District Councils in total. The Council area has a population of approximately 98,000 and in terms of area it covers approximately 84 square miles. The Council area is mainly rural in character (90% of the area is classed as Green Belt) with two central urban areas of Bromsgrove Town and Rubery. Whilst it is only 14 miles from central Birmingham, the Clent and Lickey Hills provide an important dividing line between the industrial Midlands and the rural landscape of North Worcestershire.

1.2 Bromsgrove District Council's overall vision is "an attractive, clean, healthy, safe and prosperous District where an improving quality of life is enjoyed equally by all." This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are central to the regulatory regime created by the Act. These are:

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

1.3 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between July and September 2009 in line with HM Government Code of Practice on Consultation. A full list of comments made and considered by the Council is available at [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk). The policy was approved at a meeting of the Full Council on 18<sup>th</sup> November 2009. Should you have any comments as regards this policy statement please send them via email or letter to: [licensing@bromsgrove.gov.uk](mailto:licensing@bromsgrove.gov.uk)

This statement must be published at least every three years. The statement may also be reviewed from 'time to time' and any amended parts re-consulted upon.

1.4 We intend that this document should provide information and guidance on the general approach that we will take to licensing. A series of advice sheets with more specific guidance is available from our web site or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

1.5 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

### 2.0 Gambling Act 2005

2.1 This policy reflects our key priorities to be an efficient and effective Council; to provide a clean, safe and attractive environment; to foster and sustain a strong

and expanding economy; to provide sustainable culture and leisure opportunities; and to work with the public and our partners.

2.2 The Act provides for gambling to be authorised in a number of different ways. Our main functions are to:

- licence premises for gambling activities, including the issue of provisional statements,
- regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
- regulate gaming and gaming machines in alcohol licensed premises,
- grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for the temporary use notices,
- receive occasional use notices for betting at tracks,
- register small societies lotteries,
- Maintain public registers, and
- Provide information to the Gambling Commission on issued licences.

2.3 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. Spread betting is regulated by the Financial Services Authority. The “National Lottery” is regulated by the National Lottery Commission.

### **3.0 Authorised Activities**

3.1 ‘Gambling’ is defined in the Act as gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize,
- betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not, and
- a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

### **4.0 General Statement of Principles**

4.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will generally aim to permit the use of premises for gambling as long as it is considered to be :-

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any relevant Guidance issued by the Gambling Commission
- in accordance with this Statement of Principles, and
- reasonably consistent with the licensing objectives.

4.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.



- 4.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 4.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 4.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 4.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 4.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 4.8 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

## **5.0 Preventing gambling from being a source of crime and disorder**

- 5.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 5.2 In view that we will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 5.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for SIA registered door supervisors.
- 5.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough

to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

5.5 “Disorder” is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.

5.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

## **6.0 Ensuring gambling is conducted in a fair and open way**

6.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.

6.2 Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

## **7.0 Protecting children and vulnerable people from being harmed or exploited by gambling**

7.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are ‘adult-only’ environments.

7.2 Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.

7.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.

7.4 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.

7.5 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

7.6 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other

vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

## 8.0 Premises licences

8.1 A premises licence can authorise the provision of facilities at the following :

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

8.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.

8.3 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

8.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.

8.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Bromsgrove has not been identified as a suitable location for a casino, consequently we will be prevented from granting a Casino Premises Licence.

8.6 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.

8.7 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

8.8 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral'

objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.

- 8.9 We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 8.10 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made.
- 8.11 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
  - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.
- 8.12 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 8.13 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 8.14 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9am until 5pm.

## **9.0 Responsible authorities**

9.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below, contact details for each of the responsible authorities identified are available on our website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk), and will be sent on request.

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Bromsgrove District Council Planning Department
- Bromsgrove District Council Licensing Department
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, British Waterways Board, Secretary of State.
- Bromsgrove District Council Environmental Services Department
- Worcestershire Safeguarding Children Board
- HM Revenue and Customs

9.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

## **10.0 Interested Parties**

10.1 An interested party is someone who :

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

10.2 We will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

10.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, we will take into account, among other things :

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complainant
- the potential impact of the premises

10.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things :

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

10.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

10.6 We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider :

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises an issue relevant to the licensing objectives, or
- whether it raises issues specifically to do with the premises which are the subject of the application.

## **11.0 Licence conditions**

11.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. We will not have recourse to a pool of standard conditions.

11.2 We will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.

11.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also expect the applicant to offer their own suggestions as to way in which the licensing objectives can be promoted effectively.

11.4 We will not seek to control those matters specified in the Act with conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
- relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

11.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## **12.0 Gaming Machines**

12.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.

12.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

12.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :

- |   |  |
|---|--|
| • casinos                               | • family entertainment centres             |
| • bingo premises                        | • clubs                                    |
| • betting premises, (including tracks ) | • pubs and other alcohol licensed premises |
| • adult gaming centres                  | • travelling fairs                         |

12.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.

12.5 We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

### **13.0 Temporary Use Notices**

13.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

13.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

### **14.0 Occasional Use Notices**

14.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

### **15.0 Lotteries**

15.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission - unless they are 'exempt' lotteries as defined by the Act. One of those exemptions is for "small societies lotteries," which we will allow, after registration. We will maintain a register of small societies lotteries.

15.2 A society will be allowed to register with us if it is 'non-commercial', in other words, if it is established and conducted :

- for charitable purposes ;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain.

### **16.0 Exchange of Information**

16.1 To ensure the licensing objectives are met, we will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

- 16.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.
- 16.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Information Management Officer or via the Council's website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk).
- 16.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.
- 16.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## **17.0 Enforcement Protocols**

- 17.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.
- 17.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 17.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 17.4 We will also be mindful of future developments as regard the work of the Better Regulation Executive whilst carrying out our regulatory functions.



17.5 We will endeavour to be proportionate; accountable; consistent; transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.

## **18.0 Reviews**

18.1 A review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:

- In accordance with any relevant Code of Practice and/or guidance issued by the GC
- Consistent with the licensing objectives
- In accordance with our statement of principles.

18.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.

18.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

18.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:

- Add, remove or amend a licence condition;
- Remove or amend a default condition, such as opening hours;
- Suspend the premises licence for a period not exceeding 3 months;
- Revoke the licence.

**List of Consultees**

All Responsible Authorities

District Councillors

Parish Councils

Premises Licence Holders under Licensing Act 2003

Club Premises Certificate Holders under Licensing Act 2003

Representatives of the Gaming Industry, including suppliers of Gaming facilities and machines

Existing permit holders under the Gaming Act 1968 and Lotteries and Amusements Act 1976

Voluntary organisations, such Citizens Advice Bureau and GamCare.

## LICENSING COMMITTEE

11th June 2012

### STREET TRADING – AMENDMENT

Relevant Portfolio Holder	Councillor Kit Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

#### 1. SUMMARY OF PROPOSALS

- 1.1 To receive a report on the amendment of the Street Trading Policy for the District and the application process.

#### 2. RECOMMENDATIONS

**It is recommended that Members consider removing an unnecessary burden on applicants for Street Trading Consents by having to undertake a Standard/Basic Criminal Records Bureau Check (CRB).**

#### 3. KEY ISSUES

##### Financial Implications

- 3.1 Removes an extra financial burden upon the applicant as the fee for a Standard/Basic Criminal Records Bureau check is £31.00.

##### Legal Implications

- 3.2 For legal implications please see paragraphs 3.3 and 3.4

##### Service / Operational Implications

- 3.3 Bromsgrove District Council (The Council) pursuant to Section 3 of The Local Government (Miscellaneous Provisions) Act 1982 has resolved to adopt Schedule 4 of the Act to control Street Trading in the District.
- 3.4 The Council has resolved that every street within the area of the district of Bromsgrove should be designated as Consent Street, under the Act, (LGMPA) (except those shown at **Appendix 1** and nominated as Prohibited Streets).

## **LICENSING COMMITTEE**

**11th June 2012**

- 3.5 The Application process for a Street Trading Consent currently requires the applicant to provide the officers with a CRB, as per the application process agreed by this committee on 6<sup>th</sup> June 2011 **Appendix 2**.
- 3.6 This is also stated in the FAQ's (Frequently asked Questions) form **Appendix 3** and also on the checklist of the Application form **Appendix 4**.
- 3.7 Although currently a CRB is required, the question that has been asked is, what do we do with it? And is there any justifiable reason for requesting it? Significantly, there is no standard set or guidance given to identify if an offence/caution/conviction justifies review or refusal of a Consent.
- 3.8 An applicant would not have periods of time with unattended children or vulnerable adults and it must therefore raise the question as to whether the Licensing Authority has justification in requesting a CRB check.
- 3.9 An analogy would be that no other shopkeeper is required to undertake a CRB check and it is therefore arguable that there is no difference in a child purchasing an ice cream from an ice cream van or from a corner shop.

### **4. RISK MANAGEMENT**

- 4.1 None

### **5. APPENDICES**

Appendix 1	Policy Statement - List of Prohibited Streets
Appendix 2	Application Process
Appendix 3	FAQ's – frequently asked questions
Appendix 4	Application Form

### **AUTHOR OF REPORT**

Name: Andy Fox – Senior Licensing Practitioner.  
Worcestershire Regulatory Services

E Mail: [andy.fox@worcestershire.gov.uk](mailto:andy.fox@worcestershire.gov.uk)

Tel: (01527) 548205



## **STREET TRADING - POLICY STATEMENT**

### **UNDERLYING PRINCIPLES**

1. Street Trading is regarded as an acceptable activity in Bromsgrove within the consented areas (Appendix A), provided that it is located where it can make a positive contribution to add interest, vibrancy, and diversity to the area and does not give rise to problems associated with Crime and Disorder.
2. The Council is the responsible authority for granting Street Trading Consents in Bromsgrove and will ensure that traders operate in accordance with conditions attached to such Consents (Appendix B).
3. The Council accepts that Bromsgrove comprises distinct areas with differing historic and commercial characters, and varying streetscape qualities, which should be individually developed and promoted.
4. The Council will consult with the following agencies:
  - The Highways Authority – Worcestershire County Council;
  - The Chief Officer of Police;
  - Worcestershire Regulatory Services – Compliance Team;
  - The Councils Street Scene and Community Services Team;
  - The Council's Community Safety Team;
  - Trading Standards;
  - The Parish Council (if any) in which the Trading Unit is to be located;
  - The Ward Councillors; and
  - The owners/occupiers of any properties near to the proposed location of trading site.
  - Any other relevant agency
5. The Crime and Disorder Act (1998) stresses the need to take positive action to combat crime and the fear of crime. Therefore, prior to granting any Street Trading Consent the Council will pay particular attention to any potential crime and disorder arising directly or indirectly from the Consent and will give significant weight to the views of the Police and Community Safety Officer.
6. The Council may issue Consent for up to one year or a lesser period where appropriate if the trading activity is seasonal or of a temporary nature.
7. Applications will only be considered where an applicant has completed an application form and will not be granted unless an applicant has paid the appropriate Consent fee.
8. Applications for a Street Trading Consent will be considered and determined under the Council's Scheme of Delegation by the Head of Worcestershire Regulatory Services, or otherwise by the Council's Licensing Sub-Committee.

9. Where more than one trader applies for Consent to trade from an approved site, the applications will be referred to the Council's Licensing Sub-Committee.

## **CRITERIA FOR CONSIDERING APPLICATIONS FOR STREET TRADING CONSENTS**

When considering an application for a Street Trading Consent, the Council will take into account the following matters when reaching its decision:

1. Responses from Consultees and other interested parties.
2. The proposed siting and design of the street trading vehicle and whether or not it enhances the area within the immediate vicinity.
3. Any potential obstruction to the free flow of pedestrians or of vehicles in the street, with special regard for the visually impaired.
4. Road safety, either arising from the siting of the street trading vehicle or as a result of customer visiting or leaving the site, including existing traffic orders and waiting restrictions.
5. The nature of the proposed goods to be traded and whether this will create conflict with the trade of adjacent, established shops.
6. Whether the proposed siting of the street trading vehicle obstructs the frontage of adjacent established shops.
7. The numbers, distribution and location of existing street trading consents.
8. The likelihood of excessive noise, odour and litter being generated.
9. Whether the proposal would conflict with any other policies of the Council.

<b>CONSENTED STREETS</b>	<b>PROHIBITED STREETS</b>
<p><b>ALL STREETS WITHIN BROMSGROVE DISTRICT EXCEPT THOSE DESIGNATED AS PROHIBITED STREETS AND STREETS WITHIN THE TOWN CENTRE USED FOR MARKET PURPOSES.</b></p>	<p><b>Worcester Road</b></p> <p><b>Hanover Street</b></p> <p><b>St. John Street</b></p> <p><b>Chapel Street</b></p> <p><b>Mill Lane</b></p> <p><b>Market Street</b></p> <p><b>Church Street</b></p> <p><b>Station Street</b></p> <p><b>High Street</b></p>

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## **BROMSGROVE DISTRICT COUNCIL**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

#### **STREET TRADING - STANDARD CONDITIONS**

1. Bromsgrove District Council (“the Council”), pursuant to Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) have resolved that Schedule 4 to the Act, to control street trading in the district should come into force from May 2010.
2. The Council has resolved that every street within the area of the district of Bromsgrove is to be designated as a Consent Street” under the Act, ( except those shown at Appendix One and nominated as Prohibited Streets ) which means a street in which street trading is prohibited without a Consent issued by the Council.
3. A street trading Consent is issued by the Council subject to the following conditions, insofar as they do not conflict with or are amended by any specific conditions imposed on the grant of the Consent:-
  - (a) The Consent is valid for the period shown on the Consent
  - (b) The Consentee shall pay a fee to the Council in accordance with the approved list of fees.
  - (c) The Consent may be surrendered by the Consentee at any time, providing that the Council shall repay to the Consentee that part of the fee considered by the Council appropriate for the unexpired period of the licence, less £35 for administrative expenses.
  - (d) The Consent holder must at all times while trading display in a conspicuous position the Consent issued by the Council.
  - (e) The Consentee shall not carry on his/her trade in such a way as to cause obstruction of any part of the street in which he/she is trading, or danger to persons using the street.
  - (f) The Consentee shall not carry on his/her trade in such a way as to cause a nuisance or annoyance to persons using the street or to occupiers in the vicinity.
  - (g) The Consentee shall not sell any type of food, goods or merchandise other than that specified in the Consent.
  - (h) The Consentee shall provide and maintain, where appropriate, adequate facilities for the collection of litter resulting from his/her trading and at the close of each trading day shall remove any litter resulting from his/her trading from the street. Proof of a Trade Waste Agreement

should accompany the application. The Consentee shall be responsible for any damage to the highway or otherwise resulting from the trading activity.

- (i) The Consentee shall make such provision as is necessary to prevent the deposit in any street of solid or liquid refuse occurring from the trading activity and shall not discharge any waste water to the street surface or to the surface water drains.
- (j) The Consentee shall not use any television, tape recorder or other device for the reproduction of sound while trading without the express permission of the Council.
- (k) The Consentee shall not trade outside the times and days permitted by the Consent
- (l) The Consentee shall not trade in any location other than the location permitted by the Consent
- (m) Any vehicle, stall or container used by the Consentee in the course of street trading shall be constructed and maintained to the satisfaction of the Council and shall comply with legislation in force at the time or any relevant British Standard.
- (n) The use and storage of liquid petroleum gas shall comply with the Code of Practice or requirements of the Fire Officer.
- (o) The Consent shall not operate for any other purpose than to permit the Consentee to trade in a Consent street in accordance with the conditions imposed. The Consentee must ensure that he/she has obtained any other approval or registration required under any other statutory provisions relevant to his/her trade.
- (p) The Consentee must be 18 years of age or over and shall be responsible at all times for control of the stall. Any persons assisting on the stall shall be 18 years of age or over.
- (q) The Consent is personal to the Consent holder and shall not be assigned or transferred to any other person or company.
- (r) The Consent holder or his employee must move his vehicle/stall or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- (s) Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.
- (t) The Consent holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall

produce a valid certificate of such insurance at any time upon the request.

- (u) Nothing contained in these conditions shall relieve or excuse the Consent holder or his/her employee or agent from any legal duty or liability and the Consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from trading.
- (v) The conditions attached to the Consent may be varied by the Council at any time.
- (w) Any breach of these conditions may lead to the Consent being suspended or revoked.
- (x) In these conditions “the Consent” means a Consent issued under Section 3 of and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. Consentee means the person named on the Consent issued by the Council and includes any employee, servant or agent of the licence holder and “the Council” means Bromsgrove District Council.

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## **STREET TRADING**

### **INFORMATION PACK**

#### **What is a Street Trader?**

A Street Trader is someone who:-

- i. Trades on any road, footways, highways, and other adjacent areas to which the public have access without payment. Traders must obtain land owners' permission when trading on private land.
- ii. Sells or exposes or offers for sale any article, whether food or non-food, including a living thing, whether with or without a stall or vehicle.
- iii. Trades from a fixed location.

#### **Does the Control apply to all Traders?**

No, there are various exemptions to the requirement to hold a Street Trading Consent:-

- i. Trading as a pedlar with a valid Pedlar's certificate issued under the Pedlars Act 1871. A pedlar is a person who travels and trades on foot and goes from town to town or from house to house carrying goods to sell. A pedlar cannot trade from a fixed spot. Pedlar's certificates are obtained from any main Police Station.
- ii. A roundsman, who is a person who delivers orders to the customer's door. This is a trader who calls by prior arrangement with the customer and sells at the customer's premises. Ice cream sellers or mobile food sellers are not deemed to be "roundsmen" and require a licence to trade in the street.
- iii. News vendors selling only newspapers and periodicals, unless the stall exceeds one metre in length or width, or two metres in height.
- iv. Trading from the forecourt of a petrol filling station.
- v. Trading from a stall outside a shop as an extension of that business.

#### **How is Street Trading Controlled in Bromsgrove?**

Bromsgrove District Council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982 so that it can effectively control street trading.

- i. All streets within Bromsgrove District have been designated as consented streets apart from those specifically prohibited (see Appendix A of the Council's Street Trading Policy).
- ii. This means that it is an offence to trade without Consent in any street, road, footway, highway, or adjacent area to which the public have access without payment, other than those prohibited where no trading at all can take place.

- iii. Trading without consent may result in prosecution.
- iv. If a trader has been granted a consent the Council has the right to vary or revoke the Consent at any time if the trader fails to comply with the conditions attached to the Consent.
- v. If you wish to trade outside of the Bromsgrove District you should contact the appropriate District Council for that area. Please note that different Councils may have different procedures and rules regarding street trading.
- vi. If you wish to trade within the Bromsgrove District an application should be made to the Worcestershire Regulatory Services, Licensing, Burcot Lane, Bromsgrove. B61 1AA.

### How do I apply for Consent?

- i. Complete the appropriate application form – for a “static trader” if you wish to trade from a pitch, or for a “mobile” trader if you sell from street to street.
- ii. Attach to the application form the required documents, including a Basic Criminal Records Bureau Disclosure as listed on the application form.
- iii. Post or bring to the Customer Services Centre at the Dolphin Centre; the completed application form, and original copies of any supporting documents (these will be copied and returned to you).

### What Are the Fees Payable for Consent?

- i. Fees are payable for each unit or site. Fees should be sent with the completed application form.
- ii. Fees may be payable in instalments, by agreement with the Council.
- iii. Fees are reviewed annually and are applicable from 1st April each year.
- iv. Fees payable for static traders who trade from a fixed pitch are:-

	<b>Food</b>		<b>Non Food</b>	
	<i>Initial</i>	<i>Renewal</i>	<i>Initial</i>	<i>Renewal</i>
Single Unit up to 12m <sup>2</sup> (max 5m length)	£1418	£1301	£1183	£1064
For every additional 12m <sup>2</sup> or part thereof or length more than 5m	£600			
Mobile traders	£575 per vehicle, per annum			

### **How Long Does Consent Last for?**

- i. Consent can be issued for any period up to a maximum of 12 months, unless surrendered earlier.
- ii. Renewals will take place on receipt of a completed renewal application form and payment of the appropriate fee.

### **Are Consents Transferable?**

- i. No, they are not.
- ii. The Consent holder is entitled to a refund of part of the fee paid if the Consent is surrendered part way through the year.
  - i. Refunds may be made on a pro rata basis, subject to an administration charge of £35.
  - ii. If you do not renew the Consent on the expiry or surrender it before then, then any other person will be able to apply to trade from the same site.

### **What are the Responsibilities of a person granted consent?**

Such a person is responsible for ensuring that:-

- i. The consent conditions are complied with.
- ii. All relevant certificates are produced to the Council with any application for Consent.
- iii. The vehicle or stall is registered with the Council if selling food of any description.
- iv. The Council will not be held responsible for any acts or omissions arising from the grant of Consent.
- v. Where trading is on private land, to which the public has access without restriction, permission to trade must be obtained from the owner/occupier as well as the Council

### **Does the Grant of Consent by the Council give any other entitlement?**

- i. No - It only permits trading within the terms of the Consent as specified. The Consent does not override any parking restriction or other traffic regulation.
- ii. The Consent to trade does not imply approval from any other person or authority.

### **Consideration and Determination of your Application**

- i. When received by the Licensing Section your application form will be checked. Provided there are no queries arising from the application form,

your application will be acknowledged in writing within 5 working days of receipt. If there is a query then you will be contacted in writing and/or by telephone and given the opportunity to respond.

- ii. The complete application form will be copied for comment to various parties.

Usually these are the Police, Worcestershire County Council Highways Partnership Unit Manager, Ward Councillors, the Parish or Town Council, Economic Regeneration & Tourism Manager, Community Development Control Manager, Operational Services Manager and local businesses within the vicinity of the proposed site of operation.

- iii. We aim to complete this process within 20 working days but may take longer if a Licensing Sub-Committee hearing is necessary.
- iv. If queries are raised at this stage then you will be contacted in writing and/or by telephone and given the opportunity to address them.
- vi. Having received all comments/recommendations and taking into account the Council's adopted Street Trading Policy, the Head of Worcestershire Regulatory Services or one of his nominated officers, under the Council's Scheme of Delegation, may then determine applications where there are no objections and where the application is to be granted. Where your application cannot be granted, or where objections are received, your application will be referred to the Council's Licensing Sub-Committee for consideration and determination.
- vi. You will be informed in writing of the recommendation to the Licensing Sub-Committee and the date of the meeting to which you will also be invited to attend.
- vii. If your application is granted, the Consent will be issued, together with a copy of the Standard Conditions applicable to street trading Consents plus any Special Conditions deemed necessary by the Council.
- viii. If the Committee refuses your application you will be notified in writing of the reasons for refusal.
- ix. There is no right of appeal in the case of refusals or against the application of conditions.

### **Is there an Independent Body which represents Street Traders?**

There is a body which offers advice on all aspects of outside catering. This body is called MOCA (Mobile and Outside Catering Association Ltd.) and is located at:-

Centre Court  
1301 Stratford Road  
Hall Green  
Birmingham  
B28 9HH

Tel 0121 693 7000  
Fax 0121 693 7100  
Website [www.moca.co.uk](http://www.moca.co.uk)



## Application for a Street Trading Consent

Full Name

Full Residential Address

Telephone No.

Email

<input type="text"/>	<input type="text"/>
----------------------	----------------------

National Insurance No.

I hereby apply for GRANT / RENEWAL of a Street Trading Consent to sell goods in the street as a mobile trader

Hours/Days of Operation

Monday		Friday	
Tuesday		Saturday	
Wednesday		Sunday	
Thursday			

To sell (describe articles to be sold)

Proposed trading location (please also attach map showing exact location)

The mobile unit is kept at the following address when not trading

Description of mobile unit, including dimensions

--

If you are selling food or beverages, please state, if any, which local authority you are registered with.

--

I understand that any vehicle will be inspected prior to the start of trading.

I enclose the following items with this application:

A colour photograph of the mobile unit/vehicle	
A recent passport sized photograph of the applicant	
Food Hygiene Training Certificates (if relevant)	
Certificate of inspection for any fire extinguishers	
Certificate to show electrical/gas installations have been tested and are safe	
Public liability insurance to 5 Million pounds	
Plan showing proposed location of unit when trading	
Evidence of Trade Waste Agreement	
Annual Consent Fee cheques made payable to Bromsgrove District Council (Check website for fee details)	
CRB Disclosure (Standard or Basic)	

Signed

--

Date

--

Please return this form and any supporting documents to the Licensing Section, Planning and Environment, Bromsgrove District Council, The Council House, Burcot Lane, Bromsgrove, Worcs., B60 1AA

Telephone: 01527 881454/881263

Email: [wrslicensingadmin@worcsregservices.gov.uk](mailto:wrslicensingadmin@worcsregservices.gov.uk)



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**LICENSING  
COMMITTEE**

11th June 2012

**THE LICENSING ACT 2003 AS AMENDED BY THE POLICE  
REFORM AND SOCIAL RESPONSIBILITY ACT 2011**

Relevant Portfolio Holder	Councillor Kit Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

- 1.1 The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 in relation to suspension of licences due to non payment of fees. The purpose of this report is to explain the changes to Members and to ask for authority to suspend Premises Licenses and Club Premises Licenses on non payment of fees to be delegated to officers.

**2. RECOMMENDATIONS**

- 2.1 That Members note the report and;
- 2.2 Grant delegated authority to the Head of Worcestershire Regulatory Services to suspend Premises and Club Premises Licenses following non payment of fees under sections 55A and 92A of the Licensing Act 2003 (as amended).

**3. KEY ISSUES****Financial Implications**

- 3.1 Currently non payment of the annual fee is only recoverable as a civil debt and the premises licence or club premises certificate itself still remains in force in situations where the fee is not paid. This means that premises can legitimately continue to trade year after year whilst owing the Licensing Authority money. This change will enable the Licensing Authority to suspend those licence holders who do not pay their fees until the debt is paid; once paid the licence will automatically be re-instated.

**Legal Implications**

- 3.2 Under section 120 of the Police and Social Responsibility Act 2011 two new sections (“55A and 92A”) have been inserted into the Licensing Act 2003. The new sections impose a mandatory duty on

## **LICENSING COMMITTEE**

**11th June 2012**

Licensing Authorities to suspend premises licences (55A) and Club premises certificates (92A) where the licence holder has failed to pay the annual fee. The relevant section of the Act is attached at Appendix 1. The legislation provides that once the fee has been paid that the period of suspension automatically comes to an end.

- 3.3 Members are asked to note that the suspension of the licence must be carried into effect and is not discretionary. This being the case and to avoid having to convene a meeting of the Licensing Committee to make the decision to suspend the licence when fees are not paid the Committee are being asked to delegate this function to the Head of Worcestershire Regulatory Service.

### **Service / Operational Implications**

- 3.4 On 25th April 2012 the Police Reform and Social Responsibility Act amended the Licensing Act as set out in paragraph 3.2 above to impose a requirement on Licensing Authorities to suspend premises licences and club premises certificates if the annual fees are not paid.
- 3.5 Premises Licence holders are sent an invoice from the finance department annually. In future the invoice will include a statement reminding licence holders of their duty to pay the invoice in a timely manner and setting out the consequences should they fail to do so.
- 3.6 Finance will then provide WRS Licensing Officers with a monthly debtors list and Licensing Officers will ensure that if payment has not been made then a suspension notice will be issued; once paid the licence will automatically be re-instated.
- 3.7 As can be seen, under the new changes the system of monitoring licence fees is going to be an administrative process carried out by officers. As stated at 3.3 above, to save time and to ensure a more responsive service it is proposed that the function of suspending licence be delegated to officers.
- 3.8 For further information the Home Office guidance in suspension of fees is attached at Appendix 2 and a copy of the relevant part of the section 183 guidance is attached at Appendix 3.

## **4. RISK MANAGEMENT**

- 4.1 The only possible risk relates to the processing of annual fee payments and ensuring that receipt of late payments is communicated in a timely fashion by finance to WRS. Officers intend to keep this under review.

**LICENSING  
COMMITTEE**

**11th June 2012**

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**5. APPENDICES**

- Appendix 1 - Sections 55A and 92A of the Licensing Act 2003 ( as amended).
- Appendix 2 - Home Office guidance for Suspension for non-payment of fees
- Appendix 3 – copy of Section 14 of Section 182 guidance of the Licensing Act 2003 (April 2012)

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## Police Reform and Social Responsibility Act 2011

### **120 Suspension of licence or certificate for failing to pay annual fee**

(1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).

(2) In section 26(2) (period of validity of premises licence), after “section 52” insert “or 55A”.

(3) After section 55 (annual fee for premises licence) insert—

#### *“55A Suspension of premises licence for failing to pay annual fee*

*(1) A licensing authority must suspend a premises licence if the holder of the licence has failed to pay the authority an annual fee that has become due under section 55(2).*

*(2) Subsection (1) does not apply if—*

*(a) either—*

*(i) the holder’s failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or*

*(ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and*

*(b) the grace period for payment of the fee has not expired (see subsection (8)).*

*(3) If a licensing authority suspends a premises licence under subsection (1), the authority must give the holder of the licence a notice to that effect, specifying the day the suspension takes effect.*

*(4) A day specified in a notice under subsection (3) must be at least two working days after the day the authority gives the notice.*

*(5) If the holder of the licence pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.*

*(6) The acknowledgement of receipt under subsection (5) must—*

*(a) specify the day the authority received the fee (the “receipt day”), and*

## APPENDIX 1

*(b) be given to the holder as soon as is reasonably practicable but in any event—*

*(i) if the receipt day was a working day, before the end of the first working day after the receipt day,*

*(ii) otherwise, before the end of the second working day after the receipt day.*

*(7) A suspension of a premises licence under subsection (1)—*

*(a) takes effect on the day specified in the notice under subsection (3), and*

*(b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).*

*(8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”*

*(4) In section 80(2) (period of validity of club premises certificate), after “section 88” insert “or 92A”.*

*(5) After section 92 (annual fee for club premises certificate) insert—*

*“92A Suspension of club premises certificate for failing to pay annual fee*

*(1) A licensing authority must suspend a club premises certificate if the holder of the certificate has failed to pay the authority an annual fee that has become due under section 92(2).*

*(2) Subsection (1) does not apply if—*

*(a) either—*

*(i) the holder’s failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or*

*(ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and*

*(b) the grace period for payment of the fee has not expired (see subsection (8)).*

*(3) If a licensing authority suspends a club premises certificate under subsection (1), the authority must give the holder of the certificate a notice to that effect, specifying the day the suspension takes effect.*

*(4) A day specified in a notice under subsection (3) must be at least 2 working days after the day the authority gives the notice.*

## APPENDIX 1

*(5) If the holder of the certificate pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.*

*(6) The acknowledgement of receipt under subsection (5) must—*

*(a) specify the day the authority received the fee (the “receipt day”), and*

*(b) be given to the holder as soon as is reasonably practicable but in any event—*

*(i) if the receipt day was a working day, before the end of the first working day after the receipt day,*

*(ii) otherwise, before the end of the second working day after the receipt day.*

*(7) A suspension of a club premises certificate under subsection (1)—*

*(a) takes effect on the day specified in the notice under subsection (3), and*

*(b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).*

*(8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”.*

*(6) The amendments made by this section apply in relation to premises licences and club premises certificates in relation to which annual fees become due on or after the commencement of this section.*

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## Police Reform and Social Responsibility Act 2011

### **Suspension for non-payment of fees**

**Preliminary guidance: April 2012**

#### **Introduction**

The content of this document is provisional, and its publication at this stage is intended to assist licensing authorities in their preparation for changes to the Licensing Act 2003 being introduced by Part 2 of the Police and Social Responsibility Act 2011. The content of this document broadly reflects, but is not the statutory guidance (or a revised version of it) issued by the Secretary of State under section 182 of the Licensing Act 2003; as such, there should be no reliance upon it for any purpose. Revised statutory guidance will be laid in Parliament and available on the Home Office website on 25 April 2012, the date on it will come into force.

#### **What is the policy aim?**

The Government is committed to reducing the burden and bureaucracy of licensing, as well as striking the right balance between the requirements on businesses and the costs to the taxpayer. The aim of this policy is to ensure that licensing authorities do not face additional costs as a result of licence holders not paying their annual fees.

#### **What are the key changes being made the Licensing Act 2003?**

The 2011 Act has amended the 2003 Act to require the licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

#### **How should licensing authorities prepare for these changes?**

Licensing authorities should note that the requirement 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.

The 2003 Act describes a dispute as one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder

must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

There is no definition of “administrative error” in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, “administrative error” will be given its plain, ordinary meaning. An example might be where post has been misdirected.

If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. It should be noted that this is the minimum period only, and licensing authorities should consider applying longer periods. The authority may wish to inform the police and other responsible authorities that the licence or certificate has been suspended.

A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:

- a) If payment was received on a working day, no later than the end of the next working day, or;
- b) If payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.

Licensing authorities may wish to consider requesting, in the notice of suspension mentioned above, that subsequent payment of the outstanding fee may be made in such manner as would most expeditiously bring it to the attention of the authority. The licensing authority may also wish to inform the police and other responsible authorities that the licence or certificate has been reinstated.

A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment.

In the case of a licence or certificate where more than one payment year has been missed (since the coming into force of sections 55A and 92A of the 2003 Act) payment of the outstanding fee in relation to each year will be required to reinstate the licence.

### **How should businesses prepare for these changes**

Businesses which are licence holders under the 2003 Act should be aware of these changes. They should be aware of the incentive to pay licensing fees in a timely manner and save licensing authorities the time and cost of pursuing non-payment. This new measure will not impact on responsible businesses that pay their licence fees on time.

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## 14. Suspension for non-payment of fees

- 14.1 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.

### DISPUTE

- 14.2 The 2003 Act describes a dispute as one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

### ADMINISTRATIVE ERROR

- 14.3 There is no definition of "administrative error" in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, "administrative error" will be given its plain, ordinary meaning. An example might be where post has been misdirected.

### SUSPENSION

- 14.4 If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. It should be noted that this is the minimum period only, and licensing authorities should consider applying longer periods. The authority may wish to inform the police and other responsible authorities that the licence or certificate has been suspended.

- 14.5 A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:

- a) If payment was received on a working day, no later than the end of the next working day, or;
- b) If payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.

14.6 Licensing authorities may wish to consider requesting, in the notice of suspension mentioned above, that subsequent payment of the outstanding fee may be made in such manner as would most expeditiously bring it to the attention of the authority. The licensing authority may also wish to inform the police and other responsible authorities that the licence or certificate has been reinstated.

#### **EFFECTS OF SUSPENSION**

14.7 A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment. In the case of a licence or certificate where more than one payment year has been missed (since the coming into force of sections 55A and 92A of the 2003 Act) payment of the outstanding fee in relation to each year will be required to reinstate the licence.

## **LICENSING COMMITTEE**

**11th June 2012**

### **LICENSING COMMITTEE WORK PROGRAMME 2012/13**

#### **11th June 2012**

- Statement of Gambling Principles 3 year review
- Street Trading Consent Policy review
- The Licensing Act 2003 As Amended by the Police Reform and Social Responsibility Act 2011 – in relation to suspension of licences due to non payment of fees
- Licensing Committee Work Programme 2012/2013

#### **30th July 2012**

- Licensing Act Annual Report

**3rd September 2012**

**29th October 2012**

**10th December 2012**

**18th February 2013**

#### **18th March 2013**

- Licensing Act Annual Report

### **To Be Allocated To Suitable Available Dates, Dependent on Agenda**

Future Items for noting:

Systems Thinking Approach – update for Committee Members 2012

Pavement Café Policy 2012

DPPO Review - June 2013

Statement of Licensing Policy (now a 5 year review)

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