



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 11TH JUNE 2018
AT 6.00 P.M.

PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE, B61 8DA

MEMBERS: Councillors M. T. Buxton, R. L. Dent, M. Glass, H. J. Jones,
C. M. McDonald, S. R. Peters, S. P. Shannon, M. A. Sherrey,
C. J. Spencer, L. J. Turner and S. A. Webb

AGENDA

1. Election of Chairman
2. Election of Vice-Chairman
3. To receive apologies for absence and notification of substitutes
4. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
5. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 12th March 2018 (Pages 1 - 10)
6. Licensing Act 2003 - Approval for Consultation of revised Statement of Licensing Policy (Pages 11 - 60)
7. Reform of Animal Activities Licensing Legislation - Information Report (Pages 61 - 116)
8. Licensing Annual Report 2017/2018 (Pages 117 - 122)

9. Licensing Committee Work Programme 2018/2019 (Pages 123 - 124)
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, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

Parkside
Market Street
BROMSGROVE
Worcestershire
B61 8DA

24th May 2018



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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 12TH MARCH 2018, AT 6.00 P.M.

PRESENT: Councillors R. L. Dent (Chairman), M. T. Buxton, M. Glass, H. J. Jones, C. M. McDonald, S. R. Peters, S. P. Shannon, M. A. Sherrey, L. J. Turner and S. A. Webb

Officers: Mrs. V. Brown, Mr. D. Etheridge, Mrs. A. May and Mrs. P. Ross

22/17 **APOLOGIES**

Apologies for absence were received from Councillor C. J. Spencer.

In giving apologies from Councillor Spencer, Councillor R. L. Dent informed the Committee that Councillor Spencer was unwell. Members expressed their good wishes to Councillor Spencer for a speedy recovery.

23/17 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

24/17 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 13th November 2017 were submitted.

RESOLVED that, the minutes of the meeting of the Licensing Committee held on 13th November 2017 be approved.

25/17 **GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES**

The Committee considered a report informing Members of the required consultation on the Council's current Statement of Principles. In accordance with Section 349 of the Gambling Act 2005, the Council are required to prepare and publish a Statement of Principles every three years.

The Senior Practitioner (Licensing), Worcestershire Regulatory Services (WRS) introduced the report and informed the Committee that the Gambling Act required the Council to carry out a review of its Gambling Act 2005 – Statement of Principles every 3 years. Members were being asked to consider and approve the draft revised Statement of Principles,

as detailed at Appendix 1 to the report, for the purpose of consultation with relevant parties, as detailed in paragraph 3.18 in the report.

Members were further informed that whilst there had been no significant amendments to the provisions of the Gambling Act 2005 since the last Statement of Principles, changes had been made to the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) that licensed operators had to comply with. The Gambling Commission had also updated its Guidance to Licensing Authorities (GLA).

Therefore a new Statement of Principles had to be consulted on and the agreed Statement of Principles had to be published by 31st January 2019.

Members were being asked to consider the required changes to the current Statement of Principles for the purpose of consultation with the relevant parties.

The Senior Practitioner (Licensing), WRS, drew Members' attention to Appendix 1 to the report and in doing so, informed the Committee that the amendments to the draft revised Statement of Principles were shown in red text in the document. The more significant changes had also been summarised in paragraphs 3.12 to 3.17 in the report.

It was proposed that the consultation would take place over a period of 10 weeks. The consultation would also be made available for comment via the Council's website and publicised via social media and the local press. Responses to the consultation would be reported back to the Licensing Committee prior to its implementation in January 2019.

Members thanked the Senior Practitioner (Licensing), WRS, and commented that they had found it helpful that the amendments had been shown in red text.

RESOLVED:

- a) that the revised draft Statement of Principles, as detailed at Appendix 1 to the report, be approved for the purpose of consultation with relevant parties, and
- b) that the findings of the consultation be reported back to Licensing Committee Members prior to the implementation of the Statement of Principles in January 2019.

26/17

PROPOSED AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICIES - RESULTS OF CONSULTATION

Following on from the Licensing Committee meeting held on 13th November 2017, whereby Members approved for the purposes of consultation, proposed amendments to two areas of the Council's Hackney Carriage and Private Hire Handbook. Namely, the NVQ Level 2 in Road Passenger Vehicle Driving or an equivalent qualification and

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tinted windows that concealed the identity of passengers inside the vehicle.

Members were asked to consider the responses received to the consultation as detailed at Appendix 2 to the report.

The Senior Practitioner (Licensing), Worcestershire Regulatory Services, (WRS), introduced the report and in doing so informed the Committee that whilst there had been no scheduled reviews due to be undertaken in relation to the Council's policies; two specific matters which had been brought to the attention of Licensing Committee Members, as detailed above, had resulted in the consultation exercise being conducted.

The Senior Practitioner (Licensing), WRS, highlighted that any proposed change to the Council's policies, should take into account the responses received to the consultation.

The Senior Practitioner (Licensing), WRS, continued and reminded the Committee of the two specific areas of the Council's Hackney Carriage and Private Hire Handbook, that had caused some difficulty since the handbook was last updated in March 2016. The NVQ Level 2 in Road Passenger Vehicle Driving or an equivalent qualification and tinted windows that concealed the identity of passengers inside the vehicle.

The Senior Practitioner (Licensing), WRS, drew Members' attention to the consultation document, as detailed at Appendix 1 to the report, the table which summarised the consultation responses, as detailed at Appendix 2 to the report and the response received from the Guide Dogs for the Blind Association, as detailed at Appendix 3 to the report.

The Senior Practitioner (Licensing), WRS, also drew Members' attention to paragraph 3.9 in the report, which detailed the consultees who were sent a copy of the consultation document.

The consultation period commenced in December 2017 and concluded on 16th February 2018. A total of eleven consultation responses were received.

The Chairman suggested that Members considered the responses received with regard to the NVQ Level 2 in Road Passenger Vehicle Driving or an equivalent qualification first, then considered tinted windows that concealed the identity of passengers inside the vehicle.

The NVQ Level 2 in Road Passenger Vehicle Driving or an equivalent qualification.

Councillor C. M. McDonald stated that in her opinion, firstly, that since the consultation survey only allowed for a "Yes/No" answer, the questions had not been answered correctly. Secondly, those who had responded had not mentioned the cost or any difficulty in being able to obtain and achieve the NVQ qualification. Which if achieved, would

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indicate that licensed drivers were well trained to protect their customers and also themselves. She would like to see the NVQ qualification or an equivalent qualification remain in the handbook.

Councillor C. M. McDonald continued and highlighted that compared to disability awareness training, which could be completed on-line; the NVQ qualification was hands on learning, whereby learners covered more in depth learning, when compared to that of the disability awareness training. Full time licensed drivers received funding in order to undertake and achieve the NVQ qualification, only part-time drivers incurred any costs. She felt that the survey responses received reflected that drivers wanted to carry on with the requirement to undertake the NVQ qualification.

The Chairman sought clarification from the Senior Practitioner (Licensing), WRS, with regard to the funding and the accessibility of trainers.

The Senior Practitioner (Licensing), WRS, informed Members that the taxi trade had indicated that licensed drivers had struggled to find available trainers and that funding was not widely available.

Furthermore, funding for the NVQ qualification was not guaranteed past 2018. Currently there was some funding available for full time licensed drivers, which covered the whole cost of achieving the NVQ Level 2 in Road Passenger Vehicle Driving.

Currently Bromsgrove District Council was the only licensing authority in Worcestershire that required its licenced drivers to obtain the NVQ Level 2 in Road Passenger Vehicle Driving.

The Senior Practitioner (Licensing), WRS, further informed the Committee that should Members consider the option that new drivers should undertake disability awareness training, then new drivers would be required to undertake that training prior to their licence being issued. The NVQ Level 2 in Road Passenger Vehicle Driving took 12 months to achieve, so new drivers were issued with their licence, without actually initially undertaking any training towards the required NVQ Level 2 in Road Passenger Vehicle Driving.

In response to further questions from Members, the Senior Practitioner (Licensing), WRS, explained that:-

- The NVQ Level 2 in Road Passenger Vehicle Driving did not include any Child Sexual Exploitation (CSE) training, as CSE training was relatively new. WRS were currently working in partnership with West Mercia Police and Young Solutions on providing CSE training for all licensed drivers in Worcestershire. The training was not mandatory. Training had recently been offered to all licensed drivers, licensed by Redditch Borough Council. Over 200 licensed drivers had attended

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the sessions provided. The training would continue to be rolled out to each of the districts.

- Disclosure and Barring Services (DBS) enhanced checks were carried out by WRS for all new applicants and then every three years thereafter. Although once licensed, drivers had a duty to notify licensing officers of any cautions or convictions received during that three year period. Under the Common Law Police Disclosure scheme, the police also had a duty to notify WRS of any disclosure, which involved a licensed driver, and there was a public protection risk.

A further brief discussion took place whereby the majority of Members agreed that the best way forward was the requirement for new licensed drivers to undertake Disability Awareness training, prior to their licence being issued;

Members therefore voted on the following Recommendation:-

- a) that the requirement to undertake the NQV Level 2 in Road Passenger Vehicle Driving or an equivalent qualification be removed from the Council's Hackney Carriage and Private Hire Handbook; and
- b) that new licensed drivers undertake Disability Awareness training, prior to their licence being issued;

Having been put to the vote, with 6 for the Recommendation and 3 against the Recommendation, the Recommendation was carried.

Tinted windows that concealed the identity of passengers inside the vehicle.

The Senior Practitioner (Licensing), WRS, drew Members' attention to page 55 in the report, which detailed the five suggested options with regard to tinted windows.

Members were informed that the law on tinted windows required that the front windscreen must let at least 75% of light through and the front side windows must let at least 70% of light through. There were no rules for tinting on the rear windscreen or rear passenger windows. Manufacturers now fitted tinted windows as standard to increase fuel economy and to reduce emissions.

The Senior Practitioner (Licensing), WRS, further commented that some local authorities had determined specific levels (levels which varied considerably for each authority). He was also aware that one local authority had set a level of 40%, but this had created further issues, as some of the newer models of vehicles had levels below 40%.

Members debated all five options in some depth and raised a number of questions on the use of the window tint meter purchased by WRS; which

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measured the total amount of visual light transmission through a window and any coatings on a window.

- If the window tint meter was used to determine a specific level, what would be acceptable / safe levels.
- How would this be determined and what parameters would be set.
- The Council's duty of care and safeguarding with regard to children and the travelling public.
- That the majority of new vehicles were now fitted with some level of tint on the rear windscreen and rear passenger windows as standard factory fitted for passenger comfort and emissions reasons.
- The cost involved for licensed drivers to replace the glass in their vehicles, in order for their vehicle to comply with the current requirements as stated in the Council's Hackney Carriage and Private Hire Handbook.

Officers suggested the possibility of using the window tint meter on the vehicles that had recently been before Licensing (Miscellaneous) Sub-Committee Members; in order to measure the level of tint on the rear windscreen and rear passenger windows on each of the vehicles. This could provide some valuable information to help identify any variations in levels measured.

Members were in agreement that, the Council's Hackney Carriage and Private Hire Handbook was very clear on the criteria for tinted windows. The onus was on licenced drivers to seek advice from a Licensing officer, WRS, prior to purchasing a vehicle.

The Technical Officer (Licensing), WRS, commented that some licenced drivers did seek advice, as highlighted in the Council's Hackney Carriage and Private Hire Handbook; whilst others purchased vehicles without seeking any advice or referring to the Council's Hackney Carriage and Private Hire Handbook, which all licensed drivers should be familiar with.

The Council's Legal Advisor stated that every vehicle presented to Licensing (Miscellaneous) Sub-Committee meetings were inspected by Sub-Committee Members and determined on their own merits.

RESOLVED:

- a) that the requirement to undertake the NQV Level 2 in Road Passenger Vehicle Driving or an equivalent qualification be removed from the Council's Hackney Carriage and Private Hire Handbook;
- b) that new licensed drivers undertake Disability Awareness training, prior to their licence being issued;

- c) that the Council's Hackney Carriage and Private Hire Handbook be updated to reflect the amendments, as detailed in the preamble above,
- d) that a decision on the acceptable level of tint on windows of licensed hackney carriages and private hire vehicles be deferred; and
- e) that officers be tasked to conduct further research in respect of the precise amount of visible light to be transmitted; and
- f) that the research information be brought back to a future meeting of the Licensing Committee for consideration, together with the options as detailed on page 55 in the report.

27/17

UPDATE ON THE SITUATION REGARDING WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The Committee were asked to note a report that provided an update on the situation regarding Wheelchair Accessible Hackney Carriage and Private Hire Vehicles. Wheelchair Accessible Vehicles (WAV's) were vehicles that have been constructed or adapted to carry a wheelchair user whilst they remained seated in their wheelchair.

The Senior Practitioner (Licensing), Worcestershire Regulatory Services (WRS), reminded Members that Members had, at previous Licensing Committee meetings, considered reports regarding the availability of WAV's in the district.

At the Licensing Committee meeting held on 18th January 2017, Licensing Committee Members considered a number of different options that the Council could take with a view to increasing the number of WAV's licensed by the Council to be used as Hackney Carriages.

At the time of the report being presented to Members, the Council licensed 124 vehicles to be used as Hackney Carriages, seven of which were WAV's.

Members resolved, at that meeting, that no further steps were to be taken to increase the number of WAV's vehicles licensed by Bromsgrove District Council; but tasked officers to work with the taxi trade to raise public awareness of taxi companies that were able to provide WAV's.

Members further requested that an update report, on the situation with regard to WAV's, be presented to Licensing Committee Members after a period of twelve months.

The Senior Practitioner (Licensing), WRS, informed Members that, following on from the meeting on 18th January 2018, officers had written to the proprietors of all Hackney Carriage and Private Hire Vehicles that had been identified as being a wheelchair accessible vehicle.

Those proprietors were asked to give their consent for their personal data, which included their telephone number, to be publicised by the

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Council to raise public awareness of the availability of which taxi providers could supply a WAV.

Unfortunately only one private hire operator had responded to the request and they had indicated that since their WAV was committed to contracted work for most of the time, they would not normally be available without at least 24 hours' notice.

Members were reminded that on 7th February 2017, the Department for Transport (DfT) had announced their intention to implement sections 165-167 of the Equality Act 2010 and had made the Equality Act 2010 (Commencement No. 12) Order 2017, which took effect on 6th April 2017.

On 21st June 2017, following a recommendation from the Licensing Committee on 12th June 2017, Council resolved to adopt the position statement on sections 165-167 of the Equality Act 2010. This position statement committed the Council to publishing and maintaining a list of those vehicles that had been designated as wheelchair accessible for the purposes of sections 165-167 as from 1st December 2017.

The designated list of WAV's was published and hosted on both the Council's and Worcestershire Regulatory Services website and would be maintained as part of the Council's public register of Hackney Carriage and Private Hire vehicles.

The public register identified six Hackney Carriage and six Private Hire Vehicles that were WAV's. This was out of a total of 123 Hackney Carriages and 42 Private Hire vehicles licensed by Bromsgrove District Council.

The Senior Practitioner (Licensing), WRS, responded to questions from Members and in doing so:-

- Explained that vehicles licensed as Hackney Carriages could carry out pre-booked private hire work, as well as waiting for passengers at designated taxi ranks and being flagged down by a member of the public, if their "For Hire" light was on.
- A considerable number of WAV's carried out a lot of pre-booked work and contract work.

The Chairman reminded Members that a consultation exercise had been carried out and that the report presented to Licensing Committee Members at the meeting held on 18th January 2017 had provided Members with options to consider potentially increasing the number of WAV's in the district.

During that meeting, Members expressed their disappointment at the small number of WAV's licensed in the district, but the majority of

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Members had agreed that there was a lack of supporting evidence to suggest that there was an unmet demand for WAV's.

RESOLVED that the update report be noted.

28/17

LICENSING COMMITTEE WORK PROGRAMME 2017/2018

The Committee considered the Work Programme for 2017/18.

RESOLVED that the Licensing Committee Work Programme for 2017/2018 be updated to include the items discussed and agreed during the course of the meeting.

The meeting closed at 7.01 p.m.

Chairman

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**LICENSING ACT 2003 –
REVIEW OF STATEMENT OF LICENSING POLICY**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

The Council’s current Statement of Licensing Policy under the Licensing Act 2003 took effect on the 1st April 2014.

In accordance with the provisions of the Act, the Council is required to determine and publish a Statement of Licensing Policy at least every five years. Therefore a new Statement of Principles must be published by 1st April 2019.

The Licensing Committee are now asked to approve a draft revised Statement of Licensing Policy for the purpose of consultation with relevant parties.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

To approve the revised draft Statement of Licensing Policy shown at Appendix 1 for the purpose of consultation with relevant parties.

3. KEY ISSUES

Financial Implications

3.1 The costs involved in carrying out the consultation would be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Council has a statutory duty to have a Statement of Licensing Policy. It is important that the Statement of Licensing Policy provides an open and transparent policy regarding the Council's functions under the Licensing Act 2003. The Statement of Licensing Policy forms an essential part of the decision making process for licensing applications.
- 3.3 The Act also requires that the Statement of Licensing Policy should be kept under review and must be re-published at least every five years.
- 3.4 When revising its Statement of Licensing Policy, the Council is required to consult with:-
- the chief officer of police for the authority's area;
 - the fire and rescue authority for that area;
 - each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area;
 - such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
 - such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
 - such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
 - such other persons as the licensing authority considers to be representative of businesses and residents in its area.

Service / Operational Implications

- 3.5 Bromsgrove District Council's existing Statement of Licensing Policy was published with effect from 1st April 2014.
- 3.6 Section 5 of the Licensing Act 2003 requires licensing authorities to review Statements of Licensing Policy every five years, and therefore a reviewed Statement of Licensing Policy must be approved by Council and published before 1st April 2019.
- 3.7 A draft revised Statement of Licensing Policy can be seen at **Appendix 1**.

LICENSING COMMITTEE

11th June 2018

- 3.8 The draft revised policy is based on the same template as the existing policy, which all of the Statements of Licensing Policy across Worcestershire are now based upon.
- 3.9 The revised policy contains a number of amendments and additional sections that have been made to the document to reflect changes to legislation and guidance that have taken effect since the last Statement of Licensing Policy took effect on 1st April 2014.
- 3.10 The changes that have been made are shown by way of “track changes” within the document at **Appendix 1** and the more significant changes that have been made are also summarised below.
- 3.11 A new section has been included to explain the implications of the Immigration Act 2006 on the exercise of the Council’s functions under the Licensing Act 2003.
- 3.12 New sections have been included providing information on how the Council will deal with applications for personal licences and how it will deal with situations where it is considering suspending or revoking personal licences. The power to suspend or revoke personal licences was given to licensing authorities as a result of provisions within the Policing and Crime Act 2017.
- 3.13 The section explaining the Live Music Act 2012 and other entertainment licensing deregulation has been updated to reflect further deregulatory measures that have taken effect since the last Statement of Licensing Policy was published.
- 3.14 The section regarding cumulative impact has been rewritten to reflect changes that have been made to licensing authorities powers to adopt special policies on cumulative impact as a result of the provisions of the Policing and Crime Act 2017.
- 3.15 A new section has also been included providing information in relation to the local powers to deregulate the licensing of late night refreshment providers that were introduced under the Deregulation Act 2015.
- 3.16 Consultation on the revised draft Statement of Principles will take place with all relevant parties including:
- The Chief Officer of West Mercia Police
 - Hereford and Worcester Fire and Rescue Services
 - Worcestershire County Council (Public Health)
 - All other responsible authorities identified under the Act
 - Relevant Trade Associations
 - Parish Councils
 - The general public

- 3.17 The consultation will also be made available for comment via the Council's website and publicised via social media and also through the local press. Given the number of changes being proposed to the Council's existing Statement of Licensing Policy, it is proposed that consultation take place over a period of 8 – 12 weeks.
- 3.18 Any responses received during the consultation exercise will be reported back to the Licensing Committee later this year.

4. RISK MANAGEMENT

- 4.1 Failing to prepare and publish a new Statement of Licensing Policy before 1st April 2019 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Licensing Act 2003.

5. APPENDICES

Appendix 1 – Draft Revised Statement of Licensing Policy

AUTHOR OF REPORT

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Bromsgrove District Council

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STATEMENT OF LICENSING POLICY

~~2014 – 2019~~

2019 - 2024

Bromsgrove District Council

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Revised for the five year period from ~~with effect from~~ 1st April 2014 2019

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1.0 Introduction

- 1.1 Bromsgrove District Council (the Council) is a licensing authority under the Licensing Act 2003 and therefore has responsibilities for the administration and enforcement of the Act within the District.
- 1.2 These include, among other duties, the granting of premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.3 Bromsgrove District is one of three Local Authorities in the north of Worcestershire and has a population of approximately ~~88,000~~ 95,750 and is mainly rural in character (90% of the area is classed as green belt), and has a total area of 83.9 square miles.
- 1.4 The principal town in the district is Bromsgrove with three other significant towns, namely Rubery, Wythall and Hagley, which are then surrounded by numerous villages, each with their own individual character.
- 1.5 Due to its central location in the UK, the district has excellent transport links by road and rail and has a thriving local economy in which premises licensed for sale of alcohol play a prominent part.
- 1.6 Bromsgrove District Council's overall vision is to "work together to build a district where people are proud to live and work through community leadership and excellent services." This policy statement accords with our vision and Council's ~~objectives~~ strategic purposes as described in the Council Plan.

2.0 Licensing Objectives and Aims

2.1 The Licensing Act 2003 provides a clear focus on the promotion of four key licensing objectives. As a licensing authority Bromsgrove District Council will always seek to carry out its licensing functions with a view to promoting these four objectives.

The licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

2.2 Each objective is of equal importance. There are no other statutory licensing objectives, so the promotion of the four objectives is the paramount consideration at all times.

2.3 However, the licensing authority recognises that the legislation also supports a number of other key aims and purposes. It is recognised that these are also vitally important and should be aims for everyone involved in licensing work.

They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

3.0 Scope of the Licensing Authority's Functions

3.1 As a licensing authority the Council is responsible for the authorisation of 'licensable activities'. The licensable activities that are required to be authorised under the Act are as follows:

- The sale by retail of alcohol,
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- the provision of regulated entertainment, and
- the provision of late night refreshment

3.2 The licensing authority is responsible for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to use premises for qualifying club activities.
- Temporary event notice – to carry out licensable activities on a temporary basis for an event.
- Personal licence – to allow a person to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

4.0 Purpose of the Statement of Licensing Policy

- 4.1 This statement of policy has been prepared and updated in accordance with the latest amended provisions of the 2003 Act and the latest revised guidance issued under section 182 of the Act. The statement sets out the principles the licensing authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 4.2 The main purpose of this policy is to provide clarity to applicants, responsible authorities and other persons on how the licensing authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the licensing authority. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 4.3 This policy sets out the process the licensing authority will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the Council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.
- 4.4 When carrying out its licensing functions the Council will always have regard to this statement of policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 4.5 The licensing authority may depart from this policy or the Guidance if the individual circumstances of any case merit such a decision in the interests of promoting the four licensing objectives. Whenever the licensing authority takes a decision to depart from this policy or the Guidance, clear reasons will be given.
- 4.6 The Licensing Authority has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it can to prevent Crime and Disorder in the District.
- 4.7 The statement of policy took effect on ~~1st April 2014~~ 2019 and will be kept under review. A revised statement of policy will be published ~~no later than~~ before 1st April ~~2019~~ 2024.

5.0 General Principles

- 5.1 Every application received by the licensing authority will be considered on its own individual merits.
- 5.2 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions.
- 5.3 The licensing authority will aim to carry out its licensing functions in a way that promotes tourism, increases leisure and culture provision and encourages economic development within the District.
- 5.4 However the licensing authority will also always try and balance the needs of the wider community, local community and commercial premises, against the needs of those whose quality of life may be adversely affected by the carrying on of licensable activities, particularly within residential areas.
- 5.5 In particular the licensing authority will attempt to control any potential negative impacts from the carrying on of licensable activities, such as increased crime and disorder, anti-social behaviour, noise, nuisance, risks to public safety and harm to children.
- 5.6 The licensing authority's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 5.7 The licensing authority acknowledges that licensing law is not the primary 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 the authorisation concerned. As a matter of policy, however, the licensing authority expects every holder of an authorisation to take all reasonable steps to minimise the impact of their activities and anti-social behaviour by their patrons within the immediate surroundings of their premises.
- 5.8 "Need" concerns the commercial demand for another pub, restaurant or hotel and is a matter for the planning authority and for the market. Need is not a matter that the licensing authority can consider in carrying out its licensing functions.

6.0 Applications for Premises Licences and Club Premises Certificates

- 6.1 The relevant application forms and associated documents can be obtained from the licensing authority's website or from licensing officers during normal office hours.
- 6.2 Along with the application form, applicants must also submit an operating schedule and plans of the premises to which the application relates. The licensing authority would like any plans submitted to be drawn to a recognised scale, i.e. 1:50 or 1:100, or 1:150, or 1:200. The plans should also be clear and legible in all material respects, i.e. they must be accessible and provides sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. This should include details of any passive or active fire safety measures including location of smoke detectors, call points, other fire alarm equipment, fire extinguishers, emergency lights and fire exits. The licensing authority does not require plans to be professionally drawn as long as they clearly show all the prescribed information.
- 6.3 Through their operating schedule, applicants will be expected to demonstrate the positive steps that they will take to promote the four licensing objectives.

Operating Schedules

- 6.4 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. The licensing authority expects an operating schedule to indicate the positive steps that the applicant proposes to take to promote the licensing objectives.
- 6.5 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the licensing objectives.
- 6.6 The licensing authority will provide general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the licensing authority and other responsible authorities prior to submitting them.
- 6.7 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail.
- 6.8 The operating schedule must be set out on the prescribed form and include a statement of the following:-
- Full details of the licensable activities to be carried on at and the intended use of the premises;

- The times during which the licensable activities will take place;
- Any other times when the premises are to be open to the public;
- Where the licence is only required for a limited period, that period;
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
- Whether alcohol will be supplied for consumption on or off the premises or both;
- The steps which the applicant proposes to promote the licensing objectives.

6.9 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Guidance on Completing an Operating Schedule

6.10 The following guidance is intended to assist applicants by setting out considerations that they should have in mind when drawing up their operating schedules. The guidance is designed to alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

(a) Prevention of Crime and Disorder

6.11 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes be a source of crime and disorder problems.

6.12 The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

6.13 The licensing authority will normally look to the police as the main source of advice on crime and disorder and therefore applicants are recommended to seek advice from West Mercia Police in relation to what steps they can take to promote the prevention of crime and disorder.

6.14 In addition when planning and preparing operating schedules applicants are advised to take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.

6.15 In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder in the District.

- 6.16 When considering all licence applications the licensing authority will take into account the measures proposed to deal with the potential for, and the prevention of, crime and disorder having regard to all circumstances of the application. Applicants should include information on these issues within the operating schedule for the premises.
- 6.17 In particular, the licensing authority will consider the actions, which are appropriate for the premises that the applicant has taken, or is proposing to take with regard to the following:
- i) the ability of the person in charge of the premises to monitor the premises at all times that it is open; although this does not mean that the designated premises supervisor has to be present at all times.
 - ii) the training given to staff regarding crime prevention measures for the premises;
 - iii) physical security features installed in the premises (e.g. position of cash registers, CCTV, toughened drinking glasses etc.);
 - iv) management attitudes (e.g. responsible pricing promotions, willingness to stagger trading, willingness to limit sales of bottles or canned alcohol for immediate consumption and preventing the sale of alcohol to people who are drunk);
 - v) any other measure as may be appropriate (e.g. participation in local Pubwatch and/or Shopwatch schemes or 'Behave or be Banned' schemes (BOBS), restrictions on 'happy hours', music wind-down policies);
 - vi) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
 - vii) where the premises are subject to age restrictions, the procedures in place to conduct age verification checks;
 - viii) the likelihood of any violence, public order or policing problems if the licence is granted.
 - ix) the employment of door safety staff licensed by the Security Industries Association (SIA)
- 6.18 Applicants for late night entertainment and alcohol premises should show that they can comply with the Home Office Guidance 'Safer Clubbing' in relation to the control of illegal drugs on their premises. They should agree a protocol with the licensing authority and West Mercia Police on the handling of illegal drugs found on their premises.
- 6.19 The licensing authority in setting its policies and practices considering applications for licensed premises will have due regard to the current Crime and Disorder Strategy for the Area. Regard will be had to the relatively low crime levels in the area and any disproportionate effects likely to be perceived by residents and members of the public due to nuisance, anti-social behaviour and disorder arising or likely to arise as the result of granting a licence.

(b) Public Safety

- 6.20 The Licensing Act 2003 covers a wide range of premises that require licensing including cinemas, nightclubs, public houses, village and community halls, schools, cafes, restaurants and fast food outlets/takeaways. Each of these types of premises present a mixture of risks, some of which may be common to most premises whilst others will be unique to specific operations. Risk assessments must reflect the local nature of risks applying to each event and or venue.

The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these public safety issues. Applicants are encouraged to seek advice from licensing authority officers and the Fire Safety Section of Hereford and Worcester Fire and Rescue Service.

6.21 Where an inspection is required for premises the licensing authority will try where possible to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers, as appropriate.

6.22 The identification of a safe capacity limit for premises ensures that persons can be evacuated safely from premises in cases of emergency and may be one means of promoting the Act's public safety objective. The design and layout of premises are important factors when determining a safe occupant capacity. Other factors that may influence safe occupancy limits and may need to be considered when assessing the appropriate capacity for premises or events include:

- the nature of the premises or event
- the nature of the licensable activities being provided
- the provision or removal of such items as temporary structures, such as a stage, or furniture
- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age spectrum of the customers
- the attendance by customers with disabilities, or whose first language is not English
- availability of suitable and sufficient sanitary facilities
- nature and provision of facilities for ventilation

6.23 The licensing authority encourages applicants for premises licences that provide regulated entertainment (or any other premises providing a licensable activity where occupant capacity may be a public safety issue) to seek advice regarding safe occupancy levels from the Fire Safety Section of Hereford and Worcester Fire and Rescue Service.

Where the licensing authority's discretion has been engaged following receipt of a relevant representation and it believes it is appropriate for reasons of public safety to impose a condition identifying an occupancy limit, the licensing authority will not normally seek to impose an occupancy limit different to that identified by the Fire Authority if this differs from the figure set in the applicant's Fire Risk Assessment.

(c) Prevention of Public Nuisance

6.24 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the area surrounding the premises.

6.25 The licensing authority is keen to protect the amenity of residents and businesses within the area surrounding a licensed premise that are affected by the carrying on of licensable activities at that premise.

6.26 In addition, the licensing authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The licensing authority will, therefore, try and work together with all affected parties, statutory

agencies and licensed businesses to ensure a mutual co-existence.

6.27 When considering all licence applications, the licensing authority will take into account the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of the application.

6.28 In particular the licensing authority will consider the action that is appropriate for the premises that the applicant has taken or is proposing with regard to the following:

- i) prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- ii) The structural suitability of the premises to provide the licensable activities sought including for example matters such as whether the premises benefits from double glazing and lobbied doors.
- iii) preventing disturbance by customers arriving at or leaving the premises, particularly between 11.00 pm and 7.00 am;
- iv) preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
- v) ensuring staff leave the premises quietly;
- vi) arrangements for parking by patrons and staff, and the effect of the parking on local residents;
- vii) provision for public transport (including taxis and private hire vehicles) for patrons;
- viii) whether licensed taxis or private hire vehicles are likely to disturb local residents;
- ix) whether routes to and from the premises on foot, by car or other services pass residential premises;
- x) the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
- xi) the use of gardens and other open-air areas;
- xii) the location of external lighting, including security lighting that is installed;
- xiii) other appropriate measures to prevent nuisance, such as the employment of registered door supervisors or the use of CCTV;
- xiv) preventing the consumption or supply of illegal drugs, including search procedures;
- xv) whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises;
- xvi) the history of previous nuisance complaints proved *to have taken place* at the premises, particularly where statutory notices have been served on the present licensees.

6.29 The licensing authority is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:

- planning controls;

- powers to designate parts of the District as places where alcohol may not be consumed publicly and the confiscation of alcohol in these areas;
- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the law with regard to disorder and anti-social behaviour;
- the power of responsible authorities or interested parties to request a review of the licence;
- enforcement action against those selling alcohol to people who are already drunk.

(d) Protection of Children from Harm

- 6.30 The licensing authority recognises that there are a range of activities for which licences may be sought meaning that children can be expected to visit many of these premises, often on their own, for food and /or other entertainment.
- 6.31 The Licensing Act 2003 does not prevent children having free access to any licensed premises. The licensing authority recognises that limitations may have to be considered where it is deemed necessary to protect children from harm. The following are examples of premises that may raise concerns:
- where there have been convictions for serving alcohol to minors, or with a reputation for under-age drinking;
 - with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises;
 - where entertainment of an adult or sexual nature is provided;
 - where there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).
- 6.32 The licensing authority expects personal licence holders to *seek* to ensure alcohol is not served to children under the age of 18, except in limited conditions allowed for by law. The licensing authority recommends that the only way to verify a person's proof of age is with reference to the following:-
- passport
 - a photocard driving licence issued in a European Union country;
 - a Proof of Age Standards Scheme card;
 - a Citizen Card, supported by the Home Office (details from www.citizencard.net);
 - an official identity card issued by HM Forces or by a European Union country bearing the photograph and date of birth of the bearer.
- 6.33 When deciding whether to limit the access of children to premises the licensing authority will judge each application on its own merits and a range of conditions may be imposed depending on the circumstances. To assist with this the licensing authority will consult with West Mercia Police and the Worcestershire Safeguarding Children Board if practical or other agencies as the licensing authority consider appropriate.
- 6.34 Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted the options available

include:

- limitations on the hours when children may be present;
- age limitations for persons under 18;
- limitations or exclusion when certain activities are taking place;
- full exclusion of person under 18 when certain licensable activities are taking place;
- limitation of access to certain parts of the premises for under 18s;
- a requirement for an accompanying adult to be present.

- 6.35 However these options are not exhaustive and other options may be considered as the Council considers appropriate. The licensing authority also commends the adoption of the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks by prospective licensees where the licence applies to the sale of alcohol.
- 6.36 The Licensing Act details a number of offences that are designed to protect children in licensed premises and the licensing authority will work closely with the Police and Trading Standards Services to ensure appropriate and effective enforcement is undertaken, especially in relation to the sale and supply of alcohol to children.
- 6.37 The Licensing Authority will not impose any conditions that specifically require the access of children to the premises.
- 6.38 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs subject to any relevant provisions in law.
- 6.39 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example scenes of horror or violence that may be considered unsuitable for children with certain age ranges. Where a premise is used for film exhibitions, the licensing authority will normally impose conditions restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the licensing authority itself.
- 6.40 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 6.41 In considering applications, the licensing authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed.
- 6.42 Many children attend or take part in an entertainment arranged especially for them, for example children's shows, dance and drama or school productions. Specific additional arrangements may need to be operated to ensure their safety. For example:
- an adult member of staff to be stationed at each and every exit from any level and to the outside and subject to there being a minimum of one member of staff to fifty children or part thereof.
 - No child is to be permitted in the front row of any balcony unless they are supervised by an adult.

7.0 Representations

- 7.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons.
- 7.2 Representations must be made to the licensing authority within the statutory period of 28 days beginning on the day after the relevant application is received by the licensing authority. Representations must be made in writing
- 7.3 Representations can be made either be in support of an application or to express objections to an application being granted. However the licensing authority can only accept “relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.
- 7.4 An example of a representation that would not be relevant would be a representation from a local businessperson about the commercial damage that competition from a new licensed premise would do to their own business. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation.
- 7.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives.
- 7.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 7.7 Whilst the licensing authority expects representations to be evidence based, there is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises.

(a) Representations from Responsible Authorities

- 7.8 Responsible authorities are a group of public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities is provided on the licensing authority’s website.
- 7.9 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.
- 7.10 The licensing authority recognises that every responsible authority can make representations relating to any of the four licensing objectives. However the licensing authority would normally expect representations about the promotion of individual licensing objectives to come from the most relevant responsible authority with expertise in that particular area. For example the licensing authority would expect representations about the prevention of crime and disorder to come

primarily from the police and representations about the prevention of public nuisance to come primarily from environmental health.

- 7.11 The licensing authority recognises that the police should be its main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations.
- 7.12 The licensing authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be appropriate for the promotion of the licensing objectives. However the licensing authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing.
- 7.13 The licensing authority recognises Worcestershire Safeguarding Children Board as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 7.14 The licensing authority recognises that, although public health is not a licensing objective, health bodies may hold information which other responsible authorities do not, but which would assist the licensing authority in exercising its functions.
- 7.15 For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information might be relevant to the public safety objective and in some cases the crime and disorder objective.
- 7.16 As a result of the Police Reform and Social Responsibility Act 2011, the licensing authority is also now a responsible authority and can therefore make representations if it deems it appropriate to do so.
- 7.17 However the licensing authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so.
- 7.18 Such parties can make relevant representations to the licensing authority in their own right, and the licensing authority expects them to make representations themselves where they are reasonably able to do so.
- 7.19 The licensing authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 7.20 In cases where a licensing authority is also acting as responsible authority in relation to the same process, the licensing authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities.

(b) Representations from Other Persons

- 7.21 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the licensing authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 7.22 The licensing authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 7.23 Decisions as to the validity of representations will normally be made by officers of the licensing authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 7.24 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the authority's corporate complaints procedure. A person may also challenge such a decision by way of judicial review.
- 7.25 Where a notice of a hearing is given to an applicant, the licensing authority is required to provide the applicant with copies of the relevant representations that have been made.
- 7.26 The licensing authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in exceptional circumstances, where a person satisfies the licensing authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly.
- 7.27 In such circumstances the licensing authority will still provide some details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation.
- 7.28 Alternatively persons may wish to contact the relevant responsible authority or their local Councillor with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations on their behalf if appropriate and justified.
- 7.29 Further guidance on making representations is provided on the licensing authority's website.

8.0 Licensing Hours

- 8.1 The licensing authority recognises the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time.
- 8.2 When determining what licensing hours are appropriate for a premises the licensing authority will always consider each application on its own merits and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application. The licensing authority will take into account requests for licensable hours in the light of:
- environmental quality;
 - residential amenity;
 - the character or function of a particular area; and
 - the nature of the proposed activities to be provided at the premises.
- 8.3 Consideration may be given to imposing stricter restrictions on licensing hours when it is appropriate to control noise and disturbance from particular licensed premises, such as those in mainly residential areas.
- 8.4 In accordance with established practice, the licensing authority encourages applicants, to include measures of good practice in their operating schedules such as a policy of prohibiting new persons from being admitted to their premises after 11.00 pm in order to reduce the risk of disorder and disturbance to members of the public late at night, where this is appropriate to the premises concerned.
- 8.6 Generally the licensing authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance.

9.0 Conditions on Licences and Certificates

9.1 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The licensing authority will ensure any conditions that are imposed on a premises licence or club premises certificate:

- Are appropriate for the promotion of the licensing objectives;
- Are precise and enforceable;
- Are unambiguous and clear in what they intend to achieve;
- Do not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- Are tailored to the individual type, location and characteristics of the premises and events concerned;
- Are not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Do not replicate offences set out in the 2003 Act or other legislation;
- Are proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- Do not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Are written in a prescriptive format.

9.2 Although the licensing authority may use standardised forms of wording in conditions to cover commonly arising situations and circumstances, “blanket conditions” will not be applied to licences and specific conditions may be drawn up and applied to meet local need and circumstances.

10.0 Reviews

- 10.1 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority or any other person, may apply to the licensing authority for a review of the licence or certificate because of a problem arising at the premises in connection with any of the four licensing objectives.
- 10.2 In every case the application for review must relate to particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.
- 10.3 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons.
- 10.4 However, the licensing authority will not normally act as a responsible authority in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so.
- 10.5 The licensing authority also expects other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is expected that environmental health will make the application for review.
- 10.6 Where responsible authorities have concerns about problems identified at premises, the licensing authority considers it good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns.
- 10.7 A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. The licensing authority believes that co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 10.8 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority will first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious.
- 10.9 A review application might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous applications are essentially categorised by a lack of seriousness. Frivolous applications would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 10.10 The licensing authority considers a repetitious ground for review to be one that is identical or substantially similar to:

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- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 10.11 The licensing authorities is aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion.
- 10.12 The licensing authority believes that more than one review originating from a person other than a responsible authority in relation to a particular premises should not normally be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 10.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 10.14 Guidance on applying for a review of a licence or certificate, along with the necessary forms, can be found on the licensing authority's website.

11.0 Minor Variations

- 11.1 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications).
- 11.2 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
- 11.3 On receipt of an application for a minor variation, the licensing authority will consider whether the variation could impact adversely on the licensing objectives. Decisions on minor variations will normally be delegated to licensing officers who will look at each application on its own individual merits.
- 11.4 In considering the application, the officer will consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision.
- 11.5 The officer will also carefully consider any relevant representations received from other persons that are received within a period of ten working days from the 'initial day', that is to say, the day after the application is received by the licensing authority.
- 11.6 The officer will then determine the application and will contact the applicant within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.

12.0 Cumulative Impact

- 12.1 ~~The licensing authority recognises that the cumulative impact of a number of late night entertainment premises (including cafes) in some areas may result in an increase of people either walking through, or congregating in, streets during the night. This may in turn have a number of undesirable consequences, for example;~~
- ~~• an increase in crime against property and/or person;~~
 - ~~• an increase in noise causing disturbance to residents;~~
 - ~~• traffic congestion and/or parking problems;~~
 - ~~• littering and fouling.~~
- 12.2 ~~This may result in the amenity of local residents in some areas being placed under pressure, as it will not always be possible to attribute a particular problem to customers of particular premises. This means that, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems.~~
- 12.3 ~~Where there is evidence that a particular area of the District is already suffering adverse effects from the concentration of late night premises, when determining any further application for premises within the area identified the licensing authority will take into account:~~
- ~~• the character of the surrounding area;~~
 - ~~• the impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and~~
 - ~~• the nature and character of the proposed operation.~~
- 12.4 ~~There is insufficient evidence to adopt a special policy within this statement. The following steps must be followed before a special policy is considered:~~
- ~~• identification of concern about crime and disorder or public nuisance;~~
 - ~~• consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or the risk factors are such that the area is reaching a point when a cumulative impact is imminent;~~
 - ~~• consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;~~
 - ~~• subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the statement of licensing policy;~~
 - ~~• publication of the special policy as part of the statement of licensing policy required by the 2003 Act.~~

- 12.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.
- 12.2 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 12.3 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 12.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.
- 12.5 With effect from 6 April 2018, the Policing and Crime Act 2017 introduced the concept of cumulative impact assessments into the Licensing Act 2003 by inserting into the Act a new section 5A.
- 12.6 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 12.7 At the current time the licensing authority has not published a CIA as there is not currently an evidential basis on which to base such a decision.
- 12.8 If the licensing authority were to consider the publication of a CIA in the future, it would do so in accordance with the requirements of section 5A of the Licensing Act 2003 and with regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

13.0 Personal Licences – New Applications

- 13.1 A personal licence is a licence issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.
- 13.2 Applications for personal licences should be made to the licensing authority for the area where the applicant is ordinarily resident at the time they make their application.
- 13.3
- (a) The applicant is aged 18 or over
 - (b) The applicant is entitled to work in the United Kingdom
 - (c) The applicant possesses a licensing qualification or is a person of a prescribed description
 - (d) The applicant has not forfeited a personal licence in the five year period prior to their application being made
 - (e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty
- 13.4 The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above.
- 13.5 Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days, give the licensing authority a notice to that effect.
- 13.6 Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.
- 13.7 Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.
- 13.8 At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the crime prevention objective
 - The objection notice given by the Police or Home Office
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence
 - The sentence or penalty imposed on the applicant for the relevant offence

- Any representations made by the applicant
- Any other evidence as to the previous character of the applicant

- 13.9 If, having considered all of the circumstances, the licensing authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.
- 13.10 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing authority will therefore record in full the reasons for any decision that it makes.

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14.0 Personal Licences – Suspension and Revocation

- 14.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.
- 14.2 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.
- 14.3 The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.
- 14.4 The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.
- 14.5 If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 14.6 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 14.7 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 14.8 If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing

authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.

- 14.9 Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.
- 14.10 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.
- 14.11 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 14.12 In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the licensing objectives
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence
 - The sentence or penalty imposed on the licence holder for the relevant offence
 - Any representations made by the Police or Home Office Immigration Enforcement
 - Any representations made by the holder of the licence
 - Any evidence as to the previous character of the holder of the licence
- 14.13 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.
- 14.14 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.
- 14.15 The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

15.0 Immigration Act 2016 – Entitlement to Work

- 15.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 15.2 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 15.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:
- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
 - Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
 - Immigration offences, including civil penalties, are ‘relevant offences’ as defined by the 2003 Act;
 - The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
 - Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.
- 15.4 The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.
- 15.5 The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and West Mercia Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

16.0 Enforcement and Complaints

- 16.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act 2003. The licensing authority will monitor premises and take any appropriate enforcement action to ensure compliance. Only complaints linked to a licensing objective will be investigated.
- 16.2 The licensing authority's general approach to enforcement will be to target problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. Principles of risk assessment and targeted inspections (in line with the recommendations of the Hampton review) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and are more effectively concentrated on problem premises.
- 16.3 In most cases a graduated form of response will be taken to resolve issues of non-compliance, although it is recognised that in serious cases a prosecution or application for review are the appropriate means of disposal.
- 16.4 All decisions and enforcement actions taken by the licensing authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.
- 16.5 The licensing authority will continue to employ officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with, and will seek to work actively with West Mercia Police and other relevant partners in enforcing licensing legislation.
- 16.6 The licensing authority is happy to investigate complaints against licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.
- 16.7 Where a person has made a complaint then the licensing authority may initially arrange a mediation meeting to try and address, clarify and resolve the issues of concern. This process will not override the right of any person to ask the licensing authority to review a licence or certificate or for any licence/certificate holder to decline to participate in a mediation meeting.

17.0 Integrating Strategies and Partnership Working

17.1 The Council regards licensing as the most appropriate tool in ensuring that the licensing objectives are promoted and will avoid as far as is possible any duplication with other regulatory regimes and legislation.

17.2 Licensing Committee, when appropriate, will be informed of relevant county and local strategies. The report may include information relating to:

- Local crime prevention strategies;
- Needs of the local tourist economy;
- Any cultural strategy for the area;
- Employment issues in the area;
- Any relevant planning matters so as to ensure the clear distinction
- between licensing and planning functions, and
- Local relevant partnerships and their objectives.

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18.0 Equal Opportunities

18.1 The Equality Act 2010 places a legal obligation on the licensing authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

18.2 The licensing authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages. Specific needs will be dealt with on an individual basis.

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19.0 Administration, Exercise and Delegation of Functions

- 19.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 19.2 The licensing authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with those matters.
- 19.3 In addition, it is expected that many of the decisions and functions will be largely administrative with no perceived areas of contention and, in the interests of efficiency and effectiveness these are delegated to officers. Attached at Appendix A to this licensing policy is a table of delegated functions setting out the agreed delegation of decisions and functions to the Council's Licensing Committee, Sub-Committees and officers.
- 19.4 These delegations are without prejudice to officers referring an application to a Sub-Committee or the Licensing Committee if considered appropriate in the circumstances of the case.

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20.0 Relationship with Planning

- 20.1** Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 20.2** There is no legal basis for the licensing authority to refuse a licence application because the relevant premise does not have planning permission, or where there are conditions on the relevant planning permission.
- 20.3** There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

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21.0 Temporary Event Notices

- 21.1 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the licensing authority, police and environmental health. The police and environmental health can only object to a Temporary Event Notice if the event is likely to undermine the licensing objectives.
- 21.2 The law states that for a standard temporary event notice, at least ten working day's notice must be given but the licensing authority recommends that, wherever possible, at least two month's notice be given to hold these events, to allow it to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 21.3 Organisers of temporary events are strongly advised to contact the licensing authority for advice at the earliest opportunity when planning events. Where necessary discussions will be held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 21.4 Since 25 April 2012 it has been possible for individuals to serve a very limited number of "late" temporary event notices each year, providing that these are served on all relevant parties at least five working days before the day on which the event is due to begin.
- 21.5 However event organisers should be aware that a late temporary event notice can be prevented by a single objection from the police or environmental health and there is no right to a hearing in such circumstances.
- 21.6 Therefore late temporary event notices should normally only be served in exceptional circumstances, such as when an event has to be postponed and rearranged at short notice due to adverse weather conditions. The licensing authority does not expect late temporary event notices to be served simply on the basis that the event organiser has been disorganised in addressing the licensing arrangements for their event.

22.0 Live Music Act 2012 and other Entertainment Licensing Deregulation

22.1 The Live Music Act 2012 came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:

- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises
- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- unamplified 'live' music between 8am and 11pm in all venues
- the provision of entertainment facilities

22.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.

22.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance is live music or not, so organisers are encouraged to check with the licensing authority if in doubt.

22.4 There was a further deregulation of entertainment licensing in June 2013 when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 08:00-23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people
- an indoor sporting event in the presence of any audience of no more than 1000 people
- a performances of dance in the presence of any audience of no more than 500 people

22.5 Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014, which came into force on 6 April 2015.

22.6 The 2014 Order deregulated entertainment licensing in the following ways:

- The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises became exempt from entertainment licensing between 08.00-23.00 on the same day, with no audience limit.
- The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day was raised from 200 to 500.

- Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.
- Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500.
- Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit.
- Greco-Roman and freestyle wrestling are now deregulated between 08:00-23:00 for audiences of up to 1000 people.
- An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt now from licensing.

22.7 The exhibition of films in community premises has also been deregulated as a result of section 76 of the Deregulation Act 2015.

22.8 No licence is required for an exhibition of film on community premises between 08:00 and 23:00 on any day provided that:

- the film entertainment is not provided with a view to profit;
- the film entertainment is in the presence of an audience of no more than 500 people;
- the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
- a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

23.0 Sexual Entertainment Venues

- 23.1** The Council may adopt a policy in relation to sex establishments, including sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. This policy may include standard conditions attached to such licences. Where there are similar conditions attached to licences under both regulatory regimes, the more onerous will apply.
- 23.2** There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Any concerns related to the provision of occasional sexual entertainment may still lead to a review of the relevant premises licence or club premises certificate and the imposition of conditions.
- 23.3** Any premise that wants to provide sexual entertainment under the exemption must still be authorised under the Licensing Act 2003 for the performance of dance and the playing or recorded music.

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24.0 Early Morning Alcohol Restriction Orders (EMROs)

- 24.1** The power to introduce an EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 24.2** EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 24.3** Before introducing an EMRO the licensing authority must be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement will be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.
- 24.4** The licensing authority will normally only consider the use of EMROs as a last resort in dealing with recurring problems and will always consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.
- 24.5** It is recognised that there are other measures that could be taken instead of making an EMRO which include:
- introducing a special policy on cumulative impact;
 - reviewing licences of specific problem premises;
 - encouraging the creation of business-led best practice schemes in the area; and
 - using other mechanisms set out in the Secretary of State's Guidance to Licensing Authorities under Section 182 of the Licensing Act 2003.
- 24.6** The licensing authority is not currently satisfied that it is appropriate to make any EMROs.

25.0 Late Night Levy

- 25.1 The late night levy is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 25.2 The levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.
- 25.3 At the present time this licensing authority does not have a large number of premises which are licensed to sell alcohol during the late night supply period. Therefore at this stage the licensing authority does not believe that the levy will generate enough revenue to make it an appropriate option in its area.
- 25.4 The decision to introduce the levy is for the licensing authority to make. However the licensing authority will keep the need for a levy under review in consultation with the chief officer of police and police and crime commissioner ("PCC") for the police area.
- 25.5 When considering whether to introduce a levy the licensing authorities notes that any financial risk (for example lower than expected revenue) rests at a local level and this will be fully considered prior to making any decision about local implementation.
- 25.6 The licensing authority will decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process.
- 25.7 If the licensing authority decides to give further consideration to the introduction of a levy in the future, it will do so in accordance with the relevant regulations and with reference to any relevant guidance issued by the Home Office.
- 25.8 Any decision to introduce, vary or end the requirement for the levy will be made by the full Council. Other decisions in relation to the introduction and administration of the levy would be delegated to the Licensing Committee.

26.0 Late Night Refreshment – Local Powers to Deregulate

26.1 Section 71 of the Deregulation Act 2015 inserted paragraph 2A into Schedule 2 of the Licensing Act 2003 in relation to the provision of late night refreshment.

26.2 This amendment created a discretionary power to licensing authorities to exempt premises in certain circumstances, from the requirement to have a licence to provide late night refreshment.

26.3 The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- on or from premises which are wholly situated in a designated area;
- on or from premises which are of a designated description; or
- during a designated period (beginning no earlier than 23.00 and ending no later than 05.00).

26.4 The licensing authority does not currently consider it appropriate to exercise the discretionary powers within paragraph 2A of Schedule 2 to the Licensing Act 2003.

26.5 If the licensing authority was going to consider exercising the powers in the future, it would only do so having carefully considered the risks to the promotion of the licensing objectives and having carried out a comprehensive consultation exercise with relevant stakeholders.

27.0 Suspension of Licences and Certificates for Non-Payment of Annual Fees

- 27.1** As a result of powers introduced under the Police Reform and Social Responsibility Act 2011, the licensing authority must suspend premises licences and club premises certificates if the holder of the relevant authorisation fails to pay their annual fee.
- 27.2** 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 will be used by the licensing authority to contact the licence or certificate holder in attempt to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence or certificate will be suspended.
- 27.3** When suspending a licence or certificate a notice of suspension will be given in writing to the licence or certificate holder. The police and any other relevant responsible authorities will also be notified of the suspension at the same time.
- 27.4** 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.
- 27.5** Once payment has been received a written acknowledgement will be given to the licence/certificate holder and the suspension will be lifted. The police and any other relevant responsible authorities will be notified that the suspension has been lifted at the same time.

Appendix A - Table of Delegated Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office .
Decision whether to suspend or revoke a personal licence		All cases	
Application for premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application for provisional statement		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application to vary premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application to vary designated personal licence holder		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office .
Application for the mandatory alcohol condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disappled		If a police representation is made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases

Agenda Item 6

Determination of minor variation application			All cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application for interim authority		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc			All cases
Decision for licensing authority to act in their capacity as a responsible authority			All cases
Acknowledgement of receipt of a temporary events notice			All cases
Determination of a police or environmental health objection to a temporary event notice		All cases	
Decision to suspend a licence or certificate for non-payment of the annual fee.			All cases

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**ANIMAL ESTABLISHMENT LICENSING REFORMS –
INFORMATION REPORT**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

This report has been prepared to provide information to Members on upcoming reforms that are being made in relation to the licensing of various animal-related establishments as a result of the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018.

2. RECOMMENDATIONS

2.1 That Members note the contents of the report.

3. KEY ISSUES

Financial Implications

- 3.1 The costs of implementing the reforms will be met from existing budgets held by Worcestershire Regulatory Services.
- 3.2 Appropriate fees for licences under the new regulations will need to be calculated and approved by the Council prior to 1 October 2018.

Legal Implications

3.3 None

Service / Operational Implications

3.4 Bromsgrove District Council is currently responsible for functions in relation to the licensing and regulation of various animal-related activities. Worcestershire Regulatory Services carries out these functions on the Council's behalf.

- 3.5 The various functions are currently carried out under a variety of different pieces of legislation. The table below sets out the activities regulated and the legislation under which the Council currently licences people to carry out the activities:

Regulated Activity	Legislation
Keeping a boarding establishment for cats or dogs (kennels, catteries, home boarding, day care facilities)	Animal Boarding Establishments Act 1963
Keeping a riding establishment	Riding Establishments Act 1964 Riding Establishments Act 1970
Keeping a breeding establishment for dogs	Breeding of Dogs Act 1973 Breeding and Sale of Dogs (Welfare) Act 1999
Keeping a pet shop	Pet Animals Act 1951
Keeping a Dangerous Wild Animal	Dangerous Wild Animals Act 1976
Operating a Zoo	Zoo Licensing Act 1981

- 3.6 In addition to this, Worcestershire County Council (Trading Standards) is currently the authority responsible for the registration of those who train or exhibit performing animals under the Performing Animals (Regulation) Act 1925.
- 3.7 Section 13 of the Animal Welfare Act 2006 provided the Secretary of State with powers to repeal parts of the existing legislation and replace it with a new licensing or registration regime.
- 3.8 In December 2015, the Department for Environment, Food and Rural Affairs (DEFRA) launched a consultation on some proposals to introduce new secondary legislation under section 13 of the Animal Welfare Act to implement a single “Animal Establishment Licence” for animal boarding establishments, pet shops, riding establishments and dog breeding establishments.

- 3.9 In February 2017, DEFRA published a further document entitled “The review of animal establishments licensing in England – Next steps.” This set out a summary of the decisions made by DEFRA about changes to the licensing system for animal establishments in England following the consultation exercise. A copy of the “Next steps” document can be seen at **Appendix 1**.
- 3.10 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were eventually made on 16 April 2018 and are scheduled to come into force on 1 October 2018. A copy of the regulations can be seen at **Appendix 2**.
- 3.11 Under the regulations the existing licensing schemes for animal boarding establishments, pet shops, riding establishments and dog breeders will be repealed and replaced by a new single licensing scheme that will regulate all of these activities and will also incorporate the licensing of those who train or exhibit performing animals.
- 3.12 The current licensing schemes for zoos and those who keep dangerous wild animals are not affected by the regulations and will continue to be carried out under the existing legislative provisions.
- 3.13 Some of the main differences in the new licensing scheme will be:
- A licence will be able to authorise more than one activity (for example animal boarding and dog breeding activities will be able to be authorised by the same licence)
 - Licences will be able to be issued for a one, two or three year period (based on an assessment of risk)
 - Standard licence conditions are prescribed by the regulations rather than each authority deciding its own licence standard conditions for its area
 - The number of litters a dog breeder can produce in a 12-month period before they are presumed to require a licence will be reduced from five litters to three
 - There are new powers for licensing authorities to vary, suspend and revoke licences where there is non-compliance or it is necessary to protect the welfare of an animal
- 3.14 Detailed guidance on the implementation of the new regulations is still being awaited from DEFRA and is anticipated to be published this summer.
- 3.15 Licences issued under the existing legislative provisions and that remain in force on 1 October 2018 will continue to have effect until they expire. At that point an application will need to be made by the operator for a licence under the new licensing scheme.

3.16 Worcestershire Regulatory Services will need to carry out a number of pieces of work in preparation for the implementation of the new regulations including:

- Calculating appropriate licence fees to ensure full cost recovery
- Drafting application forms and guidance notes for applicants
- Informing existing licence holders of the forthcoming changes
- Updating content on the Council and WRS websites
- Liaising with Worcestershire County Council (Trading Standards) with regards those currently registered under the Performing Animals (Regulation) Act 1925
- Training officers on the new licensing scheme
- Updating computer systems to support the implementation of the new regulations

3.17 The Council will need to approve the fees to be charged for licences issued under the new regulations before 1 October 2018.

3.18 Further updates on the implementation of the new licensing scheme will be provided to the Licensing Committee later this year, either by way of a verbal update or a further written report to the Committee.

RISK MANAGEMENT

4.1 None

5. APPENDICES

Appendix 1 – DEFRA publication “The review of animal establishment licensing – Next Steps”

Appendix 2 – The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

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Department
for Environment
Food & Rural Affairs

The review of animal establishments licensing in England

Next steps

February 2017



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Introduction

This document provides a summary of the next steps in the review of animal establishment licensing in England. A public consultation on proposed changes ran for 12 weeks, from the 20th December 2015 until the 12th March 2016, and a summary of the responses was published on 15 September 2016.

The consultation responses have been considered carefully and decisions have been made on the way forward. This document outlines these decisions and the next steps for each of the proposals.

Regulations will be drafted over the next few months. We plan to consult stakeholders through the sector groups on those draft Regulations before they are laid in Parliament.

Background

Local authorities are required by law to issue licences for specific animal-related establishments and activities, with the aim of maintaining good standards of animal welfare. There is a registration requirement for performing animals, and licensing systems for pet shops, animal boarding, riding establishments and dog breeding.

Estimates show that there are approximately 2,300 licensed pet shops, 650 licensed dog breeders, 1,800 licensed riding establishments, and 6,300 licensed animal boarding establishments in England. These comprise the fourth largest group of business licences issued by local authorities, after premises, taxi and gambling licences.

There is a strong public expectation that animal welfare standards will be robustly enforced by local authorities. However the laws, and their specific requirements, are often decades old, and difficult to adapt to the changing types of animal-related businesses, and to new standards of good practice in animal welfare. Moreover, the current process is complex and burdensome for both businesses and local authorities. For instance, primary legislation limits licences to a calendar-year framework, arbitrarily focussing inspections at the end of the year, and forcing some businesses with multiple functions to have as many as three separate licences.

The Government is committed to improving the effectiveness of existing regulation whilst lifting the regulatory burdens on businesses to support growth, productivity and innovation. These proposals should relieve the administrative burden on local authorities, simplify the application and inspection process for businesses, as well as maintain and improve existing animal welfare standards by modernising the current animal licensing system in England.

Animal establishments licences

a) Generic licences

Question 1: To what extent do you agree or disagree with the proposal to introduce a single Animal Establishment Licence?

The majority of respondents to the consultation were positive about this proposal, but many highlighted the importance of retaining specific standards for each of the different activities.

We are planning to introduce one ‘animal activities’ licence which will cover four animal activities; dog breeding, dog/ cat boarding, selling pets and hiring out horses for riding. This will help to streamline the administrative process for local authorities and businesses. There will be separate sets of standards for each activity within the Regulations.

We intend to use the term ‘animal activities’ rather than ‘animal establishment’ to make it clear that activities such as the online sale of pets (which may not occur from a particular establishment) are included as licensable activities.

b) Model conditions

Question 2: To what extent do you agree or disagree with the proposal to promote or require use of the Model Conditions by local authorities, for activities where they have been agreed?

The majority of respondents to the consultation were positive about this proposal.

We are currently exploring a mechanism for enshrining the key requirements from the Model Conditions into law and will work with the Canine and Feline Sector Group and the Equine Sector Council on this. We will continue to encourage the use of the full Model Conditions by local authorities.

c) Breeding and sale of dogs

Question 3: To what extent do you agree or disagree with the proposal to prohibit the sale of puppies below the age of eight weeks?

The majority of respondents to the consultation were positive about this proposal.

At present, the Breeding and Sale of Dogs (Welfare) Act 1999 makes it an offence to sell a dog at less than eight weeks of age, “otherwise than to the keeper of a licensed pet shop.” We wish the sale of puppies below the age of eight weeks to be prohibited in all cases. The exemption of sale of young puppies by licensed breeders to pet shops is a free standing provision in the Breeding and Sale of Dogs Act 1999, and primary legislation is

needed to make the amendment. Such an amendment might be suitable for a Private Member's Bill. In the meantime, it is proposed that the requirements from the Model Conditions for Pet Vending on not selling pets at too young age will be transposed in the Regulations. For both puppies and kittens this is at less than eight weeks of age.

Question 4: To what extent do you agree or disagree with the proposal to make clear that the statutory licensing threshold for dog breeders is set at three or more litters per year?

The majority of respondents to the consultation were positive about this proposal.

This proposal should be seen in the context of the requirement that anyone operating a business selling pets needs a licence irrespective of the number of pets sold. This requirement will apply equally to businesses that: i) breed and also sell pets, ii) are third party sellers of pets (those that sell pets that they did not breed) and iii) operate from home or online. The requirement also applies in the case of business to business sales as well as sales to the public.

Against that background and notwithstanding the recommendations of the EFRA Select Committee in its recent report "Animal welfare in England: domestic pets", we propose to set the statutory licensing threshold for dog breeders at three or more litters per year which is the same level as currently applies in Wales. Specifically, the test will be set as anyone breeding three or more litters per year and selling the puppies. We will retain the existing exemption in the dog breeding legislation for breeders who can show they do not sell any of their puppies as well as the requirement that each breeding bitch should have only one litter per year. Given this, any person with three or more breeding bitches on the premises and selling dogs would need a licence. We consider that three litters or more provides the right balance of being proportionate and reasonable to enforce, and will help target regulatory effort on those breeders producing dogs on a commercial basis. In terms of the impacts, in 2015 the Kennel Club registered 4,443 dog breeders in the UK that had two litters per annum and they estimate that their membership represents around 40% of all breeders. Reducing the threshold to two litters would considerably increase the number of breeders needing a licence. Recent evidence shows there could be around 600 licensed dog breeders in England at the moment. In contrast Kennel Club registered 2,039 breeders breeding either 3 or 4 litters per annum in 2015 in the UK.

There was also a suggestion from consultation respondents that those breeding and selling a puppy should be required to register with their local authority and display their registration number when advertising. This would mean that every household which had just one litter of puppies and sold them would have to register with their local authority. We consider that such a registration requirement would be disproportionate and challenging to enforce by local authorities. Evidence from similar regimes, such as the dog licensing regime which used to exist in the past, suggests that schemes applying to much of the population are difficult to enforce with compliance rates being low. Furthermore such a regime would present a burden on responsible hobby breeders and families who choose to breed from their dog once in its lifetime.

Instead we consider that the focus of enforcement action and regulatory effort should be on repeat breeders and those profiting from the sale of puppies. To encourage better traceability and assurance for those seeking to acquire a dog, we propose to include in the Regulations a requirement for licensed sellers of pets to display their licence number when advertising. This is one of the Pet Advertising Advisory Group's (PAAG's) minimum standards¹ for online classified advertisements. This will allow responsible consumers to check that they are securing a dog from a properly licensed breeder and ties in with the desire of many to see regulation of online sales. In addition we will explore the scope for requiring other elements of the PAAG minimum standards to be applied by licensed pet vendors.

Currently, under the Pet Animals Act 1951, individuals that sell the progeny of their own pets or of pedigree animals are exempt from requiring a licence as a pet vendor. We intend to remove these exemptions, so that anyone selling pets as a business will require a licence. We intend to require local authority officers to have regard to the following non-exhaustive list when deciding whether or not an individual is running a business. A person is likely to be running a business if they are selling regularly to make a profit, earning commission from selling goods for other people, breeding animals regularly to sell for profit or selling online, either through websites or classified adverts, on a regular basis.

d) Pet sales

Question 5: To what extent do you agree or disagree with the proposal to legally require pet sales to provide written information when selling animals?

The majority of respondents to the consultation were positive about this proposal.

We intend to include this requirement as a mandatory licence condition on those selling pets. We will require the information to cover the five freedoms in the Animal Welfare Act 2006. Many pet sellers already supply such information, which is often freely available to download from welfare and industry groups. A number of sector groups have agreed to refine and develop such information where it needs updating or is not available. Overall this should not entail a significant burden on businesses.

Question 6: What other proportionate measures could address concerns around the care of exotic animals?

Consultation respondents made a number of useful suggestions which could be taken forward by the industry. It was suggested, for example, that pet shops could ask prospective buyers what they know about the animal they are trying to purchase, to make sure they are fully aware of the needs of the animal. Many responsible retailers already do

¹ <http://paag.org.uk/about-paag/minimum-standards/>

this and some refuse to sell if there are concerns about the capacity of the buyer to care for the pet.

Consultation respondents also highlighted that local authority inspectors often do not have the specialist knowledge to inspect establishments selling exotic pets. We are currently working with the National Companion Animal Focus Group (NCAFG) to develop guidance and training for local authority inspectors, as well as information on how to select inspectors with specialist knowledge where needed.

Length of licences

a) Removing the calendar-year restriction

Question 7: To what extent do you agree or disagree with the proposal to allow licences to be issued for a fixed term, set at any point in the year?

The majority of respondents to the consultation were positive about this proposal.

We intend to allow licences to be issued for a fixed term, set at any point in the year. This will reduce the burden on local authorities and businesses by spreading licence applications throughout the year, and by ensuring that all licences last for their full term rather than to the end of the calendar year.

b) Increasing the maximum licence length

Question 8: To what extent do you agree or disagree with the proposal to increase the maximum length of a licence that local authorities may issue to up to three years?

Consultation responses to this question were very mixed. Overall, there was considerable support for the proposal as it was felt that this would lead to a reduced burden on local authorities and businesses. The incorporation of earned recognition into the current system was also seen to be beneficial, by awarding longer licences to lower risk establishments with higher welfare standards. It was commented that this may help to drive up standards. However, many respondents added the caveat that this would need to be underpinned by a robust and consistent risk-based system.

We intend to increase the maximum length of a licence that local authorities may issue to up to three years. However, this will be linked to a requirement for local authorities to use a standard risk-based assessment system which is nationally agreed. The National Companion Animal Focus Group is working with us to help to develop a template for this risk-based assessment.

In addition there were comments relating to the competence of local authority inspectors in relation to animal establishments. Whilst in many cases a veterinarian will be involved in inspection of premises, in many cases a local authority inspector may have other duties and areas of expertise other than say on dog breeding or horse riding. We are exploring, therefore, with the National Companion Animal Focus Group and other stakeholders, the scope for setting standards and training needs for local authority inspectors and potentially the development of a list of inspectors that meet such standards. This links to the practice of local authorities pooling inspection resource and developing expertise and is a natural extension of the use of primary authority.

c) Transferring licences

Question 9: To what extent do you agree or disagree with the proposal to allow licence holders to transfer licences to new owners of the same premises, subject to notification of and approval by the local authority?

The majority of respondents to the consultation were negative about this proposal, commenting that the person holding the licence has a strong impact on the level of welfare in the establishment.

We do not intend to take this proposal forward.

d) Notification of major changes

Question 10: To what extent do you agree or disagree with the proposal to require licence holders to notify local authorities of major changes, such as a change of premises or scale of activities?

The majority of respondents to the consultation were positive about this proposal, as it was felt that any major changes could have an impact on animal welfare.

We intend to require licence holders to notify local authorities of major changes. The responses to the consultation highlighted a concern that 'major changes' would need to be clearly defined. We intend to define 'major changes' as any changes which affect the licence conditions.

Performing animals registration

Question 11: To what extent do you agree or disagree with the proposal to maintain the registration requirement for performing animals?

The majority of respondents to the consultation were positive about this proposal.

We intend to maintain the principles behind registration for these animals and to make improvements, including to clarify that the animals do not have to be 'performing' to be included. Many respondents commented on the need to update the Performing Animals Act 1925 so that it includes modern businesses, such as mobile animal exhibits. The current definition of a 'performing animal' was seen to be restrictive and to be inconsistently applied.

To address this issue, we intend to repeal the requirement to be registered in order to exhibit or train a performing animal in the Performing Animals Act 1925 as it applies to England and replace it with a scheme under the Animal Welfare Act 2006 for animals that are exhibited. We will ensure that the definition is drafted so as not to capture unintended activities and we will work closely with the devolved Governments on these proposals and explore the scope for a shared approach.

Concerns were also raised that the animals kept are often not specified on registration. We intend to require businesses to list the number and species of animals they are exhibiting (including both common names and scientific names). In addition we will work with the sector and other interested organisations to encourage the development of good practice guidelines for these activities.

Question 12: To what extent do you agree or disagree with the proposed changes to the registration system for performing animals

A small majority of respondents were positive about this proposal. Many respondents did not feel qualified to comment.

The specific changes suggested were to update the legal standards to refer explicitly to the welfare needs set out in the Animal Welfare Act 2006, to remove the need for local authorities to send copies of paperwork to Defra and to extend powers of entry to areas where the animals are kept.

We intend to update the legal standards to refer explicitly to the welfare needs set out in the Animal Welfare Act. In addition, we intend to remove the need for local authorities to send copies of paperwork to Defra. Instead, local authorities will be requested to submit annual data (in electronic format) on all licences and registrations.

By bringing the principles behind the registration system into Regulations under the Animal Welfare Act, the scheme will be covered by the powers of entry in the Animal Welfare Act. This will mean that local authorities will have powers of entry to areas where the animals are kept.

Powers of entry

Question 13: To what extent do you agree or disagree with these proposals on powers of entry?

The majority of respondents were supportive of the principle of powers of entry. Some concerns were raised about the need for a warrant and the need to give prior notice of the application for a warrant, as well as limiting powers of entry to four people.

The Regulations will be made under the Animal Welfare Act 2006 and local authorities' powers of entry will be on the same basis as under the Act. This will not include a restriction on the number of people that can make use of the power of entry. It will require a warrant to enter dwelling premises, with reasonable notice given of the application for a warrant unless such notice would defeat the object of the entry.

Accreditation

a) UK Accreditation Service (UKAS) accreditation of independent regulators

Question 14: To what extent do you agree or disagree with the proposal to allow an exemption from licensing requirements for businesses affiliated to a body accredited by UKAS?

Consultation responses to this question were mixed. Whilst there was support for the principle of earned recognition and the potential for this to drive up welfare standards, concerns were raised about the creation of a perceived two-tier system and the loss of local authority control of licensing. In particular, concerns were raised that the proposal would lead to a loss of revenue and expertise for local authorities, and confusion over where complaints should be sent.

We intend to incorporate the concept of earned recognition into the current licensing system, by including a consideration of any affiliation to a body accredited by UKAS in the risk-based assessment process that we are developing with the NCAFG. In the system being developed it is likely businesses affiliated to a body accredited by UKAS will receive a lower risk score, and may receive a longer licence term at lower annual cost. This would ensure a reduced burden on low risk businesses and on local authorities whilst maintaining local authority control over the licensing scheme.

This proposal was suggested by a number of respondents to the consultation, including local authorities, industry stakeholders and animal welfare organisations.

b) Voluntary accreditation

Question 15: To what extent do you think sector-led UKAS-accredited certification schemes could improve animal welfare in unlicensed areas? If so, what would work best and how could this process be encouraged?

This was not a proposal and so no changes will be made. Many of the respondents were positive about the potential for sector-led UKAS-accredited certification schemes to improve animal welfare and this is something that we will be encouraging.

Additional proposals

One of the difficulties in developing policy in this area has been a general paucity of data on the number of licences currently issued by local authorities. Some data has been made available through Freedom of Information requests to local authorities. In order to improve the information that is available, Defra proposes to request local authorities to submit annual data (in electronic format) on the number of licences and registrations they hold for the animal activities in the scope of this review which would then be published. This will ensure that there is better information and data on the numbers of such establishments and businesses in England and help to address concerns about consistency between local authorities and a lack of oversight and public scrutiny, which were raised repeatedly in the responses to the consultation.

As noted, local authorities have been subject to recent and regular Freedom of Information requests seeking such data, and the need for those would be reduced if data was more freely available; so the overall burden on local authorities should not change. Furthermore, it is good administrative practice for local authorities to keep records on the number of licences they issue.

The lack of consistency around licence fees was also raised in responses. We intend to maintain the current fee structure, which is based on full cost recovery. However, we are also working with the NCAFG to develop guidance for local authorities on setting reasonable fees and charges, which will help to improve consistency and transparency.

Concerns were raised about difficulties with enforcement. We are looking at the possibility of bringing in fixed penalty notices to aid enforcement.

Next steps

Defra will develop draft Regulations based on these conclusions and will continue to work with stakeholders through the National Companion Animal Focus Group, the Canine and Feline Sector Group and the Equine Sector Council to put in place the necessary supporting policies, guidance and documentation.

STATUTORY INSTRUMENTS

2018 No. 486

ANIMALS, ENGLAND

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Made - - - - - *16th April 2018*

Coming into force - - - - - *1st October 2018*

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The Secretary of State is, in relation to England, the appropriate national authority for the purpose of exercising the powers conferred by section 13(2), (7), (8) and (10) of and Parts 1 and 3 of Schedule 1 to the Animal Welfare Act 2006^(a), and makes the following Regulations in exercise of those powers.

In accordance with section 13(9) of that Act, the Secretary of State has consulted such persons appearing to the Secretary of State to represent interests with which these Regulations are concerned as the Secretary of State considered appropriate.

In accordance with section 61(2) of that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

PART 1

Introduction

Title, commencement and application

1.—(1) These Regulations—

- (a) may be cited as the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018;
- (b) come into force on 1st October 2018.

(2) The following provisions of these Regulations apply in England only—

- (a) regulations 2 to 24,
- (b) regulations 27 to 29, and
- (c) Schedules 1 to 8.

Interpretation

2. In these Regulations—

“the Act” means the Animal Welfare Act 2006;

“adult dog” means a dog aged 6 months or more;

“general conditions” means the conditions set out in Schedule 2;

“horse” includes an ass, mule or hinny;

“licence”, except as the context otherwise requires in regulation 11(1)(b) and Schedule 8 or where more specifically provided, means a licence to carry on a licensable activity granted or renewed under these Regulations and cognate expressions are to be construed accordingly;

“licence conditions” means—

- (a) the general conditions, and
- (b) the relevant specific conditions;

“licensable activity” means an activity described in paragraph 2, 4, 6, 8 or 10 of Schedule 1;

“listed” means for the time being listed as authorised to carry out an inspection on the list of veterinarians drawn up by the Royal College of Veterinary Surgeons;

“local authority” means—

- (a) a district council,
- (b) a London borough council,

(a) 2006 c. 45. The appropriate national authority is defined in section 62(1) of the Act.

- (c) the Common Council of the City of London (in their capacity as a local authority),
- (d) the Council of the Isles of Scilly, or
- (e) a combined authority in England established under section 103 of the Local Democracy, Economic Development and Construction Act 2009(a);

“operator” means an individual who—

- (a) carries on, attempts to carry on or knowingly allows to be carried on a licensable activity, or
- (b) where a licence has been granted or renewed, is the licence holder;

“pet” means an animal mainly or permanently, or intended to be mainly or permanently, kept by a person for—

- (a) personal interest,
- (b) companionship,
- (c) ornamental purposes, or
- (d) any combination of (a) to (c).

“puppy” means a dog aged less than 6 months;

“relevant specific conditions” means—

- (a) in relation to the activity of selling animals as pets (or with a view to their being later resold as pets) as described in paragraph 2 of Schedule 1, the conditions set out in Schedule 3;
- (b) in relation to the activity of providing or arranging for the provision of boarding for cats or dogs as described in paragraph 4 of Schedule 1, the conditions set out in the relevant Part of Schedule 4;
- (c) in relation to the activity of hiring out horses as described in paragraph 6 of Schedule 1, the conditions set out in Schedule 5;
- (d) in relation to the activity of breeding dogs as described in paragraph 8 of Schedule 1, the conditions set out in Schedule 6;
- (e) in relation to the activity of keeping or training animals for exhibition as described in paragraph 10 of Schedule 1, the conditions set out in Schedule 7;

“sleeping area” means a fully-enclosed indoor area in which a dog, or, in the context of Part 1 of Schedule 4, a cat, can rest, sleep or avoid seeing other people or animals;

“veterinarian” means—

- (a) a person who is for the time being registered in the register of veterinary surgeons maintained under section 2 of the Veterinary Surgeons Act 1966(b), or
- (b) a person who is for the time being registered in the supplementary veterinary register maintained under section 8 of that Act;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(c).

Licensing of operators

3.—(1) Each licensable activity is a specified activity for the purposes of section 13(1) of the Act.

(a) 2008 c.20. Section 103 has been amended by sections 12(2) and 14(2) of the Cities and Local Government Devolution Act 2016 (2016 c.1).

(b) 1966 c. 36. Section 2(2) has been amended by article 12 and paragraph 1 of the Schedule to S.I. 2003/2919 and by article 2 and paragraph (2)(a) and (b) of the Schedule to S.I. 2008/1824.

(c) 1971 c. 80.

(2) A local authority is the licensing authority for any licensable activity carried on on premises in its area.

PART 2

Grant, renewal and variation with consent of a licence and inspection of premises

Conditions of grant or renewal of a licence

4.—(1) This regulation applies where—

- (a) a local authority has received from an operator an application in writing for the grant or renewal of a licence to carry on a licensable activity on premises in the local authority's area, and
- (b) the application gives such information as the local authority has required.

(2) The local authority must—

- (a) appoint one or more suitably qualified inspectors to inspect any premises on which the licensable activity or any part of it is being or is to be carried on, and
- (b) following that inspection, grant a licence to the operator, or renew the operator's licence, in accordance with the application if it is satisfied that—
 - (i) the licence conditions will be met,
 - (ii) any appropriate fee has been paid in accordance with regulation 13, and
 - (iii) the grant or renewal is appropriate having taken into account the report submitted to it in accordance with regulation 10.

(3) A local authority must attach to each licence granted or renewed—

- (a) the general conditions, and
- (b) the relevant specific conditions.

(4) On receipt of an application in writing for the grant or renewal of a licence in respect of the activity described in paragraph 6 of Schedule 1, if no inspector appointed under paragraph (2)(a) is a listed veterinarian, the local authority must appoint a listed veterinarian to inspect the premises with the inspector appointed under that paragraph.

(5) On receipt of an application in writing for the grant of a licence in respect of the activity described in paragraph 8 of Schedule 1, if no inspector appointed under paragraph (2)(a) is a veterinarian, the local authority must appoint a veterinarian to inspect the premises with the inspector appointed under that paragraph.

(6) Paragraph (5) does not apply where the application is for the grant of such a licence which is to have effect immediately after the remainder of the term of a licence mentioned in regulation 27(5).

(7) In considering whether the licence conditions will be met, a local authority must take account of the applicant's conduct as the operator of the licensable activity to which the application for the grant or renewal relates, whether the applicant is a fit and proper person to be the operator of that activity and any other relevant circumstances.

(8) A local authority must not grant a licence to an operator, or renew an operator's licence, in any circumstances other than those described in these Regulations.

(9) All licences granted or renewed in relation to any of the licensable activities are subject to the licence conditions.

Period of licence

5. A local authority may grant or renew a licence—

- (a) for a period of one, two or three years in respect of the activity or any part of the activity described in paragraph 2, 4, 6 or 8 of Schedule 1 if it is satisfied that a period of one, two or three years, as the case may be, is appropriate on the basis of its assessment, having regard to such guidance as may be issued by the Secretary of State, of—
 - (i) the risk of an operator breaching any licence conditions;
 - (ii) the impact on animal welfare of any such breaches; and
 - (iii) whether the operator is already meeting higher standards of animal welfare than are required by the licence conditions;
- (b) for a period of three years in respect of the activity or any part of the activity described in paragraph 10 of Schedule 1.

Power to take samples from animals

6. An inspector may, for the purposes of ensuring the licence conditions are being complied with, take samples for laboratory testing from any animals on premises occupied by an operator.

Duty to assist in the taking of samples from animals

7. An operator must comply with any reasonable request of an inspector to facilitate the identification and examination of an animal and the taking of samples in accordance with regulation 6 and, in particular, must arrange the suitable restraint of an animal if so requested by an inspector.

Hiring out horses: requirement for annual inspection of premises

8.—(1) Where there is a licence in force in relation to an activity described in paragraph 6 of Schedule 1, the local authority must appoint a listed veterinarian to inspect the premises on which the activity is being carried on.

(2) For the purposes of paragraph (1), the authority must make an appointment for an inspection to take place before the end of the first anniversary of the day on which the licence, as granted or renewed, came into force and before the end of each subsequent year in respect of which the licence remains in force.

Variation of a licence on the application, or with the consent, of a licence holder

9. A local authority may at any time vary a licence—
- (a) on the application in writing of the licence holder, or
 - (b) on its own initiative, with the consent in writing of the licence holder.

Inspector's report

10.—(1) Where a local authority arranges an inspection pursuant to regulation 4(2)(a), it must arrange for the submission to it of a report by the inspector.

- (2) The inspector's report must—
- (a) contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter, and
 - (b) state whether or not the inspector considers that the licence conditions will be met.

Persons who may not apply for a licence

11.—(1) The following persons may not apply for a licence in respect of any licensable activity—

- (a) a person listed as a disqualified person in paragraph 4 or any of paragraphs 6 to 17 of Schedule 8 where the time limit for any appeal against that disqualification has expired or where, if an appeal was made, that appeal was refused;
 - (b) a person listed in any of paragraphs 1 to 3 and 5 of Schedule 8 as having held a licence which was revoked where the time limit for any appeal against that revocation has expired or where, if an appeal was made, that appeal was refused.
- (2) Any licence granted or renewed, or held by, a person mentioned in paragraph (1)(a) or (b) is automatically revoked.

Death of a licence holder

12.—(1) In the event of the death of a licence holder, the licence is deemed to have been granted to, or renewed in respect of, the personal representatives of that former licence holder.

(2) In the circumstances described in paragraph (1), the licence is to remain in force for three months beginning with the date of the death of the former licence holder or for as long as it was due to remain in force but for the death (whichever period is shorter) but remains subject to the provisions in Part 3.

(3) The personal representatives must notify in writing the local authority which granted or renewed the licence that they are now the licence holders within 28 days beginning with the date of the death of the former licence holder.

(4) If the personal representatives fail so to notify the local authority within the period specified in paragraph (3), the licence shall cease to have effect on the expiry of that period.

(5) The local authority which granted or renewed the licence may, on the application of the personal representatives, extend the period specified in paragraph (2) for up to three months if it is satisfied that the extension is necessary for the purpose of winding up the estate of the former licence holder and is appropriate in all the circumstances.

Fees

13.—(1) A local authority may charge such fees as it considers necessary for—

- (a) the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation,
- (b) the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in sub-paragraph (a) including any inspection relating to that consideration,
- (c) the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
- (d) the reasonable anticipated costs of compliance with regulation 29.

(2) The fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection.

Guidance

14. A local authority must have regard in the carrying out of its functions under these Regulations to such guidance as may be issued by the Secretary of State.

PART 3

Enforcement and notices

Grounds for suspension, variation without consent or revocation of a licence

15. A local authority may, without any requirement for the licence holder's consent, decide to suspend, vary or revoke a licence at any time on being satisfied that—

- (a) the licence conditions are not being complied with,
- (b) there has been a breach of these Regulations,
- (c) information supplied by the licence holder is false or misleading, or
- (d) it is necessary to protect the welfare of an animal.

Procedure for suspension or variation without consent

16.—(1) Except as otherwise provided in this regulation, the suspension or variation of a licence following a decision under regulation 15 has effect at the end of a period of seven working days beginning with the date on which notice of the decision is issued to the licence holder or, if that date is not a working day, the next working day.

(2) If it is necessary to protect the welfare of an animal, the local authority may specify in the notice of its decision that the suspension or variation has immediate effect.

(3) A decision to suspend or vary a licence must—

- (a) be notified to the licence holder in writing,
- (b) state the local authority's grounds for suspension or variation,
- (c) state when it comes into effect,
- (d) specify measures that the local authority considers are necessary in order to remedy the grounds, and
- (e) explain the right of the licence holder to make written representations in accordance with paragraph (4) and give details of the person to whom such representations may be made and the date by the end of which they must be received.

(4) The licence holder may make written representations which must be received by the local authority within seven working days beginning with the date of issue of notice of the decision under regulation 15 to suspend or vary the licence or, if that date is not a working day, the next working day.

(5) Except in relation to notices under paragraph (2), where a licence holder makes written representations which are received by the local authority within the period specified in paragraph (4), the suspension or variation is not to have effect unless the local authority, after considering the representations, suspends or varies the licence in accordance with paragraph (6)(a).

(6) Within seven working days beginning with the date of receipt of any representations made in accordance with paragraph (5), the local authority must, after considering the representations—

- (a) suspend or vary the licence,
- (b) cancel its decision under regulation 15 to suspend or vary the licence,
- (c) confirm the suspension or variation of the licence under paragraph (2), or
- (d) reinstate the licence if it has been suspended, or cancel its variation if it has been varied, under paragraph (2).

(7) The local authority must issue to the licence holder written notice of its decision under paragraph (6) and the reasons for it within seven working days beginning with the date of receipt of any representations made in accordance with paragraph (4) or, if that date is not a working day, beginning with the next working day.

(8) The local authority's decision under paragraph (6) is to have effect on service of its notice under paragraph (7).

(9) Paragraph (10) applies if the local authority fails to comply with paragraph (6) or (7).

(10) Where this paragraph applies, after seven working days beginning with the date of receipt of any representations made in accordance with paragraph (4) or, if that date is not a working day, beginning with the next working day—

- (a) a licence suspended under paragraph (2) is to be deemed to be reinstated;
- (b) a licence varied under paragraph (2) is to be deemed to have effect as if it had not been so varied;
- (c) a licence suspended under paragraph (6)(a) is to be deemed to be reinstated;
- (d) a licence varied under paragraph (6)(a) is to be deemed to have effect as if it had not been so varied;
- (e) any licence held by the licence holder other than a licence suspended or varied under paragraph (2) or (6)(a) which the local authority decided to suspend or vary under regulation 15 is to be deemed to remain in force and not to be so varied.

(11) Once a licence has been suspended for 28 days, the local authority must on the next working day—

- (a) reinstate it without varying it,
- (b) vary and reinstate it as varied, or
- (c) revoke it.

(12) If the local authority fails to comply with paragraph (11), the licence is to be deemed to have been reinstated without variation with immediate effect.

Reinstatement of a suspended licence by a local authority

17.—(1) A local authority must reinstate a suspended licence by way of written notice once it is satisfied that the grounds specified in the notice of suspension have been or will be remedied.

(2) Where a local authority reinstates a licence under paragraph (1), it may reduce the period for which it is reinstated.

Notice of revocation

18.—(1) A revocation decision must—

- (a) be notified in writing to the licence holder,
- (b) state the local authority's grounds for revocation, and
- (c) give notice of the licence holder's right of appeal to the First-tier Tribunal and the period under regulation 24 within which such an appeal may be brought.

(2) The decision has effect on service of the notice.

Obstruction of inspectors

19. A person must not intentionally obstruct an inspector appointed for the purposes of the enforcement of these Regulations in the exercise of any powers conferred by or under the Act.

Offences

20.—(1) It is an offence for a person, without lawful authority or excuse—

- (a) to breach a licence condition;
- (b) to fail to comply with regulation 7 or 19.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine.

Powers of entry

21. Breach of a licence condition must be treated as a relevant offence for the purposes of section 23 of the Act (entry and search under warrant in connection with offences).

Post-conviction powers

22. The relevant post-conviction powers contained in sections 34 and 42 of the Act apply in relation to a conviction for an offence under regulation 20.

Notices

23.—(1) Any notice issued by a local authority under these Regulations may be amended, suspended or revoked by the local authority in writing at any time.

(2) A notice may be served on a person by—

- (a) personal delivery,
- (b) leaving it or sending it by post to the person's current or last known postal address, or
- (c) emailing it to the person's current or last known email address.

PART 4

Appeals

Appeals

24.—(1) Any operator who is aggrieved by a decision by a local authority—

- (a) to refuse to grant or renew a licence, or
- (b) to revoke or vary a licence,

may appeal to the First-tier Tribunal.

(2) The period within which an operator may bring such an appeal is 28 days beginning with the day following the date of the decision.

(3) The First-tier Tribunal may on application and until the appeal is determined or withdrawn—

- (a) in the case of a decision to refuse to renew a licence, permit a licence holder to continue to carry on a licensable activity or any part of it subject to the licence conditions, or
- (b) suspend a revocation or variation under regulation 15.

(4) On appeal, the First-tier Tribunal may overturn or confirm the local authority's decision, with or without modification.

PART 5

Repeals, revocations and consequential amendments

Repeals and consequential amendments

25. Schedule 9 (repeals and consequential amendments) is to have effect.

Revocations and consequential amendments

26. Schedule 10 (revocations and consequential amendments) is to have effect.

PART 6

Transitional and saving provisions

Transitional and saving provisions

27.—(1) Any unexpired licence granted in accordance with the provisions of the Pet Animals Act 1951(a) shall continue in force for the remainder of its term subject to the provisions of that Act as it had effect on the relevant date.

(2) Any unexpired licence granted under the Animal Boarding Establishments Act 1963(b) shall continue in force for the remainder of its term subject to the provisions of that Act as it had effect on the relevant date.

(3) Any unexpired licence granted under of the Riding Establishments Act 1964(c) shall continue in force for the remainder of its term subject to the provisions of that Act as it had effect on the relevant date.

(4) Any unexpired provisional licence granted under the Riding Establishments Act 1970(d) shall continue in force for the remainder of its term subject to the provisions of that Act and, so far as relevant, the Riding Establishments Act 1964 as those Acts had effect on the relevant date.

(5) Any unexpired licence granted in accordance with the provisions of the Breeding of Dogs Act 1973(e) shall continue in force for the remainder of its term subject to the provisions of—

- (a) that Act,
- (b) the Breeding of Dogs (Licensing Records) Regulations 1999(f),
- (c) the Breeding and Sale of Dogs (Welfare) Act 1999(g), and
- (d) the Sale of Dogs (Identification Tag) Regulations 1999(h),

as those enactments had effect on the relevant date.

(6) Any registration of a person under the Performing Animals (Regulation) Act 1925(i) in force on the relevant date shall continue in force, subject to the provisions of that Act as it had effect on the relevant date, for a period of six months starting with the date on which these Regulations come into force.

(7) In this regulation—

“unexpired” means still in force on, and with any of its term remaining after, the relevant date;

“the relevant date” means the day before the date on which these Regulations come into force.

PART 7

Review and provision of information to the Secretary of State

Review

28.—(1) The Secretary of State must, from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(a) 1951 c. 35 (14 & 15 Geo 6).
(b) 1963 c. 43.
(c) 1964 c. 70.
(d) 1970 c. 32.
(e) 1973 c. 60.
(f) S.I. 1999/3192.
(g) 1999 c. 11.
(h) S.I. 1999/3191.
(i) 1925 c. 38 (15 & 16 Geo 5).

- (2) The first report must be published before 1st October 2023.
- (3) Subsequent reports must be published at intervals not exceeding five years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(a) requires that a report published under this regulation must, in particular—
 - (a) set out the objectives intended to be achieved by the regulatory provision mentioned in paragraph (1)(a),
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Provision of information to the Secretary of State

29.—(1) Each local authority must provide the following information to the Secretary of State in writing for the purpose of assisting the Secretary of State to carry out the review in accordance with regulation 28—

- (a) the number of licences in force for each licensable activity in its area on each reference date, and
 - (b) the average level of fees it has charged for licences it has granted or renewed for each licensable activity in each reference period.
- (2) Each local authority must provide the information to the Secretary of State—
- (a) in electronic form, or secure that it is accessible to the Secretary of State in electronic form, and
 - (b) no later than the next 31st May following the relevant reference date.
- (3) In this regulation—

“reference date” means 1st April each year beginning with 1st April 2019;

“reference period” means the period beginning with 1st October 2018 and ending with 31st March 2019, the year beginning with 1st April 2019 and each subsequent year beginning with an anniversary of 1st April 2019.

16th April 2018

Gardiner of Kimble
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) 2015 c. 26.

SCHEDULE 1

Regulation 2

Licensable activities

PART 1

Business test

1. The circumstances which a local authority must take into account in determining whether an activity is being carried on in the course of a business for the purposes of this Schedule include, for example, whether the operator—

- (a) makes any sale by, or otherwise carries on, the activity with a view to making a profit, or
- (b) earns any commission or fee from the activity.

PART 2

Selling animals as pets

2. Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.

3. The activity described in paragraph 2 does not include—

- (a) selling animals in the course of an aquacultural production business authorised under regulation 5(1) of the Aquatic Animal Health (England and Wales) Regulations 2009^(a), or
- (b) the activity described in paragraph 8.

PART 3

Providing or arranging for the provision of boarding for cats or dogs

4. Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business by—

- (a) providing boarding for cats;
- (b) providing boarding in kennels for dogs;
- (c) providing home boarding for dogs; or
- (d) providing day care for dogs.

^(a) S.I. 2009/463.

5. The activity described in paragraph 4 does not include keeping a dog or cat on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981(a).

PART 4

Hiring out horses

6. Hiring out horses in the course of a business for either or both of the following purposes—
- (a) riding;
 - (b) instruction in riding.
7. The activity described in paragraph 6 does not include any activity—
- (a) solely for military or police purposes, or
 - (b) involving the instruction of students at a university on a course of study and examinations leading to a veterinary degree to which a recognition order under section 3 of the Veterinary Surgeons Act 1966(b) relates and for as long as such an order is in force.

PART 5

Breeding dogs

8. Either or both of the following—
- (a) breeding three or more litters of puppies in any 12-month period;
 - (b) breeding dogs and advertising a business of selling dogs.
9. The activity described in paragraph 8 does not include—
- (a) keeping a dog on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981,
 - (b) breeding only assistance dogs or dogs intended to be used as assistance dogs within the meaning of section 173 of the Equality Act 2010(c), or
 - (c) breeding three or more litters of puppies in any 12-month period if the person carrying on the activity provides documentary evidence that none of them have been sold (whether as puppies or as adult dogs).

PART 6

Keeping or training animals for exhibition

10. Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes—
- (a) to any audience attending in person, or
 - (b) by the recording of visual images of them by any form of technology that enables the display of such images.
11. The activity described in paragraph 10 does not include—
- (a) keeping or training animals solely for military, police or sporting purposes,

(a) 1981 c. 22.

(b) Section 3(1)(b) has been amended by paragraph 3 of the Schedule to S.I. 2008/1824.

(c) 2010 c. 15.

- (b) any activity permitted under a licence to operate a travelling circus under the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012(a), or
- (c) any activity permitted under a licence for a zoo under the Zoo Licensing Act 1981(b).

SCHEDULE 2 General conditions

Regulation 2

Licence display

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

Records

2.—(1) The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.

(2) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

Use, number and type of animal

3.—(1) No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.

(2) The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

Staffing

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

(3) The licence holder must provide and ensure the implementation of a written training policy for all staff.

Suitable environment

5.—(1) All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.

(2) Animals must be kept at all times in an environment suitable to their species and condition (including health status and age) with respect to—

(a) S.I. 2012/2932.

(b) 1981 c. 37.

- (a) their behavioural needs,
 - (b) its situation, space, air quality, cleanliness and temperature,
 - (c) the water quality (where relevant),
 - (d) noise levels,
 - (e) light levels,
 - (f) ventilation.
- (3) Staff must ensure that the animals are kept clean and comfortable.
- (4) Where appropriate for the species, a toileting area and opportunities for toileting must be provided.
- (5) Procedures must be in place to ensure accommodation and any equipment within it is cleaned as often as necessary and good hygiene standards are maintained and the accommodation must be capable of being thoroughly cleaned and disinfected.
- (6) The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease.
- (7) All the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.
- (8) All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.
- (9) The animals must not be left unattended in any situation or for any period likely to cause them distress.

Suitable diet

- 6.—(1) The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.
- (2) Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.
- (3) Feed and drinking water provided to the animals must be unspoilt and free from contamination.
- (4) Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.
- (5) Constant access to fresh, clean drinking water must be provided in a suitable receptacle for the species that requires it.
- (6) Where feed is prepared on the premises on which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

Monitoring of behaviour and training of animals

- 7.—(1) Active and effective environmental enrichment must be provided to the animals in inside and any outside environments.
- (2) For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.
- (3) The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay, from a veterinarian or, in the case of fish, any person competent to give such advice if adverse or abnormal behaviour is detected.
- (4) Where used, training methods or equipment must not cause pain, suffering or injury.
- (5) All immature animals must be given suitable and adequate opportunities to—

- (a) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and
- (b) become habituated to noises, objects and activities in their environment.

Animal handling and interactions

8.—(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.

(2) The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

(3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.

Protection from pain, suffering, injury and disease

9.—(1) Written procedures must—

- (a) be in place and implemented covering—
 - (i) feeding regimes,
 - (ii) cleaning regimes,
 - (iii) transportation,
 - (iv) the prevention of, and control of the spread of, disease,
 - (v) monitoring and ensuring the health and welfare of all the animals,
 - (vi) the death or escape of an animal (including the storage of carcasses);
- (b) be in place covering the care of the animals following the suspension or revocation of the licence or during and following an emergency.

(2) All people responsible for the care of the animals must be made fully aware of these procedures.

(3) Appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.

(4) All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.

(5) All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.

(6) Sick or injured animals must receive prompt attention from a veterinarian or, in the case of fish, an appropriately competent person and the advice of that veterinarian or, in the case of fish, that competent person must be followed.

(7) Where necessary, animals must receive preventative treatment by an appropriately competent person.

(8) The licence holder must register with a veterinarian with an appropriate level of experience in the health and welfare requirements of any animals specified in the licence and the contact details of that veterinarian must be readily available to all staff on the premises on which the licensable activity is carried on.

(9) Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinarian.

(10) Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinarian.

(11) Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the manufacturer's instructions and used in a way which prevents distress or suffering of the animals.

(12) No person may euthanase an animal except a veterinarian or a person who has been authorised by a veterinarian as competent for such purpose or—

- (a) in the case of fish, a person who is competent for such purpose;
- (b) in the case of horses, a person who is competent, and who holds a licence or certificate, for such purpose.

(13) All animals must be checked at least once daily and more regularly as necessary to check for any signs of pain, suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.

(14) Any signs of pain, suffering, injury, disease or abnormal behaviour must be recorded and the advice and further advice (if necessary) of a veterinarian (or in the case of fish, of an appropriately competent person) must be sought and followed.

Emergencies

10.—(1) A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

(2) The plan must include details of the emergency measures to be taken for the extrication of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.

(3) External doors and gates must be lockable.

(4) A designated key holder with access to all animal areas must at all times be within reasonable travel distance of the premises and available to attend in an emergency.

SCHEDULE 3

Regulation 2

Specific conditions: selling animals as pets

Interpretation

1. In this Schedule—

“prospective owner” means a person purchasing an animal to keep or to be kept as a pet;

“premises” means the premises on which the licensable activity of selling animals as pets (or with a view to their being later resold as pets) is carried on;

“purchaser” means a person purchasing an animal to keep as a pet or with a view to it later being resold as a pet.

Records and advertisements

2.—(1) A register must be maintained for all the animals or, in the case of fish, all the groups of fish, on the premises which must include —

- (a) the full name of the supplier of the animal,
- (b) the animal’s sex (where known),
- (c) (except in the case of fish) the animal’s age (where known),
- (d) details of any veterinary treatment (where known),
- (e) the date of birth of the animal or, if the animal was acquired by the licence holder, the date of its acquisition,
- (f) the date of the sale of the animal by the licence holder, and

- (g) the date of the animal's death (if applicable).
- (2) Where an animal is undergoing any medical treatment—
 - (a) this fact must be clearly indicated—
 - (i) in writing next to it, or
 - (ii) (where appropriate) by labelling it accordingly, and
 - (b) it must not be sold.
- (3) Any advertisement for the sale of an animal must—
 - (a) include the number of the licence holder's licence,
 - (b) specify the local authority that issued the licence,
 - (c) include a recognisable photograph of the animal being advertised,
 - (d) (except in the case of fish) display the age of the animal being advertised,
 - (e) state the country of residence of the animal from which it is being sold, and
 - (f) state the country of origin of the animal.

Prospective sales: pet care and advice

3.—(1) The licence holder and all staff must ensure that any equipment and accessories being sold with an animal are suitable for the animal.

(2) The licence holder and all staff must ensure that the prospective owner is provided with information on the appropriate care of the animal including in relation to—

- (a) feeding,
- (b) housing,
- (c) handling,
- (d) husbandry,
- (e) the life expectancy of its species,
- (f) the provision of suitable accessories, and
- (g) veterinary care.

(3) Appropriate reference materials on the care of all animals for sale must be on display and provided to the prospective owner.

(4) The licence holder and all staff must have been suitably trained to advise prospective owners about the animals being sold.

(5) The licence holder and all staff must ensure that the purchaser is informed of the country of origin of the animal and the species, and where known, the age, sex and veterinary record of the animal being sold.

Suitable accommodation

4.—(1) Animals must be kept in housing which minimises stress including from other animals and the public.

(2) Where members of the public can view or come into contact with the animals, signage must be in place to deter disturbance of the animals.

(3) Dangerous wild animals (if any) must be kept in cages that are secure and lockable and appropriate for the species.

(4) For the purposes of sub-paragraph (3), “dangerous wild animal” means an animal of a kind specified in the first column of the Schedule to the Dangerous Wild Animals Act 1976(a).

(a) 1976 c. 38. The Schedule was substituted in relation to England and Wales by article 2 of S.I. 2007/2465.

Purchase and sale of animals

5.—(1) The purchase, or sale, by or on behalf of the licence holder of any of the following is prohibited—

- (a) unweaned mammals;
- (b) mammals weaned at an age at which they should not have been weaned;
- (c) non-mammals that are incapable of feeding themselves;
- (d) puppies, cats, ferrets or rabbits, aged under 8 weeks.

(2) The sale of a dog must be completed in the presence of the purchaser on the premises.

Protection from pain, suffering, injury and disease

6.—(1) All animals for sale must be in good health.

(2) Any animal with a condition which is likely to affect its quality of life must not be moved, transferred or offered for sale but may be moved to an isolation facility or veterinary care facility if required until the animal has recovered.

(3) When arranging for the receipt of animals, the licence holder must make reasonable efforts to ensure that they will be transported in a suitable manner.

(4) Animals must be transported or handed to purchasers in suitable containers for the species and expected duration of the journey.

SCHEDULE 4

Regulation 2

Specific conditions: providing boarding for cats or dogs

PART 1

Providing boarding for cats

Interpretation

1. In this Part—

“cat unit” means the physical structure and area that comprises a sleeping area and an exercise run;

“exercise run” means an enclosed area forming part of the cat unit attached to and with direct and permanent access to the sleeping area;

“premises” means the premises on which the licensable activity of providing boarding for cats is carried on.

Suitable environment

2.—(1) Cats within the premises must be prevented from coming into direct contact with other animals from outside the premises.

(2) There must be a safe, secure, waterproof roof over the entire cat unit.

(3) A cat unit may only be shared by cats from the same household.

(4) Communal exercise areas are not permitted.

(5) Each cat unit must be clearly numbered and there must be a system in place which ensures that information about the cat or cats in each cat unit is available to all staff and any inspector.

(6) Each cat unit must provide the cat with sufficient space to—

- (a) walk,
- (b) turn around,
- (c) stand on its hind legs,
- (d) hold its tail erect,
- (e) climb,
- (f) rest on the elevated area, and
- (g) lie down fully stretched out,

without touching another cat or the walls.

(7) Each cat unit must have sufficient space for each cat to sit, rest, eat and drink away from the area where it urinates and defecates.

(8) Cats must have constant access to their sleeping area.

(9) A litter tray and safe and absorbent litter material must be provided at all times in each cat unit and litter trays must be regularly cleaned and disinfected.

(10) Each cat unit must include an elevated area.

(11) Adjoining cat units must have solid barriers covering the full height and full width of the adjoining wall.

(12) Any gaps between cat units must be a minimum of 0.6 metres wide.

(13) Any cat taken out of a cat unit must be secured in a suitable carrier.

(14) The sleeping area must form part of the cat unit and be free from draughts.

Monitoring of behaviour and training of cats

3.—(1) There must be an area within each cat unit in which the cat can avoid seeing other cats and people outside the cat unit if it so chooses.

(2) Each cat unit must include a facility for scratching and any surface within a cat unit available for scratching must either be disinfected between uses by different cats or disposed of.

(3) All cats must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.

(4) All toys and other enrichment items must be checked daily to ensure they remain safe and must be cleaned and disinfected at least weekly.

Records

4. A register must be kept of all the cats on the premises which must include—

- (a) the dates of each cat's arrival and departure,
- (b) each cat's name, age, sex, neuter status and a description of it or its breed,
- (c) each cat's microchip number, where applicable,
- (d) the number of any cats from the same household,
- (e) a record of which cats (if any) are from the same household,
- (f) the name, postal address, telephone number (if any) and email address (if any) of the owner of each cat and emergency contact details,
- (g) in relation to each cat, the name, postal address, telephone number and email address of a local contact in an emergency,
- (h) the name and contact details of each cat's normal veterinarian and details of any insurance relating to the cat,
- (i) details of each cat's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise,
- (j) details of each cat's diet and related requirements,

- (k) any required consent forms,
- (l) a record of the date or dates of each cat's most recent vaccination, worming and flea treatments, and
- (m) details of any medical treatment each cat is receiving.

Protection from pain, suffering, injury and disease

5.—(1) A cat must remain in its assigned cat unit, except when it is moved to an isolation cat unit or to a holding cat unit.

(2) Where any other activity involving animals is undertaken on the premises, it must be kept entirely separate from the area where the activity of providing boarding for cats takes place.

(3) All equipment must be cleaned and disinfected before a cat is first introduced into a cat unit.

(4) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

(5) A holding cat unit must only be used in an emergency and must not be used for longer than is necessary and in any event for no longer than a total of 12 hours in any 24-hour period.

(6) In this paragraph, "holding cat unit" means a cat unit, separate from any other cat unit, in which a cat may be housed temporarily.

PART 2

Providing boarding in kennels for dogs

Interpretation

6. In this Part—

"exercise run" means an enclosed area forming part of a kennel unit attached to and with direct access to the sleeping area;

"kennel unit" means the physical structure and area that consists of a sleeping area and an exercise run;

"premises" means the premises on which the licensable activity of providing boarding in kennels for dogs is carried on.

Suitable environment

7.—(1) Dogs within the premises must be prevented from coming into contact with other animals from outside the premises.

(2) In each kennel unit, the sleeping area must—

(a) be free from draughts;

(b) provide the dog with sufficient space to—

(i) sit and stand at full height,

(ii) lie down fully stretched-out,

(iii) wag its tail,

(iv) walk, and

(v) turn around,

without touching another dog or the walls;

(c) have a floor area which is at least twice the area required for the dog in it to lie flat; and

(d) if built after the date on which these Regulations come into force, have a floor area of at least 1.9 square metres.

(3) Each kennel unit must be clearly numbered and there must be a system in place which ensures that information about the dog or dogs in each kennel unit is available to all staff and any inspector.

(4) Each dog must have constant access to its sleeping area.

(5) Each dog must have a clean, comfortable and warm area within its sleeping area where it can rest and sleep.

(6) Each exercise run must have a single, safe, secure, waterproof roof over a minimum of half its total area.

(7) Where a dog poses a health or welfare risk to other dogs, it must be kept on its own in a kennel unit and, if that kennel unit adjoins another kennel unit, any adjoining wall must be of full height and width so as to prevent the dog from coming into physical contact with any other dog.

(8) Only dogs from the same household may share a kennel unit.

Monitoring of behaviour and training

8.—(1) Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

(2) All dogs must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.

(3) All toys and other enrichment items must be checked daily to ensure they remain safe and must be cleaned and disinfected at least weekly.

(4) Each dog must be exercised at least once daily away from its kennel unit as appropriate for its age and health.

(5) Any dog which, on the advice of a veterinarian, cannot be exercised must be provided with alternative forms of mental stimulation.

(6) There must be an area within each kennel unit in which a dog can avoid seeing people and other dogs outside the kennel unit if it so chooses.

Records

9.—(1) A register must be kept of all the dogs on the premises which must include—

- (a) the dates of each dog's arrival and departure;
- (b) each dog's name, age, sex, neuter status, microchip number and a description of it or its breed;
- (c) the number of any dogs from the same household;
- (d) a record of which dogs (if any) are from the same household;
- (e) the name, postal address, telephone number (if any) and email address (if any) of the owner of each dog and emergency contact details;
- (f) in relation to each dog, the name, postal address, telephone number and email address of a local contact in an emergency;
- (g) the name and contact details of the dog's normal veterinarian and details of any insurance relating to the dog;
- (h) details of each dog's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise;
- (i) details of the dog's diet and related requirements;
- (j) any required consent forms;
- (k) a record of the date or dates of each dog's most recent vaccination, worming and flea treatments;
- (l) details of any medical treatment each dog is receiving.

(2) When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

Protection from pain, suffering, injury and disease

10.—(1) Where any other activity involving animals is undertaken on the premises, it must be kept entirely separate from the area where the activity of providing boarding for dogs in kennels takes place.

(2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

(3) A holding kennel unit must only be used in an emergency and must not be used for longer than is necessary and in any event for no longer than a total of 12 hours in any 24-hour period.

(4) In sub-paragraph (3), "holding kennel unit" means a kennel unit, separate from any other kennel unit, in which a dog may be housed temporarily.

PART 3

Providing home boarding for dogs

Interpretation

11. In this Part—

"designated room" means a room within the home allocated to a dog;

"home" means a domestic dwelling on which the licensable activity of providing home boarding for dogs is carried on.

Home

12.—(1) Dogs must be accommodated within the home.

(2) The home must include—

(a) direct access to a private, non-communal, secure and hazard-free external area, and

(b) at least two secure physical barriers between any dog and any entrance to or exit from it.

Suitable environment

13.—(1) Dogs from different households may only be boarded at the same time with the written consent of every owner.

(2) Each dog must be provided with its own designated room where it can, if necessary, be kept separate from other dogs.

(3) Each dog must have a clean, comfortable and warm area within its designated room where it can rest and sleep.

(4) Each designated room must have a secure window to the outside that can be opened and closed as necessary.

(5) A dog must not be confined in a crate for longer than three hours in any 24-hour period.

(6) A dog must not be kept in a crate unless—

(a) it is already habituated to it,

(b) a crate forms part of the normal routine for the dog, and

(c) the dog's owner has consented to the use of a crate.

(7) Any crate in which a dog is kept must be in good condition and sufficiently large for the dog to sit and stand in it at full height, lie flat and turn around.

Suitable diet

14. Each dog must be fed separately in its designated room unless its owner has given written consent to the contrary.

Monitoring of behaviour and training

15.—(1) Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

(2) Each dog must be exercised at least once daily as appropriate for its age and health.

(3) Dogs which on the advice of a veterinarian cannot be exercised must be provided with alternative forms of mental stimulation.

Housing with or apart from other dogs

16.—(1) Written consent must be obtained from the owner or owners (as the case may be) to keep dogs together in a designated room.

(2) Unneutered bitches must be prevented from mating.

(3) If any person aged under 16 years resides at the home, there must be procedures in place to regulate the interactions between the dogs and that person.

Records

17.—(1) A register must be kept of all the dogs accommodated in the home which must include—

- (a) the dates of each dog's arrival and departure;
- (b) each dog's name, age, sex, neuter status, microchip number and a description of it or its breed;
- (c) the number of any dogs from the same household;
- (d) a record of which dogs (if any) are from the same household;
- (e) the name, postal address, telephone number (if any) and email address (if any) of the owner of each dog and emergency contact details;
- (f) in relation to each dog, the name, postal address, telephone number and email address of a local contact in an emergency;
- (g) the name and contact details of each dog's normal veterinarian and details of any insurance relating to the dog;
- (h) details of each dog's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise;
- (i) details of each dog's diet and related requirements;
- (j) any required consent forms;
- (k) a record of the date or dates of each dog's most recent vaccination, worming and flea treatments;
- (l) details of any medical treatment each dog is receiving.

(2) When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

Protection from pain, suffering, injury and disease

18.—(1) Before a dog is admitted for boarding, all equipment to be used by or in relation to that dog must be cleaned and disinfected.

(2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

PART 4

Providing day care for dogs

Interpretation

19. In this Part, “premises” means the premises on which the licensable activity of providing day care for dogs is carried on.

No overnight stay

20. No dog may be kept on the premises overnight.

Suitable environment

21.—(1) Each dog must be provided with—

- (a) a clean, comfortable and warm area where it can rest and sleep, and
- (b) another secure area in which water is provided and in which there is shelter.

(2) Each dog must have access to areas where it can—

- (a) interact safely with other dogs, toys and people, and
- (b) urinate and defecate.

(3) There must be an area where any dog can avoid seeing other dogs and people if it so chooses.

Suitable diet

22. Any dog that requires specific feed due to a medical condition must be fed in isolation.

Monitoring of behaviour and training

23.—(1) All dogs must be screened before being admitted to the premises to ensure that they are not afraid, anxious or stressed in the presence of other dogs or people and do not pose a danger to other dogs or staff.

(2) Any equipment used that is likely to be in contact with the dogs and any toys provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

Housing apart from other dogs

24.—(1) Unneutered bitches must be prevented from mating.

(2) Dogs which need to be isolated from other dogs must be provided with alternative forms of mental stimulation.

Records

25.—(1) A register must be kept of all the dogs on the premises which must include—

- (a) the date of the dog’s attendance;
- (b) the dog’s name, age, sex, neuter status, microchip number and a description of it or its breed;
- (c) the name, postal address, telephone number (if any) and email address (if any) of the owner and emergency contact details;
- (d) the name and contact details of the dog’s normal veterinarian and details of any insurance relating to the dog;

- (e) details of the dog's relevant medical and behavioural history, including details of any treatment administered against parasites and any restrictions on exercise;
 - (f) details of the dog's diet and relevant requirements;
 - (g) any required consent forms;
 - (h) a record of the date or dates of the dog's most recent vaccination, worming and flea treatments;
 - (i) details of any medical treatment the dog is receiving.
- (2) When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

Protection from pain, suffering, injury and disease

- 26.—(1) The dogs must be supervised at all times.
- (2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.
- (3) Any journeys in a vehicle must be planned to minimise the time dogs spend in the vehicle.

SCHEDULE 5

Regulation 2

Specific conditions: hiring out horses

Interpretation

1. In this Schedule, "client" means a person for whose use a horse is hired out.

Eligibility

- 2.—(1) The licence holder must—
- (a) hold an appropriate formal qualification, or have sufficient demonstrable experience and competence, in the management of horses, and
 - (b) hold a valid certificate of public liability insurance which—
 - (i) insures the licence holder against liability for any injury sustained by, and the death of, any client, and
 - (ii) insures any client against liability for any injury sustained by, and the death of, any other person,caused by or arising out of the hire of the horse.
- (2) The certificate mentioned in sub-paragraph (1)(b) must be clearly and prominently displayed on the premises.

Supervision

- 3.—(1) The activity must not at any time be left in the charge of a person aged under 18 years.
- (2) No horse may be hired out except under the supervision of a person aged 16 years or more unless the licence holder is satisfied that the person hiring the horse is competent to ride without supervision.
- (3) The following must be clearly and prominently displayed on the premises—
- (a) the full name, postal address (including postcode) and telephone number of the licence holder or other person with management responsibilities in respect of the activity;
 - (b) instructions as to the action to be taken in the event of a fire or other emergency.

Suitable environment

- 4.—(1) It must be practicable to bring all the horses on the premises under cover.
- (2) Suitable storage must be provided and used for feed, bedding, stable equipment and saddlery.
- (3) All arena surfaces must be suitable for purpose, well drained, free of standing water and maintained regularly to keep them level.

Suitable diet

- 5.—(1) At all times when any horses are kept at grass, adequate pasture, shelter and clean water must be available for them.
- (2) Supplementary feed and nutrients must be provided to any horse when appropriate.
- (3) Each horse must be fed a balanced diet of a quantity and at a frequency suitable for its age, health and workload to enable it to maintain an appropriate physical condition.

Protection from pain, suffering, injury and disease

- 6.—(1) The horses must be maintained in good health and must be in all respects physically fit.
- (2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented
- (3) A daily record of the workload of each horse must be maintained and available for inspection at any reasonable time.
- (4) Each horse must be suitable for the purpose for which it is kept and must not be hired out if, due to its condition, its use would be likely to cause it to suffer.
- (5) Any horse found on inspection to be in need of veterinary attention must not be returned to work until the licence holder has, at the licence holder's expense, obtained from and lodged with the local authority a veterinary certificate which confirms that the horse is fit for work.
- (6) Each horse's hooves should be trimmed as often as is necessary to maintain the health, good shape and soundness of its feet and any shoes should be properly fitted and in good condition.
- (7) An area suitable for the inspection of horses by a veterinarian must be provided.
- (8) The following must not be hired out—
- (a) a horse aged under 3 years;
 - (b) a mare heavy with foal;
 - (c) a mare whose foal has not yet been weaned.
- (9) The licence holder must keep a register of all horses kept for the licensable activity on the premises, each such horse's valid passport showing its unique equine life number and a record of its microchip number (if any).

Equipment

7. All equipment provided to clients must be in good and safe condition and available for inspection at any reasonable time.

SCHEDULE 6

Regulation 2

Specific conditions: breeding dogs

Advertisements and sales

- 1.—(1) The licence holder must not advertise or offer for sale a dog—

- (a) which was not bred by the licence holder;
 - (b) except from the premises where it was born and reared under the licence;
 - (c) otherwise than to—
 - (i) a person who holds a licence for the activity described in paragraph 2 of Schedule 1;
or
 - (ii) a keeper of a pet shop in Wales who is licensed under the Pet Animals Act 1951(a) to keep the shop,knowing or believing that the person who buys it intends to sell it or intends it to be sold by any other person.
- (2) Any advertisement for the sale of a dog must—
- (a) include the number of the licence holder's licence,
 - (b) specify the local authority that issued the licence,
 - (c) include a recognisable photograph of the dog being advertised, and
 - (d) display the age of the dog being advertised.
- (3) The licence holder and all staff must ensure that any equipment and accessories being sold with a dog are suitable for it.
- (4) The licence holder and all staff must ensure that the purchaser is informed of the age, sex and veterinary record of the dog being sold.
- (5) No puppy aged under 8 weeks may be sold or permanently separated from its biological mother.
- (6) A puppy may only be shown to a prospective purchaser if it is together with its biological mother.
- (7) Sub-paragraphs (5) and (6) do not apply if separation of the puppy from its biological mother is necessary for the health or welfare of the puppy, other puppies from the same litter or its biological mother.

Suitable environment

2.—(1) Each dog must have access to a sleeping area which is free from draughts and an exercise area.

(2) Each dog must be provided with sufficient space to—

- (a) stand on its hind legs,
- (b) lie down fully stretched out,
- (c) wag its tail,
- (d) walk, and
- (e) turn around,

without touching another dog or the walls of the sleeping area.

(3) The exercise area must not be used as a sleeping area.

(4) Part or all of the exercise area must be outdoors.

(5) There must be a separate whelping area for each breeding bitch to whelp in which contains a suitable bed for whelping.

(6) Each whelping area must be maintained at an appropriate temperature (between and including 26 and 28 degrees centigrade) and include an area which allows the breeding bitch to move away from heat spots.

(7) Each dog must be provided with constant access to a sleeping area.

(a) 1951 c. 35 (14 & 15 Geo 6).

- (8) A separate bed must be provided for each adult dog.
- (9) No puppy aged under 8 weeks may be transported without its biological mother except—
 - (a) if a veterinarian agrees for health or welfare reasons that it may be so transported, or
 - (b) in an emergency.
- (10) No breeding bitch may be transported later than 54 days after the date of successful mating except to a veterinarian.
- (11) No breeding bitch may be transported earlier than 48 hours after whelping except to a veterinarian where it is not otherwise practicable or appropriate for that person to attend to the bitch.
- (12) Each dog's sleeping area must be clean, comfortable, warm and free from draughts.
- (13) In this paragraph, "exercise area" means a secure area where dogs may exercise and play.

Suitable diet

- 3. Staff must—
 - (a) ensure that each puppy starts weaning as soon as it is capable of ingesting feed on its own,
 - (b) provide each breeding bitch with feed appropriate to its needs,
 - (c) provide each puppy with feed appropriate for its stage of development, and
 - (d) ensure that each puppy ingests the correct share of the feed provided.

Monitoring of behaviour and training

- 4.—(1) The licence holder must implement and be able to demonstrate use of a documented socialisation and habituation programme for the puppies.
- (2) Each dog must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.
- (3) Except in the circumstances mentioned in sub-paragraph (4), all adult dogs must be exercised at least twice daily away from their sleeping area.
- (4) Where a veterinarian has advised against exercising a dog, the dog must be provided with alternative forms of mental stimulation.
- (5) Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

Housing with or apart from other dogs

- 5.—(1) Each adult dog must be provided with opportunities for social contact with other dogs where such contact benefits the dogs' welfare.
- (2) Each adult dog must be given suitable and adequate opportunities to become habituated to handling by people.
- (3) Procedures must be in place for dealing with dogs that show abnormal behaviour.
- (4) There must be an area within each sleeping area in which dogs can avoid seeing people and other dogs outside the sleeping area if they so choose.

Protection from pain, suffering, injury and disease

- 6.—(1) All dogs for sale must be in good health.
- (2) Any dog with a condition which is likely to affect materially its quality of life must not be moved, transferred or offered for sale but may be moved to an isolation facility or veterinary care facility if required until it has recovered.
- (3) The licence holder must ensure that no bitch—

Agenda Item 7

- (a) is mated if aged less than 12 months;
- (b) gives birth to more than one litter of puppies in a 12-month period;
- (c) gives birth to more than six litters of puppies in total;
- (d) is mated if she has had two litters delivered by caesarean section.

(4) The licence holder must ensure that each puppy is microchipped and registered to the licence holder before it is sold.

(5) No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.

(6) The health, safety and welfare of each dog must be checked at the start and end of every day and at least every four hours during the daytime.

(7) Breeding bitches must be adequately supervised during whelping and the licence holder must keep a record of—

- (a) the date and time of birth of each puppy,
- (b) each puppy's sex, colour and weight,
- (c) placentae passed,
- (d) the number of puppies in the litter, and
- (e) any other significant events.

(8) The licence holder must keep a record of each puppy sale including—

- (a) the microchip number of the puppy,
- (b) the date of the sale, and
- (c) the age of the puppy on that date.

(9) The licence holder must keep a record of the following in relation to each breeding dog—

- (a) its name,
- (b) its sex,
- (c) its microchip and database details,
- (d) its date of birth,
- (e) the postal address where it normally resides,
- (f) its breed or type,
- (g) its description,
- (h) the date or dates of any matings, whether or not successful,
- (i) details of its biological mother and biological father,
- (j) details of any veterinary treatment it has received, and
- (k) the date and cause of its death (where applicable).

(10) In addition to the matters mentioned in sub-paragraph (7), the licence holder must keep a record of the following in relation to each breeding bitch—

- (a) the number of matings,
- (b) its age at the time of each mating,
- (c) the number of its litters,
- (d) the date or dates on which it has given birth, and
- (e) the number of caesarean sections it has had, if any.

(11) Unless the licence holder keeps the dog as a pet, the licence holder must make arrangements for any dog no longer required for breeding to be appropriately rehomed.

(12) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

(13) The licence holder must keep a record of any preventative or curative healthcare (or both) given to each dog.

(14) Where any other activity involving animals is undertaken on the premises on which the licensable activity of breeding dogs is carried on, it must be kept entirely separate from the area where that licensable activity is carried on.

SCHEDULE 7

Regulation 2

Specific conditions: keeping or training animals for exhibition

Insurance

1. The licence holder must hold valid public liability insurance in respect of the licensable activity of keeping or training animals for exhibition.

Emergencies

2. A written policy detailing contingency measures in the event of the breakdown of a vehicle used to transport the animals or any other emergency must be available to all staff.

Suitable environment

3. Suitable temporary accommodation must be provided for all the animals at any venue where they are exhibited.

Monitoring of behaviour and training

4. The animals must be trained by competent staff and given suitable and adequate opportunities to become habituated to being exhibited, using positive reinforcement.

Housing with or apart from other animals

5.—(1) Social animals must not be exhibited if their removal from and reintroduction to the group with which they are usually housed causes them or any other animal within that group stress, anxiety or fear.

(2) Animals must be prevented from coming into contact with each other during any exhibition where such contact would be likely to cause any of them to show signs of aggression, fear or distress.

(3) All persons likely to come into contact with the animals during an exhibition must be briefed about how to behave around the animals so as to minimise anxiety, fear and stress in the animals.

(4) No female animal with unweaned offspring may be removed from its home environment and newborn, unweaned or dependent offspring must not be removed from their mothers.

Records

6. The licence holder must keep a list of each animal kept, or trained, for exhibition with all the information necessary to identify that animal individually (including its common and scientific names) and must provide the local authority with a copy of the list and any change to it as soon as practicable after the change.

Protection from pain, suffering, injury and disease

7.—(1) A register must be kept of each animal exhibited or to be exhibited which must include—

- (a) the full name of its supplier,
 - (b) its date of birth,
 - (c) the date of its arrival,
 - (d) its name (if any), age, sex, neuter status, description and microchip or ring number (if applicable),
 - (e) the name and contact details of the animal's normal veterinarian and details of any insurance relating to it,
 - (f) details of the animal's relevant medical and behavioural history including details of any treatment administered against parasites and any restrictions on exercise or diet,
 - (g) a record of the date or dates of the animal's most recent vaccination, worming and flea treatments, and
 - (h) the distance to and times taken for it to travel to and from each exhibition event.
- (2) A record of when the animals are exhibited must be kept and an animal rotation policy must be put in place to ensure that the animals have enough rest between and during exhibition events.
- (3) All the animals used in exhibition events must be in good physical and mental health.
- (4) The exhibited animals must be suitable for the specific conditions, type of enclosure and actions involved in the exhibition.
- (5) Any equipment, chemicals and other materials used in the exhibition must not cause the animals pain, discomfort, fatigue or stress.
- (6) The animals must be transported in suitable, secure and appropriately labelled carriers.
- (7) The licence holder or the licence holder's staff must undertake a risk assessment before each exhibition event.
- (8) The animals must not be handled by persons whose behaviour appears at the time to be influenced by the consumption of alcohol or by any psychoactive substance.

SCHEDULE 8

Regulation 11

Persons who may not apply for a licence

1. A person who has at any time held a licence which was revoked under regulation 15 of these Regulations.
2. A person who has at any time held a licence which was revoked under regulation 17 of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014(a).
3. A person who has at any time held a licence which was revoked under regulation 13 of the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012(b).
4. A person who is disqualified under section 33 of the Welfare of Animals Act (Northern Ireland) 2011(c).
5. A person who has at any time held a licence which was revoked under regulation 12 of the Welfare of Racing Greyhounds Regulations 2010(d).
6. A person who is disqualified under section 34 of the Act.
7. A person who is disqualified under section 40(1) and (2) of the Animal Health and Welfare (Scotland) Act 2006(e).

(a) S.I. 2014/3266 (W.333).
(b) S.I. 2012/2932.
(c) 2011 c. 16.
(d) S.I. 2010/543.
(e) 2006 asp 11.

8. A person who is disqualified under section 4(1) of the Dangerous Dogs Act 1991(a).
9. A person who is disqualified under Article 33A of the Dogs (Northern Ireland) Order 1983(b).
10. A person who is disqualified under section 6(2) of the Dangerous Wild Animals Act 1976(c) from keeping a dangerous wild animal.
11. A person who is disqualified under section 3(3) of the Breeding of Dogs Act 1973(d) from keeping a breeding establishment for dogs.
12. A person who is disqualified under section 4(3) of the Riding Establishments Act 1964(e) from keeping a riding establishment.
13. A person who is disqualified under section 3(3) of the Animal Boarding Establishments Act 1963(f) from keeping a boarding establishment for animals.
14. A person who is disqualified under section 5(3) of the Pet Animals Act 1951(g) from keeping a pet shop.
15. A person who is disqualified under section 1(1) of the Protection of Animals (Amendment) Act 1954(h) from having custody of an animal.
16. A person who is disqualified under section 4(2) of the Performing Animals (Regulation) Act 1925(i).
17. A person who is disqualified under section 3 of the Protection of Animals Act 1911(j) from the ownership of an animal.

SCHEDULE 9

Regulation 25

Repeals and consequential amendments

Performing Animals (Regulation) Act 1925

- 1.—(1) The Performing Animals (Regulation) Act 1925 is amended as follows.
- (2) Section 1(1) (restriction on exhibition and training of performing animals) ceases to have effect in relation to England.
- (3) In section 1—
 - (a) in subsection (1), after “animal” insert “in Wales”;
 - (b) in subsection (2)—
 - (i) for “Great Britain” substitute “Wales”;
 - (ii) after “districts” insert “in Wales”.

-
- (a) 1991 c. 65; section 1(1) has been amended but the amendments are not relevant.
- (b) S.I. 1983/764 (N.I. 8) as amended by S.I. 1991/2292 (N.I. 21) and by sections 17(1) and 18(1) of, and paragraph 3 of the Schedule to the Dogs (Amendment) Act (Northern Ireland) 2011 (c.9) and by article 2 of, and the Schedule to S.R. 2011 No. 281.
- (c) 1976 c. 38; section 6(2) has been amended but the amendments are not relevant.
- (d) 1973 c. 60; section 3(3) was amended by section 5(1) of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).
- (e) 1964 c. 70; section 4(3) was amended by paragraph 6(2) of Schedule 3 to the Animal Welfare Act 2006.
- (f) 1963 c. 43; section 3(3) was amended by paragraph 5(2) of Schedule 3 to the Animal Welfare Act 2006.
- (g) Section 5(3) was amended by paragraph 3(2) of Schedule 3 to the Animal Welfare Act 2006.
- (h) 1954 c. 40 (2 & 3 Eliz 2); section 1 was repealed by Schedule 4 to the Animal Welfare Act 2006.
- (i) 1925 c. 38 (15 & 16 Geo 5); section 4(2) was amended by paragraph 1 of Schedule 3 to the Animal Welfare Act 2006.
- (j) 1911 c. 27 (1 & 2 Geo 5); section 3 was repealed by Schedule 4 to the Animal Welfare Act 2006.

(4) In section 4(1) (offences and legal proceedings), in each of paragraphs (a), (b) and (e), after “animal” insert “in Wales”.

(5) In section 5(a) (interpretation, rules, and expenses)—

(a) in subsection (1), for the definition of “local authority” substitute—

“The expression “local authority” means a county council in Wales or a county borough council in Wales.”;

(b) in subsection (3), omit the words from “, and” to the end.

Pet Animals Act 1951

2.—(1) The Pet Animals Act 1951 is amended as follows.

(2) Section 1(1) (restriction on keeping a pet shop) ceases to have effect in relation to England.

(3) In section 1—

(a) in subsection (1), after “shop” insert “in Wales”;

(b) in subsection (2), after “Every local authority” insert “in Wales”;

(c) in subsection (3), after “shop” and “a local authority” insert “in Wales”;

(d) in subsection (4), after “local authority” insert “in Wales”.

(4) In section 4(1) (inspection of pet shops), after “A local authority” insert “in Wales”.

(5) In section 6 (power of local authority to prosecute)—

(a) the existing text becomes subsection (1) and in that text omit “England or”;

(b) after subsection (1) insert—

“(2) A local authority in England may prosecute proceedings for an offence under section 2 committed in the area of the authority.”.

Animal Boarding Establishments Act 1963

3.—(1) The Animal Boarding Establishments Act 1963 is amended as follows.

(2) Section 1(1) (licensing of boarding establishments for animals) ceases to have effect in relation to England.

(3) In section 1(1) after “animals” insert “in Wales”.

(4) In section 4 (power of local authorities to prosecute) omit “in England or Wales”.

(5) In section 5(2) (interpretation), in the definition of “local authority”, for the words from “means the” to “London” substitute—

“means a county council in Wales or a county borough council in Wales”.

Riding Establishments Act 1964

4.—(1) The Riding Establishments Act 1964 is amended as follows.

(2) Section 1(1) (licensing of riding establishments) ceases to have effect in relation to England.

(3) In section 1(1) after “establishment” insert “in Wales”.

(4) In section 5 (power of local authorities to prosecute)—

(a) in subsection (1), omit “in England or Wales”.

(b) in subsection (2), omit “In England and Wales”.

(5) In section 6 (interpretation)—

(a) in subsection (1) omit paragraph (c);

(a) Subsections (1) and (3) were amended by section 16 of, and paragraph 17 of Schedule 8 to, the Local Government Act 1985 (1985 c. 51).

- (b) in subsection (4), in the definition of “local authority”(a), for the words from “means the council of a district” to “county borough”, substitute—
 - “means a county council in Wales or a county borough council in Wales”.

Breeding of Dogs Act 1973

- 5. The Breeding of Dogs Act 1973 is repealed.

Local Government Act 1974

- 6. In the Local Government Act 1974(b), in Schedule 7 (minor and consequential amendments), paragraph 15 is omitted.

Dangerous Wild Animals Act 1976

- 7.—(1) The Dangerous Wild Animals Act 1976(c) is amended as follows.

- (2) In section 5(d) (exemptions)—

- (a) after paragraph (2), insert—

“(2A) premises in England on which the activity described in paragraph 2 of Schedule 1 to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (read with paragraph 3 of that Schedule: selling animals as pets etc) is carried on under a licence under those Regulations;”;

- (b) in paragraph (3), after “premises” insert “in Wales”.

- (3) In section 6(e) (penalties)—

- (a) in subsection (2) omit “or the Breeding of Dogs Act 1973,”;

- (b) at the end insert—

“(3C) Where a person is convicted of an offence under section 13(6) of the Animal Welfare Act 2006 arising from the contravention of section 13(1) of that Act in relation to the carrying on of an activity in England, or of an offence under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, subsections (2) and (3) apply as they do to convictions under this Act.”.

Zoo Licensing Act 1981

- 8. In section 4(5) of the Zoo Licensing Act 1981(f) (grant or refusal of licence)—

- (a) after the entry which begins “section 13(6)” insert—

“section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to the carrying on of an activity in England;”;

- (b) at the end insert—

“;

-
- (a) This definition has been amended by section 251(2) and 272(1) of, and Schedule 29 and paragraph 42 of Schedule 30 to, the Local Government Act 1972 and by section 22(3) of, and paragraph 7 of Schedule 9 to, the Local Government (Wales) Act 1994. There is another amendment but it is not relevant.
 - (b) 1974 c. 7.
 - (c) 1976 c. 38.
 - (d) Section 5 has been amended but the amendments are not relevant.
 - (e) Subsection (2) was amended by section 64 of, and paragraphs 9(b) to (d) of Schedule 3 to, the Act. Subsection (3A) was inserted, in relation to Scotland, by article 2(1) of, and paragraph 8 of Schedule 1 to, SSI 2006/536. Subsection (3B) was inserted, in relation to Wales, by regulation 26 of, and paragraph 4 of Schedule 2 to, SI 2014/3266 (W.333).
 - (f) 1981 c. 37. Subsection (5) was amended by section 64 of, and paragraphs 11(a) to (c) of Schedule 3 to, the Act and, in relation to Wales, by regulation 26 of, and paragraph 5 of Schedule 2 to, SI 2014/3266 (W.333). There were other amendments to section 4 but they are not relevant.

the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.”.

Animals (Scientific Procedures) Act 1986

9. In the Animals (Scientific Procedures) Act 1986(a), section 27(3) (repeal, consequential amendments and transitional provisions) is omitted.

Breeding of Dogs Act 1991

10. The Breeding of Dogs Act 1991(b) is repealed.

Breeding and Sale of Dogs (Welfare) Act 1999

11. The Breeding and Sale of Dogs (Welfare) Act 1999(c) is repealed.

Local Authorities (Functions and Responsibilities) (England) Regulations 2000

12. Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(d) (licensing and registration functions not to be the responsibility of an authority’s executive) is amended as follows—

- (a) in column (1) (function)—
 - (i) for “29. Power to license premises for the breeding of dogs.” substitute “29. Power to grant or renew a licence for a licensable activity under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition).”;
 - (ii) omit “30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business” and “31. Power to register animal trainers and exhibitors”;
- (b) in column (2) (provision of Act or statutory instrument)—
 - (i) in relation to the entry relating to item 29, for “Section 1 of the Breeding of Dogs Act 1973 (c. 60), and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).” substitute “Regulation 4 of those Regulations.”;
 - (ii) omit the entries relating to items 30 and 31.

Courts Act 2003

13. In the Courts Act 2003(e), paragraphs 171 and 383 of Schedule 8 (minor and consequential amendments) are omitted.

Criminal Justice Act 2003

14. In the Criminal Justice Act 2003(f), paragraph 72 of Schedule 25 (summary offences no longer punishable with imprisonment) is omitted.

(a) 1986 c. 14. Section 27(3) was amended by regulations 2 and 26(14) of S.I. 2012/3039.
(b) 1991 c. 64.
(c) 1999 c. 11.
(d) S.I. 2013/2190. Schedule 1 has been amended but the amendments are not relevant.
(e) 2003 c. 39.
(f) 2003 c. 44.

Regulatory Enforcement and Sanctions Act 2008

15.—(1) The Regulatory Enforcement and Sanctions Act 2008(a) is amended as follows.

(2) In Schedule 3 (enactments specified for the purpose of Part 1), the following entries are omitted—

- (a) “Breeding and Sale of Dogs (Welfare) Act 1999 (c 11)”;
- (b) “Breeding of Dogs Act 1973 (c 60)”;
- (c) “Breeding of Dogs Act 1991 (c 64)”.

(3) in Schedule 6 (enactments specified for the purposes of orders under Part 3), the following entries are omitted—

- (a) “Breeding of Dogs Act 1973 (c 60)”;
- (b) “Breeding of Dogs Act 1991 (c 64)”.

Deregulation Act 2015

16. In the Deregulation Act 2015(b), paragraphs 35, 36 and 41 of Schedule 23 (legislation no longer of practical use) are omitted.

SCHEDULE 10

Regulation 26

Revocations and consequential amendments

Performing Animals Rules 1925

1. In rule 2 of the Performing Animals Rules 1925(c), for the first indented paragraph substitute “In Wales:— The City of Cardiff.”

Sale of Dogs (Identification Tag) Regulations 1999

2. The Sale of Dogs (Identification Tag) Regulations 1999(d) are revoked.

Breeding of Dogs (Licensing Records) Regulations 1999

3. The Breeding of Dogs (Licensing Records) Regulations 1999(e) are revoked.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the licensing of persons involved in England in selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition.

Regulation 3 specifies these activities for the purposes of section 13(1) of the Animal Welfare Act 2006 (“the 2006 Act”) and provides for local authorities to be the licensing authorities. The consequence of this specification is that, subject to qualifying criteria, any person wishing to carry on any of these activities in England must obtain a licence from their local authority under these Regulations. This requirement replaces the requirement, in England, to be registered under the Performing Animals (Regulation) Act 1925 or to obtain a licence under the Pet Animals Act 1951;

(a) 2008 c. 13.
(b) 2015 c. 20.
(c) SI 1925/1219.
(d) SI 1999/3191.
(e) SI 1999/3192.

the Animal Boarding Establishments Act 1963; the Riding Establishments Act 1964 or the Breeding of Dogs Act 1973.

A person who carries on any of these activities in England without a licence under these Regulations commits an offence under section 13(6) of the 2006 Act and is liable to imprisonment for a term of up to six months, a fine or both. Under section 30 of the 2006 Act, local authorities may prosecute for any offence under the Act.

Part 2 of the Regulations sets out how a person may apply to the local authority for a licence and sets out matters in respect of which a local authority must be satisfied when considering the granting or renewing of a licence. It provides for a local authority to charge fees to cover the costs it incurs in performing this function, considering a licence holder's compliance with these Regulations, enforcement and administration. It requires a local authority to have regard to guidance issued by the Secretary of State in carrying out their functions under these Regulations. It makes provision for the inspection of premises and provides powers for inspectors to take samples from animals.

Part 3 sets out the circumstances and procedures under which a licence may be suspended, varied or revoked. It also provides that the breach of a condition of a licence or the obstruction of any inspector appointed for the purposes of enforcement of these Regulations is an offence and applies relevant post-conviction powers contained in the 2006 Act.

Part 4 provides for appeals against licensing decisions by local authorities. Part 6 makes transitional and saving provision for unexpired licences or registrations under the pre-existing statutory regime and Part 7 contains a requirement for the Secretary of State to carry out reviews of these Regulations and for local authorities to provide information to the Secretary of State for the purpose of such reviews.

Schedule 1 describes each type of licensable activity. Schedule 2 sets out the general conditions that apply to all licensable activities and Schedules 3 to 7 set out the specific conditions that apply to each licensable activity. Schedule 8 lists persons who may not apply for a licence and Schedules 9 and 10 provide for repeals, revocations and consequential amendments.

An impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available from the Animal Welfare Team of the Department for Environment, Food and Rural Affairs, Area 5B, Nobel House, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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LICENSING COMMITTEE

11th June 2018

LICENSING ANNUAL REPORT 2017/18

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes - Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To provide a report on the activities under the Licensing Act 2003, Gambling Act 2005 and other aspects of Licensing and to inform the Committee on any issues anticipated in the ensuing year as required under the Council's Licensing Act 2003 and Gambling Act 2005 Policies.

2. RECOMMENDATIONS

Members are asked to RESOLVE that the contents of the licensing Annual Report 2017/2018 be noted.

3. KEY ISSUES

Financial Implications

3.1 None.

Legal Implications

3.2 None

Service / Operational Implications

3.3 Since 1st June 2010 Worcestershire Regulatory Services Licensing Team has taken over operational delivery of the statutory functions of licensing and enforcement of regulated activities and businesses operating under the Licensing Act 2003 on behalf of Bromsgrove District Council. These functions cover premises which sell and supply alcohol, provide regulated entertainment and late night refreshment, gambling premises, gaming machines and lotteries. The Licensing Team also deals with the operation and administration of Hackney Carriage/Private Hire vehicles, drivers and Operator's licenses, Street and House to House Collections. The Council retains full policy and statutory responsibility for all licensing functions.

LICENSING COMMITTEE

11th June 2018

- 3.4 Under the terms of the Licensing Act 2003 and the Gambling Act 2005, each local authority is required to prepare and publish a licensing policy which has to be reviewed periodically.
- 3.5 The Council's current Statement of Principles under the Gambling Act 2005 was published with effect from 31st January 2016. The Statement of Principles will therefore need to be revised no later than 31st January 2019. Consultation is currently ongoing in relation to a draft revised Statement of Principles, which was approved for consultation by Licensing Committee on 12th March 2018.
- 3.6 The Council's current Statement of Licensing Policy under the Licensing Act 2003 was published with effect from 1st April 2014. The Statement of Licensing Policy will therefore be due for revision no later than 31st March 2019. The Licensing Committee have been asked to approve a draft revised Statement of Licensing Policy for the purpose of consultation at the meeting today.
- 3.7 Licensing Officers participate in meetings of the Bromsgrove Town Centre Management Group with partners including the Police, Street Pastors, CCTV, Community Safety and the North Worcestershire Economic Development Partnership.
- 3.8 Licensing Officers are also part of the steering group that has been working to launch and promote a "Best Bar None" scheme in Bromsgrove. A number of Licensing Officers have obtained the qualification required to be able to carry out assessments on premises that apply for accreditation, with a number of assessments due to take place shortly.

Licensing Act 2003

- 3.9 The Licensing Act 2003 transferred the alcohol licensing functions from the Magistrate's Court to the Local Authority and consolidated these activities with entertainment licensing legislation, the provision of late night refreshment, cinemas and theatres.
- 3.10 The number of new licenses issued and granted by Bromsgrove District Council in the year 2017/2018 are:

Personal Licenses	New	56		Total	1044
Premises Licenses	New	7		Total	317
Club Premises Certificates	New	0		Total	37
Temporary Event Notices				Total	251

LICENSING COMMITTEE

11th June 2018

- 3.11 The Licensing Sub-Committee created by the Licensing Act 2003 to deal with applications, variations and reviews of licensed premises, was not called upon to determine any applications during the year 2017/18. All such applications were able to be dealt with under delegated powers as either no representations were received, or because all representations received were withdrawn.

Gambling Act 2005

- 3.12 Last year saw the Council continue its functions under the Gambling Act 2005. This legislation replaced most of the existing law relating to gambling in Great Britain and much like the Licensing Act 2003 aimed to put in place an improved, more comprehensive structure of gambling regulation. Once implemented the Act transferred the licensing of gambling premises from the local Magistrates Court to the Council. The Licensing Team now issue premises licenses for the following; bingo halls, betting shops, adult gaming centres, family entertainment centres and casinos.

- 3.13 The numbers of premises which have continued to be licensed by this Authority under the Gambling Act are:

Betting Premises	5
Bingo Premises	0
Adult Gaming Centres	6
Family Entertainment Centres	2
Casinos	0

- 3.14 Again all yearly maintenance fees as set out in the Gambling Act 2003 which have been set by the Local Authority for the year ending 2017/18 have been received by the Authority.

- 3.15 Compliance visits to premises licensed under the Gambling Act 2005 have been conducted by Licensing Officers, often in partnership with Gambling Commission staff.

LICENSING COMMITTEE

11th June 2018

Taxi Licensing

3.15 The Licensing Team is also responsible for the operational function of the licensing and enforcement of Hackney Carriage and Private Hire Vehicles, drivers and Operators.

3.16 The number of licensed vehicles and drivers at the end of the year 2017/18 is shown below.

	<u>16/17</u>	<u>17/18</u>
Hackney Carriage Vehicles	122	118
Private Hire Vehicles	39	42
Hackney Carriage/Private Hire Drivers	168	161
Private Hire Operators	14	18

3.17 Licensing Officers keep in regular contact with the appointed taxi trade representatives – by phone and one to one meetings when necessary.

3.18 On 12th June 2017, Licensing Committee resolved to approve the implementation of a penalty points scheme for Hackney Carriage and Private Hire Licence Holders following consultation with licence holders and other relevant stakeholders. The scheme was introduced in an attempt to provide officers from WRS an additional mechanism for dealing with minor offences and acts of non-compliance and to help identify drivers who repeatedly offended or fail to comply with the licensing requirements placed upon them so that appropriate action can be taken against them.

3.19 Consultation also took place between December 2017 and February 2018 in relation to proposals to amend the Council's existing policies in relation to Hackney Carriage and Private Hire licensing.

3.20 Following this consultation, Licensing Committee resolved to replace the requirement for driver licence holders to obtain an NVQ Level 2 in Road Passenger Vehicle Driving with a requirement for applicants for driver licences to undertake disability awareness training.

3.21 A decision on the other proposed amendment, in relation to the acceptable level of tint on the windows of licensed vehicles, was deferred to allow for further research to be undertaken by Licensing Officers.

LICENSING COMMITTEE

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- 3.22 On 21st June 2017, at the recommendation of the Licensing Committee, Council adopted a position statement which committed the Council to publishing a list of designated wheelchair accessible vehicles under sections 165 – 167 of the Equality Act 2010 with effect from 1st December 2017. Publication of such a list enables the Council to enforce a number of duties placed on drivers of designated vehicles in relation to the carriage of passengers who are wheelchair users.

Scrap Metal Dealers

- 3.23 In October 2013 the Scrap Metal Dealers Act 2013 came into force in the District. Under this new legislation the Council is responsible for issuing mobile scrap metal collector licences and scrap metal site licences. The following number of licences are currently in force:

Site Licences 4

Mobile Collector Licences 7

- 3.24 The Licensing Team is responsible for enforcing the legislation in partnership with the Police and Environment Agency.

Street Collections

- 3.25 In 2014/15, a site management agreement was negotiated and entered into with the Public Fundraising Regulatory Association (PFRA) in order to put in place some controls on when face-to-face fundraisers can visit Bromsgrove in order to try and solicit donations via direct debit. Under the site management agreement, face-to-face fundraisers should only visit Bromsgrove on Mondays and Wednesdays and are limited to a maximum of five fundraisers.
- 3.26 When originally entering into the site management agreement, the PFRA reserved the right on behalf of its members, to request that the number of days on which collections are permitted in Bromsgrove be reviewed in six months if the agreement was having a detrimental impact on their fundraising efforts. No such review has been requested to date by the PFRA. The number of complaints from member of the public about face to face fundraising has remained low throughout the year.

LICENSING COMMITTEE

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Street Trading Policy

- 3.27 On 11th September 2017, following consultation, Licensing Committee resolved to adopt a new Street Trading Policy which took effect on 1st December 2017.
- 3.28 On 20th September 2017, at the recommendation of the Licensing Committee, Council resolved to rescind all existing designations of streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and designate all streets in the District (as existing at the time of the making of the resolution and in the future) as consent streets with effect from 1st December.
- 3.29 There are currently nine street trading consents in force across the District.
- 3.30 Worcestershire Regulatory Services Licensing Team members regularly attend and represent Bromsgrove District Council at a number of local and regional meetings, such as the Institute of Licensing meetings, the Regional Taxi Licensing Forums and other neighbouring authority groups, which continue to prove to be invaluable, on providing information on national and regional licensing matters inclusive of upcoming changes in any licensing legislation.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

- 5.1 None

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LICENSING COMMITTEE

11th June 2018

11th JUNE 2018

Licensing Act 2003 — Approval for consultation on revised Statement of Licensing Policy

Reform of Animal Activities Licensing Legislation – Information Report

Licensing Annual Report 2017/2018

17th SEPTEMBER 2018

Gambling Act 2005 – Consideration of responses to consultation on revised Statement of Principles

Hackney Carriage and Private Hire Penalty Points Scheme – review of the scheme

Acceptable level of tint on windows of licensed hackney carriage and private hire vehicles

12th NOVEMBER 2018

Licensing Act 2003 — Consideration of responses to consultation on revised Statement of Licensing Policy

Review of Policy on the Relevance of Convictions for Hackney Carriage and Private Hire Drivers – Approval to consultation

18th MARCH 2019

To Be Allocated To Suitable Available Dates in 2018/2019

Hackney Carriage and Private Hire Penalty Points Scheme – regular update reports on the scheme to continue into 2018/2019

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