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Borough of Tamworth

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LICENSING COMMITTEE

4 October 2023

Dear Councillor

A meeting of the Licensing Committee will be held in **Town Hall, Market Street, Tamworth on Thursday, 12th October, 2023 at 6.00 pm**. Members of the Committee are requested to attend.

Yours faithfully

A handwritten signature in black ink, consisting of a stylized 'A' followed by a long horizontal line that tapers to a point on the right.

Chief Executive

A G E N D A

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1 Apologies for Absence

2 Minutes of the Previous Meeting (Pages 5 - 8)

To approve the minutes of the two previous meetings, on the 22nd August 2023 and the 11th September 2023.

3 Declarations of Interest

To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.

When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.

4 Update on penalty points awarded to Licensed Drivers

(Verbal Update from the Chair)

5 Scrap Metal Policy 2024 - 2028 (Pages 9 - 56)

(Report of the Portfolio Holder for Environmental Health and Community Partnerships)

6 Draft Charitable Collections Policy 2024 - 2028 (Pages 57 - 86)

(Report of the Assistant Director of Growth and Regeneration)

7 Sexual Establishment Policy 2024 - 2028 (Pages 87 - 118)

(Report of the Assistant Director of Growth and Regeneration)

Access arrangements

If you have any particular access requirements when attending the meeting, please contact Democratic Services on 01827 709267 or e-mail democratic-services@tamworth.gov.uk. We can then endeavour to ensure that any particular requirements you may have are catered for.

Filming of Meetings

The public part of this meeting may be filmed and broadcast. Please refer to the Council's Protocol on Filming, Videoing, Photography and Audio Recording at Council meetings which can be found [here](#) for further information.

If a member of the public is particularly concerned about accidental filming, please contact a member of Democratic Services before selecting a seat

FAQs

For further information about the Council's Committee arrangements please see the FAQ page [here](#)

To Councillors: B Price, L Clarke, T Clements, G Coates, A Cooper, T Jay, J Jones, R Kingstone, D Maycock, P Thurgood, J Wade, J Wadrup and L Wood.

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MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD ON 11th SEPTEMBER 2023

PRESENT: Councillors R Kingstone (Vice-Chair), L Clarke, T Clements, G Coates, A Cooper, T Jay, D Maycock, P Thurgood, J Wadrup and L Wood

The following officers were present: Rebecca Cooper (Legal Representative) Anna Miller (Assistant Director – Growth & Regeneration), Wendy Smith (Head of Environmental Health), Sarah Gear (Senior Licensing Officer), Tracey Pointon (Legal Admin & Democratic Services Manager) and Tracey Smith (Democratic Services Assistant)

In attendance Cllr M Summers

18 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors B Price and J Jones.

19 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

20 STREET TRADING POLICY 2024 - 2026

Report of Assistant Director – Growth & Regeneration to create a street trading environment which ensures fair trading, protects the amenity of residents, ensures the safety of those trading, promotes diversity and consumer choice and provides applicants with advice and guidance on the Council's approach to the administration for street trading consents and licences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act").

RESOLVED That the Committee:

1. Considered the options in relation to the areas to be considered 'consent' streets and considered that the areas should include the whole of the Borough apart from the Castle Grounds and Town Centre streets to be determined by the Officers and the Portfolio Holder; and

2. That the Committee noted the contents of the draft Street Trading Policy incorporating the agreed relevant consent areas and that the policy be suitable for public consultation.

(Moved by Councillor T Clements and seconded by Councillor J Wadrup)

Chair



MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD ON 22nd AUGUST 2023

PRESENT: Councillor B Price (Chair), Councillors L Clarke, T Clements, G Coates, R Kingstone (Vice-Chair), D Maycock, P Thurgood, J Wadrup and L Wood

Legal Clare Rennie

In attendance: Taxi Licence Holder
Legal Advisor to Taxi Licence Holder - Mr A Schiller

The following officers were present: Wendy Smith (Head of Environmental Health), Sarah Gear (Senior Licensing Officer), Jodie Small (Environmental Health Technical Support Officer) and Tracey Pointon (Legal Admin & Democratic Services Manager)

13 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor A Cooper.

14 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 17th July 2023 and 22nd July 2023 were approved and signed as a correct record.

(Moved by Councillor D Maycock and seconded by Councillor T Clements)

15 DECLARATIONS OF INTEREST

The following Councillors declared a non-pecuniary interest and left the meeting

Councillor B Price
Councillor L Clarke
Councillor G Coates
Councillor L Wood

Vice Chair, Councillor R Kingstone chaired the meeting following the departure of the Chair

16 EXCLUSIONS OF THE PRESS AND PUBLIC

That in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012, and Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

(Moved by Councillor T Clements and seconded by Councillor J Wadrup)

17 FITNESS OF INDIVIDUAL TO HOLD A COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

Report of the Assistant Director – Growth and Regeneration to consider the fitness of Individual to hold a Combined Hackney Carriage and Private Hire Driver's Licence.

Decision The Committee resolved to award 4 penalty points on the holders licence for failing to observe rank discipline according to The Hackney Carriage & Private Hire Licensing Policy vehicle conditions. These points will remain on his Hackney Carriage & Private Hire Drivers Licence for a period of 3 years.

Chair

Thursday, 12 October 2023

Report of the Portfolio Holder for Environmental Health and Community Partnerships

Scrap Metal Policy 2024 - 2028

Exempt Information

None

Purpose

To bring before the Licensing Committee the outcome of the approved consultation exercise for the draft scrap metal policy 2024 – 2028. The public consultation exercise concluded on 24th September 2023.

Recommendations

It is recommended that the Licensing Committee recommend to Cabinet that they consider the draft Scrap Metal Policy 2024 – 2028 as suitable for adoption, subject to any amendments made following the comments received.

Executive Summary

The Council, in its capacity as Licensing Authority, is required to consider applications for Scrap Metal Sites & Collectors. There is currently no policy in force covering the Council area for these activities and it is considered necessary and appropriate for such a policy to be prepared, consulted upon and published in order to ensure that applications for this type of authorisation are considered and determined in a fair, consistent and transparent manner.

The draft policy sets out the legal requirements and application process, along with the Licensing Authority's approach to preventing nuisance to residents and businesses located within the Council area and the enforcement of unlicensed activities.

At the meeting of the Licensing Committee held on 22nd June 2023, the committee recommended that Cabinet approve for consultation the draft Scrap Metal Policy 2024 – 2028 and that the draft policy be brought back to the Licensing Committee for consideration together with any comments received. Cabinet approved the draft policy be suitable for consultation on the 20th July 2023.

The public consultation exercise was held between the 31st July 2023 and 24th September 2023. A list of those that were consulted is attached at Appendix 3.

Responses to the consultation were received and are attached at Appendix 4 for members consideration.

The responses received are mostly in relation to the code of conduct and members are asked to consider if the code of conduct should be amended or removed from the draft policy.

Options Considered

The Council could choose not to have a policy on scrap metal dealers however to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.

Resource Implications

There are no direct financial implications for Tamworth Borough Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process which would be met through the licence fee. We currently charge £490 for a Site Licence and £260 for a Collectors Licence.

Legal/Risk Implications Background

The 2013 Act introduced a comprehensive licensing regime for all scrap metal dealers. In accordance with the Act the Council must licence all scrap metal dealers. The Council must determine the suitability of applicants to hold licences. The Council also has the powers to impose conditions on licences, revoke licences and take enforcement action against unlicensed operators.

Whilst there is no statutory requirement for the Council to have a Scrap Metal Dealers Licensing Policy it provides the framework under which Tamworth Borough Council will exercise its powers and duties under the 2013 Act and ensures that fair and equitable decisions are taken by Tamworth Borough Council

Equalities Implications

The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

When considering scrap metal applications, only issues provided for in the Scrap Metal Act 2013 and provided for in the Scrap Metal Dealers policy for Tamworth Borough Council will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

Environment and Sustainability Implications (including climate change)

The Council is committed to tackling climate change and the proposed Policy will assist in ensuring that it contributes appropriately to this ambition.

Background Information

The Scrap Metal Dealers Act 2013 revised the regulatory regime for the scrap metal recycling and vehicle dismantling industries.

The 2013 Act repealed the Scrap Metal Dealers Act 1964 and the Vehicle Crime Act 2001, replacing them with a more robust licensing regime that gives a local authority the powers to refuse the grant of a licence where the applicant is deemed unsuitable; and the powers to revoke a licence should a licence holder become unsuitable.

The 2013 Act aims are to raise the standards across the scrap metal industry and to help achieve this, licensed operators have to keep detailed records of their transactions, and verify the identity of those selling scrap metal to them.

In addition to replacing the Scrap Metal Dealers Act 1964 and the Vehicle and Crime Act 2001, the 2013 Act revised the definition of a 'Scrap Metal Dealer' so as to take into account the modern way in which people collect and deal in scrap metal. The 2013 Act provides for two types of Scrap Metal Dealer licences. A 'Site Licence' and a 'Collector's Licence' both of which last for three years.

Site Licence

A site licence is applicable where the licence holder has a physical site(s) that they use to carry on their business as a scrap metal dealer. This licence allows the licence holder to accept scrap metal from any of the sites listed on the licence and to transport scrap metal to and from the sites listed on the licence.

Collectors Licence

A collector's licence is applicable where the licence holder's business consists of collecting scrap metal, for example by going from door to door asking for scrap. This licence allows the licence holder to collect scrap metal from within the boundaries of the local authority that a person wishes to operate in.

Tamworth Borough Council have been undertaking this activity in line with legislation since 2013. We currently licence 10 Collectors and 3 Sites. By bringing forward this policy we will be providing a framework and be transparent about how we operate.

Report Author

Sarah Gear – Senior Licensing Officer

List of Background Papers

[Scrap Metal Dealers Act 2013 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

[Scrap Metal Dealers Act 2013: supplementary guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

Appendices

Appendix 1 – Draft Scrap Metal Policy 2024 – 2028

Appendix 2 – Impact Assessment form

Appendix 3 – List of Consultees

Appendix 4 – Consultee responses

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**Tamworth Borough
Council**



**Statement of Policy and Guidelines for
the Licensing of Scrap Metal Dealers**

2024 - 2028

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1 INTRODUCTION

1.1 The Policy

- 1.1.1 This document sets out Tamworth Borough Council's policy on the regulation of Scrap Metal Dealers in its capacity as the relevant local authority for the purposes of the Scrap Metal Dealers Act 2013 (and the expressions "Tamworth Borough Council" and "local authority" shall be construed accordingly).

1.2 The Law

- 1.2.1 The Scrap Metal Dealers Act 2013 ("the Act") received Royal Assent on 28 February 2013. The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.

The Act maintains local authorities as the principal regulator, but replaces the old registration system with a full licensing regime. It grants power to refuse a licence to "unsuitable" applicants and a power to revoke licences if the dealer becomes "unsuitable".

The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer.

1.3 Definition of a Scrap Metal Dealer

- 1.3.1 A person carries on business as a scrap metal dealer if:
- (a) They wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
 - (b) They carry on business as a motor salvage operator (see 1.3.3).
- 1.3.2 Ancillary sales - a person selling scrap metal merely as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.
- 1.3.3 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:
- (a) Recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap

- (b) Buying written-off vehicles, repairing and reselling them
- (c) Buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b)
- (d) Wholly or mainly in activities falling within paragraphs (b) and (c)

1.3.4 Scrap metal includes:

- (a) Any old, waste or discarded metal or metallic material, and
- (b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

1.3.5 Scrap metal does not include:

- (a) Gold
- (b) Silver
- (c) Any alloy of which 2% or more by weight is attributable to gold or silver

2 TYPES OF LICENCE

2.1 Anyone wishing to operate a business as a scrap metal dealer will require:

- I. A site licence, or
- II. A collector's licence.

The licence is valid for three years and permits the licence holder to operate within the boundaries of Tamworth Borough.

A person may hold more than one licence issued by different local authorities but may not hold more than one licence issued by any one authority.

2.2 SITE LICENCE

2.2.1 The site licence authorises the licensee to carry on business at the site(s) identified in the licence.

2.2.2 The site licence must include:

- (a) Name of the licensee
- (b) Name of the authority
- (c) Identify all the sites in the authority's area at which the licensee is authorised to carry on business

- (d) Name of the site manager of each site
- (e) Date of expiry

2.2.3 The site licence also permits the licence holder to act as a collector.

2.3 COLLECTOR'S LICENCE

2.3.1 The collector's licence authorises the licensee to carry on business as a mobile collector within the authority's area.

2.3.2 The collector's licence must include:

- (a) Name of the licensee
- (b) Name of the authority
- (c) Date of expiry

3 SUITABILITY OF APPLICANT

3.1 The local authority must determine whether an applicant is a suitable person to carry on business as a scrap metal dealer and may not issue a licence unless satisfied that the applicant is suitable.

3.2 In determining this, the authority may have regard to any information which it considers to be relevant, in particular:

- (a) Whether the applicant or site manager has been convicted of any relevant offence;
- (b) Whether the applicant or site manager has been the subject of any relevant enforcement action;
- (c) Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
- (d) Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- (e) Any previous revocation of a scrap metal licence (and the reasons for the revocation);
- (f) Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

3.3 In this section:

- (a) “Site manager” means an individual proposed to be named in the licence as a site manager
- (b) “Relevant offence” means an offence which is prescribed for the purposes of the Act in regulations made by the Secretary of State
- (c) “Relevant enforcement action” means enforcement action which is so prescribed by regulations.

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 at Annex A provides a list of the relevant offences and relevant enforcement action that the council may have regard to when determining the suitability of an applicant.

3.4 In determining whether a company is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether any of the following is a suitable person:

- (a) Any director of the company
- (b) Any secretary of the company
- (c) Any shadow director of the company (that is to say, any person in accordance with those directions or instructions the directors of the company are accustomed to act)

3.5 In determining whether a partnership is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether each of the partners is a suitable person.

3.6 The authority must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State

3.7 The authority may consult other persons regarding the suitability of an applicant, including in particular:

- (a) Any other local authority;
- (b) The Environment Agency;
- (c) An officer of a police force;

3.8 If the applicant or any site manager has been convicted of a relevant offence, the authority may include in the licence one or both of the following conditions:

- (a) That the dealer must not receive scrap metal except between 9am and 5pm on any day;
- (b) That all scrap metal received must be kept in the form in which it is received Inventoried, marked and In a separate designated area, for a specified period, not exceeding 72 hours, beginning with the time when it is received.

3.9 In assessing an applicant's suitability the council can consider any other information it considers relevant including the applicant's behaviour in the operation of their business or the details of any relevant convictions that may be spent.

Code of Practice

3.10 In relation to all considerations of possible revocation or variation and all applications for grant or renewal of a licence the authority shall consider the suitability of the applicant or licence holder with regard to adherence or otherwise by the licence holder or any other person identified in the licence to the Code of Practice annexed to this policy at Annex B or the applicant's willingness to adhere to the Code of Practice or to any other relevant body or licensing authority's Code of Practice in the case of a first application. Failure to adhere to the Code of Practice shall be considered particularly relevant to the suitability of the applicant or licence holder to hold a licence.

Without prejudice to the above, where an officer of the Council has reason to believe that a licence is not being operated in accordance with the Code of Practice but it is in that officer's opinion reasonable to deal with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the licence holder.

Where a licence holder has received a second written warning from an officer of the Council then the licence holder shall be asked to meet with the appropriate officer of the Council to discuss the reasons for the issue of the previous written warnings and the officer shall warn the licence holder that the licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis that the licence holder is no longer considered to be suitable to hold a licence.

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant licence holder shall be presumed by the Council to be an unsuitable person to hold a licence, subject to any representation from the licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause

of complaint.

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4. APPLICATION PROCEDURE

4.1 Term of Licence

A licence is valid for three years beginning from the day it is issued. A renewal application must be received prior to the licence expiry.

If withdrawn the licence expires at the end of the day of withdrawal.

If refused, the licence expires when no appeal is possible or any such appeal is finally determined or withdrawn.

If renewed, the licence expires at the end of the three year period from the date of the renewal.

4.2 Application

The application form, available from the Licensing Team, should be accompanied by:

- a) Full name of applicant (if an individual), date of birth and usual place of residence
- b) Name and registered number of the applicant (if a company) and registered office
- c) If a partnership – full name of each partner, date of birth and usual place of residence
- d) Proposed trading name
- e) Telephone number and email address (if any) of applicant
- f) Address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so
- g) Any relevant environmental permit or registration in relation to the applicant
- h) Details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application.
- i) Details of the bank account which is proposed to be used in order to comply with section 11
- j) Details of any relevant conviction or enforcement action taken against the applicant.

For site licence, the applicant must also provide:

- a) The address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought)
- b) The full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).
- c) Site manager details to be included for (g) (h) and (j) above

Please note the collectors licence allows a business or individual to operate only within that authority's area, therefore individuals wishing to collect across borders will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.

All applicants are required to provide a basic disclosure of criminal convictions with the application. This can be applied for through Disclosure Scotland at <https://www.gov.uk/government/organisations/disclosure-and-barring-service> . Further information about other ways to apply can be obtained by calling Disclosure and Barring Service on 03000 200 190.

Certified copies of the disclosure certificate will be sufficient to allow for the fact that applicants who wish to apply in other authorities. To certify a document applicants should ask a professional person such as: a bank or building society official, councillor, dentist, police officer, solicitor or teacher. Persons related to the applicant, living at the same address or in a relationship with the applicant are not permitted persons to certify the disclosure certificate. In order to certify a certificate the applicant should take the photocopied document and the original to the professional person and ask the person to certify the copy by:

- Writing 'certified to be a true copy of the original seen by me' on the document
- Signing and dating it
- Printing their name under the signature
- Adding their occupation, address and telephone number.

Licensing authorities must carry out certain checks on applications from individuals, companies and any type of partnership to make sure they are aware of their tax responsibilities - if a new applicant - or have completed a tax check (for renewal applicants).

If you're an individual, company or any type of partnership you must complete a tax check if you're:

- renewing a licence
- applying for the same type of licence you previously held, that ceased to be valid less than a year ago
- applying for the same type of licence you already hold with another licensing authority

You can [complete this tax check here](#). You will get a tax share code which you'll need to give us as part of your application. We'll use this code to receive confirmation from HMRC that you've completed the tax check. We will not have access to information about your tax affairs.

You will not need to complete a tax check if you have:

- never held a licence of the same type before
- had a licence of the same type that ceased to be valid a year or more before making this application

However you must still make yourself aware of the tax obligations by using the following website addresses. You will be required to confirm this awareness to us when making your application

4.3 Variation of Licence

A licence may be varied from one type to the other. A variation application must be made to reflect changes to:

- Site licence – the name of licensee, the sites, site manager
- Collector's licence – name of licensee

The variation can amend the name of the licensee but cannot transfer the licence to another person.

Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

4.4 Renewal

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn.

Where a renewal application has been refused – the licence expires when no appeal has been made under paragraph 2 of Schedule 1 of the Act or any

such appeal has resulted in confirmation of the refusal.

4.5 Further Information

The Council may request (at the time of application or later) that additional information is provided, as may be considered relevant for the purpose of considering the application.

Failure to provide such information may result in the application being declined.

4.6 Fee

The application must be accompanied by the fee set by the Council, under guidance from the Secretary of State with the approval of the Treasury.

4.7 Right to Make Representations

If the Council proposes to refuse an application or to revoke/vary a licence a notice shall be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this. The notice shall also state that within the period specified the applicant/licensee can either:

- a) Make representations about the proposal, or
- b) Inform the authority that the applicant/licensee wishes to do so.

The period specified in the notice shall be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the Council whether the applicant / licensee wishes to make representations. Should this period expire and the applicant/licensee has not made representations or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

If, within the period specified, the applicant/licensee informs the authority that they wish to make representations, the authority shall allow a reasonable period to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.

If the applicant/licensee notifies the authority that they wish to make oral representations, the authority shall give them the opportunity of appearing before, and being heard by a panel of two Council Officers selected from the Assistant Director – Growth & Regeneration, Head of Environmental Health, Senior Licensing Officer along with a legal advisor.

4.8 Notice of Decision

If the application is refused, or the licence is revoked or varied, notice shall be given to the applicant/licensee setting out the decision and the reasons for it. The notice shall also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought (21 days beginning with the day on which notice of the decision was given) and, if revoked or varied, the date on which the revocation or variation is to take effect.

4.9 Appeals

An applicant may appeal to a magistrates' court against the refusal of an application or a variation. The licensee may appeal to a magistrates' court against the inclusion in a licence of a condition under Section 3(8) of the Act or the revocation or variation of a licence.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 4 was given.

On appeal, the magistrates' court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

The authority must comply with any directions given by the magistrates' court. Although the authority need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

5 REVOCATION OF LICENCE/IMPOSITION OF CONDITIONS

- 5.1 The authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.
- 5.2 The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.
- 5.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer and the authority shall have particular regard to any "relevant offences" and "relevant enforcement action" and to those matters contained in paragraphs 3.10 of this policy.

- 5.4 If the licensee or any site manager named in a licence is convicted of a relevant offence, the authority may vary the licence by adding one or both of the conditions set out in paragraph 3.8.
- 5.6 A revocation or variation comes into effect when no appeal under paragraph 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 5.7 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
- (a) That, until a revocation comes into effect, the licence is subject to one or both of the conditions set out in paragraph 3.8, or
 - (b) That a variation under this paragraph comes into effect immediately.
- 5.8 All licences issued by the Council pursuant to the Act remain the physical property of the Council and must be returned to the Council as required on expiry or revocation of the relevant licence or copy licence. Action may be taken for the recovery of any licence not returned as required by the Council and any such action may be taken into account in relation to any future application for a licence.
- 5.9 All reference in this policy to copy licences shall be construed as original copies officially endorsed and issued by the Council as the licensing authority.

6. SUPPLY OF INFORMATION BY AUTHORITY

- 6.1 This section applies to information which has been supplied to a local authority under this Act and relates to a scrap metal licence or to an application for or relating to a licence.
- 6.2 The local authority must supply any such information to any of the following persons who request it for purposes relating to this Act:
- (a) Any other local authority;
 - (b) The Environment Agency;
 - (c) An officer of a police force.
- 6.3 This section does not limit any other power the authority has to supply that information.

7. REGISTER OF LICENCES

- 7.1 The Environment Agency maintains a register of scrap metal licences issued by authorities in England and each entry must record:

- (a) The name of the authority which issued the licence
- (b) The name of the licensee
- (c) Any trading name of the licensee
- (d) The address of the site identified in the licence
- (e) The type of licence, and
- (f) The date on which the licence is due to expire

7.2 The registers are to open for inspection to the public

8. NOTIFICATION REQUIREMENTS

8.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.

8.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.

8.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.

8.4 The authority must notify the Environment Agency, of –

- (a) any notification given to the authority under paragraph 8.2 or 8.3
- (b) any variation made by the authority under paragraph 16.3 (variation of type of licence or matters set out in licence), and
- (c) any revocation by the authority of a licence

8.5 Notification under paragraph 8.4 must be given within 28 days of the notification, variation or revocation in question.

9. DISPLAY OF LICENCE

9.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.

9.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a

manner which enables it easily to be read by a person outside the vehicle.

10. VERIFICATION OF SUPPLIER'S IDENTITY

10.1 Prior to receiving scrap metal the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.

Should verification not be gained then each of the following are guilty of an offence:

- (a) The scrap metal dealer
- (b) If metal is received at the site, the site manager
- (c) Any person who, under arrangements made by a person within subparagraph (a) or (b), has responsibility for verifying the name and address.

11. PAYMENT FOR SCRAP METAL

11.1 A scrap metal dealer must only pay for scrap metal by either:

- (a) A cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
- (b) Electronic transfer of funds (authorised by a credit, debit card or otherwise)

Payment includes paying in kind – with goods or services.

12. RECORDS: RECEIPT OF METAL

12.1 If any metal is received in the course of the dealer's business the dealer must record the following information:

- (a) Description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features
- (b) Date and time of receipt
- (c) The registration mark of the vehicle delivered by
- (d) Full name and address of person delivering it
- (e) Full name of the person making payment on behalf of the dealer

12.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.

- 12.3 If payment is made via cheque, the dealer must retain a copy of the cheque.
- 12.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

13. RECORDS: DISPOSAL OF METAL

- 13.1 The Act regards the metal to be disposed of:
- (a) Whether or not in the same form it was purchased,
 - (b) Whether or not the disposal is to another person
 - (c) Whether or not the metal is despatched from a site
- 13.2 Where the disposal is in the course of business under a site licence, the following must be recorded:
- (a) Description of the metal, including its type (or types if mixed), form and weight
 - (b) Date and time of disposal
 - (c) If to another person, their full name and address
 - (d) If payment is received for the metal (by sale or exchange) the price or other consideration received
- 13.3 If disposal is in the course of business under a collector's licence, the dealer must record the following information:
- (a) The date and time of the disposal
 - (b) If to another person, their full name and address

14. RECORDS: SUPPLEMENTARY

- 14.1 The information in paragraphs 11 and 12 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.
- 14.2 The records mentioned in paragraph 11 must be marked so as to identify the scrap metal to which they relate.
- 14.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.
- 14.4 If a scrap metal dealer fails to fulfil a requirement under paragraph 11 or 12 or this paragraph each of the following is guilty of an offence by way of section

15 of the Act:

- (a) The scrap metal dealer
- (b) If the metal is received at or (as the case may be) despatched from a site, the site manager
- (c) Any person who, under arrangements made by a person within paragraph (a) or (b) has responsibility for fulfilling the requirement.

14.5 It is a defence for a person within who is charged with an offence under section 15 of the Act to prove that the person:

- (a) Made arrangements to ensure that the requirement was fulfilled, and
- (b) Took all reasonable steps to ensure that those arrangements were complied with

15. RIGHT OF ENTRY & INSPECTION

15.1 A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.

15.2 A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if

- (a) Reasonable attempts to give notice have been made and failed, or
- (b) Entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.

15.3 Paragraphs 14.1 and 14.2 do not apply to residential premises.

15.4 A constable or an officer of the Council is not entitled to use force to enter premises in the exercise of the powers identified in paragraphs 15.1 and 15.2.

15.5 A justice of the peace may issue a warrant authorising entry in accordance with section 16 of the Act to any premises within paragraph 15.6 if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:

- (a) Securing compliance with the provisions of the Act, or
- (b) Ascertaining whether those provisions are being complied with

- 15.6 Premises are within this paragraph if
- (a) The premises are a licensed site, or
 - (b) The premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business.
- 15.8 A constable or an officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 16 of the Act.
- 15.9 A constable or an officer of the Council may:
- (a) Require production of, and inspect, any scrap metal kept at any premises mentioned in paragraphs 14.1 or 14.2 or in a warrant under section 16.
 - (b) Require production of, and inspect, any records kept in accordance with section 13 or 14 of the Act and any other records relating to payment for scrap metal
 - (c) Take copies of or extracts from any such records.
- 15.10 Officers of the Council will undertake where reasonable and practicable to give a notice of their powers and your rights on entry to any site licensed pursuant to the Act and the licence holder, site managers and other operatives should note that officers may use recording to assist them in their duties whilst on site.

16. CLOSURE OF UNLICENSED SITES

16.1 Interpretation

A person with an interest in premises is the owner, leaseholder or occupier of the premises.

16.2 Closure Notice

These are not applicable if the premises are residential premises.

A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

In such circumstances a “closure notice” may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure

order and the notice shall specify the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice shall be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice shall be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

16.3 Cancellation of Closure Notice

A "cancellation notice" issued by a constable of local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to whom the closure notice was given. This must also be given to any other person to whom the closure notice was given.

16.4 Application for Closure Order

When a closure notice has been given, a constable or the local authority shall make a complaint to a justice of the peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable likelihood that the premises will be so used in the future.

16.5 Closure Order

A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate, the use of the premises by a scrap metal dealer in the course of business be discontinued immediately and that any defendant pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect.

As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises in respect of which it was made.

A sum ordered to be paid into court under a closure order is to be paid to the designated officer for the court.

16.6 Termination of Closure Order by Certificate

Once a closure order has been made and a constable or the local authority is satisfied that the need for the order has ceased a certificate may be issued.

This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

16.7 Discharge of Closure Order by Court

A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

16.8 Appeal in relation to Closure Orders

Appeal may be made to the Crown Court against:

- a) A closure order

- b) A decision not to make a closure order
- c) A discharge order
- d) A decision not to make a discharge order

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made.

An appeal under (a) or (b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under (b) or (c) may be made by a constable or the local authority.

6.9 Enforcement of Closure Order

A person is guilty of an offence, if without reasonable excuse they permit premises to be open in contravention of a closure order, or fail to comply with, or do an act in contravention of a closure order.

If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

Annex A

CRIMINAL LAW SCRAP METAL DEALERS

Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

Citation, commencement and interpretation

1. (1) These regulations may be cited as the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 and shall come into force on 1st October 2013.

(2) In these Regulations –

“environment –related offence” means an offence which relates to the transportation, shipment or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water or land which may give rise to any harm:

“harm” means:

- (i) Harm to the health of human beings or other living organisms;
- (ii) Harm to the quality of the environment;
- (iii) Offence to the senses of human beings;
- (iv) Damage to property; or
- (v) Impairment of, or interference with, amenities or other legitimate uses of the environment.

Relevant offences

2. For the purposes of section 3(3)(b) of the Scrap metal Dealers Act 2013, “relevant offence” means any offence specified in the Schedule to these Regulations, and includes an offence of –
 - a. Attempting or conspiring to commit any offence falling within the Schedule;
 - b. Inciting or aiding, abetting, counselling or procuring the commission of any offence falling within the Schedule, and

- c. An offence under Part 2 of the Serious Crime Act 2007 (a) (encouraging or assisting crime) committed in relation to any offence falling within the Schedule.

Relevant enforcement action

- 3. For the purposes of section 3(3)(c) of the Scrap Metal dealers Act 2013, a person is the subject of “relevant enforcement action” if –
 - a. The person has been charged with an offence specified in the Schedule to these Regulations, and the criminal proceedings in respect of that offence have not yet concluded; or
 - b. An environment permit granted in respect of the person under the Environmental Permitting (England and Wales) Regulations 2010 (b) has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.

SCHEDULE

PART 1

Primary Legislation

- a) An offence under section 1, 5 or 7 of the Control of Pollution (Amendment) Act 1989
- b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal
- c) An offence under section 110 of the Environment Act 1990
- d) An offence under sections 33, 34 or 34B of the environmental Protection Act 1990
- e) An offence under section 9 of the Food and Environmental Protection Act 1985
- f) An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- g) An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- i) Any offence under the Scrap Metal Dealers Act 1964

- j) Any offence under the Scrap Metal Dealers Act 2013
- k) An offence under sections 1, 8, 9, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- l) Any offence under Part 1 of the Vehicles (Crime) Act 2001
- m) An offence under sections 85, 202 or 206 of the Water resources Act 1991

PART 1

Secondary Legislation

- a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- b) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- d) Any offence under the Hazardous Waste (Wales) Regulations 2005
- e) An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- f) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- h) Any offence under the Transfrontier Shipment of Waste Regulations 1994
- i) Any offence under the Transfrontier Shipment of Waste Regulations 2007
- j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

Annex B Code of Practice for Scrap Metal Dealers.

All scrap metal dealers and merchants signing up to this Code agree to abide by the following requirements:

- a) All reasonable steps will be taken to ensure stolen metals are not bought.
- b) Metals will only be accepted from those whose ID has been/can be verified as required by the Scrap Metal Dealers Act 2013
- c) No payment shall be made to any person other than the person as identified on the scrap metal collector's licence displayed on the vehicle where metals are produced by a licensed scrap metal collector.
- d) Staff must be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
- e) Dealers will co-operate with police and local authorities by allowing access and inspection when requested.
- f) No blackened copper wire that has obviously had its insulation removed should be bought.
- g) Metals will not be accepted from customers on foot.
- h) Metal will not be accepted from customers arriving in taxis or private hire vehicles.
- i) Dealers will display prominent signage at their premises stating that "We report suspected metal thieves to the Police".
- j) In order to comply with the Act's requirements concerning record keeping and identification no metals shall be received without at a minimum taking and retaining a digital photograph(s) of the scrap metal load as presented, cross-referenced with the appropriate waste transfer note.
- k) Dealers shall have available and actively use UV torches for detecting forensically marked metals.
- l) Suspicious persons will be reported to the local police force for the area concerned.
- m) Suspicious transactions will be reported to the local police force for the area concerned.
- n) Dealers will work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals.
- o) All scrap metal dealers agree to work towards installing police approved CCTV systems upon commencement of trading and automatic number plate recognition cameras within 12 months from the commencement of trading at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises).
- p) Scrap metal collectors will not cause nuisance or unreasonable disturbance to

residents in the locality.

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Community Impact Assessment

Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Scrap Metal Dealers Policy	
Date Conducted	8/6/23	
Name of Lead Officer and Service Area	Sarah Gear Environmental Health	
Commissioning Team (if applicable)		
Director Responsible for project/service area	Anna Miller Environmental Health	
Who are the main stakeholders	Staffordshire Police	
Describe what consultation has been undertaken. Who was involved and what was the outcome	Consultation will be with existing licence holders, Staffordshire Police, Community Safety officers, residents, businesses, Members, and Community Boards.	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)	N/A	
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input checked="" type="checkbox"/> x
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input checked="" type="checkbox"/> x
	Existing	<input type="checkbox"/>
	Being reviewed	<input type="checkbox"/>

	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>
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Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

The Council could choose not to have a policy on scrap metal dealers however to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.

Who will be affected and how?

Scrap Metal Dealers – formalises what we already do but ensures expectations on licence holder and theirs of the authority are aligned.

Are there any other functions, policies or services linked to this impact assessment?

Yes No

If you answered 'Yes', please indicate what they are?

Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation)
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gender Reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marriage & Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those having an offending past	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legislation dictates offences that must be considered before granting a licence
Children	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Vulnerable Adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those who are homeless	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Mental Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Physical Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Other (Please Detail)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

N/A This policy applies to all applying for a scrap metal dealers licence and has no bearing on any impact areas other than offending past.

Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

Impact Area	Details of the Impact	Action to reduce risk
<i>Eg: Families</i>	<i>Families no longer supported which may lead to a reduced standard of living & subsequent health issues</i>	<i>Signposting to other services. Look to external funding opportunities.</i>
Those having an offending past	If a relevant offence is held they will not be granted a licence	Advice provided as to when they would be able to apply for a licence.

Part 5 - Action Plan and Review

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome
	Outcomes and Actions entered onto Covalent			

Date of Review (If applicable)

Draft Scrap Metal Policy

List Of Consultees

All licensed Collectors & Site's

All Borough councillors

Environment Agency

Trading Standards

Licensing Police

Local Police

National Crime Agency

Representative from National Grid

Independent Consultant

Fire Service

Tamworth Borough Council Environmental Health

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Hi Sarah,

I have attached a copy of the document with my comments. As I said I'm looking at this from my position as the NICRP and BTP subject matter expert on the SMDA 2013 and metal crime.

I completely understand why you are looking at introducing a code of conduct. I think the challenge is what you can achieve within the boundaries of the SMDA 2013 in its current format. I'm working on the Act with the Home Office, Environment agency and LGA, but as it stands any changes that would result in the introduction of a code of conduct that would be enforceable (which set requirements outside the scope of the act) require a change to primary legislation and that's not really an option currently.

If you would like to discuss my comments in more detail, please feel for to contact me.

Kind Regards

Rob Edwards

Robin Edwards BA (Hons)
Director
Onis

Code of Practice

- 1.1 In relation to all considerations of possible revocation or variation and all applications for grant or renewal of a licence the authority shall consider the suitability of the applicant or licence holder with regard to adherence or otherwise by the licence holder or any other person identified in the licence to the Code of Practice annexed to this policy at Annex B or the applicant's willingness to adhere to the Code of Practice or to any other relevant body or licensing authority's Code of Practice in the case of a first application. Failure to adhere to the Code of Practice shall be considered particularly relevant to the suitability of the applicant or licence holder to hold a licence. **I don't see how you can do this, there is no mention of this within the SMDA 2013 or the supplementary guidance, so it outside the scope of the legislation and would not be legally binding..**

Without prejudice to the above, where an officer of the Council has reason to believe that a licence is not being operated in accordance with the Code of Practice but it is in that officer's opinion reasonable to deal

with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the licence holder. **You can give a warning, but I'm afraid there again is no mention in the SMDA 2013 about codes of conduct. It will have no impact on the license and the SMD could chose to ignore it and there is nothing legally you could do about it.**

Where a licence holder has received a second written warning from an officer of the Council then the licence holder shall be asked to meet with the appropriate officer of the Council to discuss the reasons for the issue of the previous written warnings and the officer shall warn the licence holder that the licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis that the licence holder is no longer considered to be suitable to hold a licence. **There is no legal requirement for any SMD to comply with a code of conduct as they are voluntary in nature and are based on consent. If the SMD decides not to comply with a code of conduct, there is no power to revoke the license contained within the SMDA and this would require a change to the primary legislation.**

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant licence holder shall be presumed by the Council to be an unsuitable person to hold a licence, subject to any representation from the licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause of complaint. **I refer to the above comments. There is no legal requirement for any SMD to comply with a code of conduct as they are voluntary in nature and are based on consent. If an SMD decides not to comply with a code of conduct, there is no power to revoke the license contained within the SMDA and this would require a change to the primary legislation. This could end up in a costly litigation case if one was brought by an SMD that had their license revoked.**

Addition - Unacceptable methods of payment

Payment instruments which do not come within the methods above (non-transferable cheque or electronic transfer), or near cash alternatives are not acceptable. This includes the use of postal orders, foreign currency, electronic vouchers, virtual currencies, mobile phone airtime credits, retailer or supermarket gift cards and vouchers. Single, non-reloadable pre-paid debit cards and reloadable debit cards which are anonymous in nature and require only simplified due diligence under the Money Laundering Regulations are unacceptable.

6. RECORDS: RECEIPT OF METAL

6.1 Records must be kept for three years. (Worth adding it here as well?)

Annex B Code of Practice for Scrap Metal Dealers.

All scrap metal dealers and merchants signing up to this Code agree to abide by the following requirements:

- a) All reasonable steps will be taken to ensure stolen metals are not bought. This is a criminal offence, and the requirements of the SMDA require everyone who sells metal to comply with the Act. An offence of knowingly buying stolen metal could see the individual prosecuted for handling stolen goods... I don't see the point of this.
- b) Metals will only be accepted from those whose ID has been/can be verified as required by the Scrap Metal Dealers Act 2013 This is a legal requirement and is not necessary. A failure to comply with the ID requirements is an offence that could result in prosecution, fine and potential revocation of their license.
- c) No payment shall be made to any person other than the person as identified on the scrap metal collector's licence displayed on the vehicle where metals are produced by a licensed scrap metal collector. You can't ask this as its not covered by the act. There is no legal requirement for an SMD to check if the seller has a license or a permit to sell the material. This would require amendments to primary legislation so you can't specify this as a condition, unless it is voluntary, but a failure to comply would not allow any action to be taken in relation to the license.
- d) Staff must be trained in administrative processes and all paperwork should be relevant and kept up-to-date. There are minimum requirements set out in the SMDA, so I don't see the point of including this. Each SMD will use a different system, with some being paper and others being computerized. A failure to comply with the requirements of the SMDA could result in prosecution, and a fine.
- e) Dealers will co-operate with police and local authorities by allowing access and inspection when requested. The SMDA (section 16) Right to enter and inspect covers this. Any addition to this would require a change to primary legislation, without it you can't specify this in a code of conduct, it would be illegal and could result in civil litigation.
- f) No blackened copper wire that has obviously had its insulation removed should be bought. Although this is a good point, blackened copper can be and is a product of demolition and other processes where cable is burned. It may be helpful to 'ask' if further information could be sought from the seller in

terms of its provenance. However, there is no legal basis for including this.

- g) Metals will not be accepted from customers on foot. I'm afraid you can't request this as it is somewhat discriminatory, and again not covered by the Act. If the seller and SMD are compliant with the requirements of the SMDA and there are no concerns about the source of the metal (covered in previous comments I have added) then I see no way of preventing this.
- h) Metal will not be accepted from customers arriving in taxis or private hire vehicles. As above.
- i) Dealers will display prominent signage at their premises stating that "We report suspected metal thieves to the Police". You can ask them to do this, but there needs to be an understanding that SMDA's may face repercussions from the seller that could put the individual or site at risk. I would be inclined to reword this to 'We do not buy suspected stolen metal or support crime, and work closely with the local police to reduce crime'.
- j) In order to comply with the Act's requirements concerning record keeping and identification no metals shall be received without at a minimum taking and retaining a digital photograph(s) of the scrap metal load as presented, cross-referenced with the appropriate waste transfer note. This isn't going to be possible, particularly with the larger sites and isn't a requirement of the SMDA. This would require a change to primary legislation to make it enforceable.
- k) Dealers shall have available and actively use UV torches for detecting forensically marked metals. You can only ask them to check and if they don't, there isn't a great deal you can do, you certainly couldn't use it to revoke a license.
- l) Suspicious persons will be reported to the local police force for the area concerned. As per my comments above. You can ask them to do this, but there needs to be an understanding that the SMDA may face repercussions from the seller that could put the individual, or site at risk. I would be inclined to reword this to 'We do not buy crime, and work closely with the local police to reduce crime'.
- m) Suspicious transactions will be reported to the local police force for the area concerned. What is a suspicious transaction? This is too ambiguous and serves no purpose.
- n) Dealers will work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals. This isn't something that can be introduced by SMD's and needs to be centrally led by potentially the British Metals Recycling association (which they already do). However, they only represent less than half of all SMD's so I don't see how this could be progressed.
- o) All scrap metal dealers agree to work towards installing police approved CCTV systems upon commencement of trading and automatic number plate

recognition cameras within 12 months from the commencement of trading at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises). Again, this could only be voluntary, and are you suggesting they could only use the police Secured by Design approved CCTV. This could cause a number of issues in terms of who can or cannot supply CCTV systems and there may be some very unhappy companies who could act for being excluded from providing equipment.

- p) Scrap metal collectors will not cause nuisance or unreasonable disturbance to residents in the locality. Not sure exactly what you are trying to achieve here... There are several other pieces of legislation that would cover this.

In conclusion, I fully appreciate the benefits of a code of conduct, however, they can only ever be voluntary so you cannot make them a condition of licensing unless the Act is changed and specifies this. Having set up and rolled out a code of conduct (Operation Tornado) I fully appreciate the benefits it can have. However, it would be unrealistic for each local authority to introduce its own code of conduct as it would make trading extremely difficult, particularly for those who operate across multiple areas. In addition, a code of conduct cannot require an SMD to do anything that is not covered in the legislation and to demand that as a licensing requirement could result in unnecessary litigation against the Local authority.

My advice would be to look at reinforcing the requirements of the SMDA 2013 and potentially offering training (the NICRP can help you with that) to scrap metal dealers and conducting regular and detailed inspections. The SMDA 2013 isn't perfect, and we are looking at ways to improve it (I recently led a group that made changes to the Supplementary Guidance that was published in January this year). I would avoid going beyond the requirements of the legislation by trying to impose requirements that are not covered by the act as SMD's will just ignore them and there will be very little if anything you can do about it.

I'm happy to discuss my comments in more detail if required.

Robin Edwards

NICRP/BTP

Good afternoon,

As requested here are the comments we wish to make on the proposed Scrap Metal Policy

During review of the document there are discrepancies such as the contents page not holding the correct page numbers for relevant information but also some more concerning statements.

Annex B **Code of Practice for Scrap Metal Dealers.**

- a) (f) No blackened copper wire that has obviously had its insulation removed should be bought. **Customers clearly have the opportunity to strip wire to improve their revenue payment.**
- b) (g) Metals will not be accepted from customers on foot. **Local residents may take this option for ease and to reduce their carbon footprint.**
- c) (h) Metal will not be accepted from customers arriving in taxis or private hire vehicles. **This would be unusual as some hire companies would not want to load dirty items such as scrap, but not all people have access to their own vehicle and would this also implicate rented vans or even a friend giving a lift?**
- d) (i) Dealers will display prominent signage at their premises stating that "We report suspected metal thieves to the Police". **We have not found evidence of any other authority requiring this and as licensed site would report concerns to Police as good practice anyway.**
- e) (k) Dealers shall have available and actively use UV torches for detecting forensically marked metals. **Unachievable on a working site.**
- f) (n) Dealers will work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals. **Surely this relates to good practice of informing appropriate authorities.**
- (g) (o) All scrap metal dealers agree to work towards installing police approved CCTV systems upon commencement of trading and automatic number plate recognition cameras within 12 months from the commencement of trading at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises). **CCTV is clearly necessary in most businesses for insurance purposes and requires ICO regulations for use to be followed, number plate recognition is unachievable and who would monitor this and be responsible for it not working or breaking down?**

These are the statements that we find unachievable and against the legislation it is supposed to be supporting.

We have been in correspondence with British Metal Recycling Association who agree with our findings and have reportedly already been in touch with yourselves.

I have checked the live consultation again today and find it currently remains unchanged.

We look forward to hearing from you in due course in connection with this matter.

Kind Regards

Fiona

Compliance Manager



Offering - ZERO Waste to Landfill !

Wm. M. Briers & Son (Tamworth) Limited
Anchor Sidings
Glascote Road
Tamworth
Staffordshire
B77 2AN

TEL: 08085 000 678
FAX: 01827 53721

From: Varley, Phil <phil.varley@environment-agency.gov.uk>
Sent: Friday, August 4, 2023 12:28 PM
To: Public Protection <Public-Protection@tamworth.gov.uk>
Subject: Scrap metal Policy consultation

Hello,

I would like to contribute to the consultation on the Scrap Metal Policy from an Environment Agency perspective. (Please can you advise how formal this response should be, if it is for a public consultation I may need to review the content more formally.)

Please can you include the point that anyone who is applying for a Collectors licence is required to be registered as an 'Upper Tier' Waste Carrier. This reference number will look like CBDUXXXXX and costs £154 for 3 years, rather than CBDL which is free to register.

The CBDU registration should be in the same legal entity name as the SMDA licence, and should be a prerequisite of granting of the collectors licence.

With regard to the Site licence, again, the proof of authorisation of the ability to handle waste metal should be a prerequisite of granting of the site licence. (eg, an environmental permit or relevant exemption.)

I note that your application form alludes to the other authorisations, but I'm not sure this is conclusively picked up in your policy wording.

Please give me a call if you need to discuss further.

Kind regards,

Phil Varley
Waste Regulatory Specialist
(East Team) West Midlands Area
Contact | Phone: 02030 252837

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Thursday, 12 October 2023

Report of the Assistant Director - Growth & Regeneration

Draft Charitable Collections Policy 2024 - 2028

Exempt Information

None

Purpose

To review the draft Charitable Collections Policy set out at Appendix 1 and, subject to any recommended amendments, approve the draft policy for adoption by Full Council

Recommendations

It is recommended that Licensing Committee recommend to Full Council that they consider the draft Charitable Collection Policy 2024 – 2028 as suitable for adoption.

Executive Summary

The Council, in its capacity as Licensing Authority, is required to consider applications and issue permits and licences for charitable collections which take place in public areas and from house to house. There is currently no policy in force covering the Council area for these activities and it is considered necessary and appropriate for such a policy to be prepared, consulted upon and published in order to ensure that applications for this type of authorisation are considered and determined in a fair, consistent and transparent manner.

The draft policy sets out the legal requirements and application process, along with the Licensing Authority's approach to preventing nuisance to residents and businesses located within the Council area and the enforcement of unlicensed activities.

At the meeting of the Licensing Committee held on 22nd June 2023, the committee recommended that the draft charitable collection Policy 2024 – 2028 be approved for consultation subject to the following amendments:-

Page 4 – 3.5 No more than 3 collections per charity per Calendar year will be allowed in the Tamworth Borough. Applications that consist of consecutive days will be considered as 1 collection.

3.9 – Tamworth Borough Council will restrict the number of people taking part in a collection to three. If more than three people are requested these will be considered on a case by case basis.

Page 8 – Deleted How much the charity will receive as part of the collection.
Reworded The percentage of the proceeds that the charity will receive from the collection.

and that the draft policy be brought back to the Licensing Committee for consideration together with any comments received

The public consultation exercise was held between the 3rd July 2023 and 24th September 2023. A list of those that were consulted is attached at Appendix 3. No responses to the consultation were received. No amendments have been made to the draft policy following the consultation exercise.

Options Considered

Applications for charitable collections are currently being considered and determined according to historical practices of the Borough Council. This has resulted in inconsistency and possibly perceived unfairness across the council area and a lack of effectiveness or efficiency for those processing the applications.

Although there is no statutory requirement for a policy covering charitable collections, it is considered desirable and necessary to implement one so that the Licensing Authority is seen to be transparent, consistent, fair and open when considering and determining applications for this activity.

Resource Implications

There are no additional resource implications arising from this Consultation; resources required to fulfil the Council's duties in respect of the Licensing process are met from existing budget.

Legal/Risk Implications Background

There is no provision within the legislation for fees to be charged for either processing applications or granting permits or licences for charitable collections.

As a result the cost to the service of processing applications and any necessary enforcement action will need to be borne from the general fund.

As stated above, there is no statutory requirement for Licensing Authorities to produce charitable collection policies although it is considered that the Council would be far less likely to be open to legal challenge where a policy is adopted which clearly sets out how applications will be considered and any reasons for refusal.

Equalities Implications

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

Environment and Sustainability Implications (including climate change)

The Council is committed to tackling climate change and the proposed Policy will assist in ensuring that it contributes appropriately to this ambition.

Background Information

The Licensing Authority is required to consider and determine applications for charitable collections in line with the relevant legislation, as specified below:

- The House to House Collections Act 1939
- The House to House Regulations 1947
- The Police, Factories, etc (Miscellaneous Provisions) Act 1916 and as amended by the Local Government Act 1972
- Model Regulations set out in the Charitable Collections (Transitional Provisions) Order 1974

It is recognised that fundraising collections play a vital role in the work carried out by charities and are therefore an important means of both raising money for good causes and also promoting the goals and messages of the collecting charity.

It is equally important, however, to ensure that any charitable fundraising is carried out by bona fide charitable organisations and collectors, that a fair percentage of collection proceeds are donated directly to charitable causes and that no nuisance is caused to businesses and residents as a result of collections.

Applications for both street and house to house collections are regularly received by the Council, no policy is currently in place for this type of licensable activity.

It is therefore considered necessary to implement a new policy which sets out the Licensing Authority's approach to considering and determining applications and also in relation to any necessary enforcement action across the whole Council area.

The policy set out at Appendix 1 has been drafted for this purpose and it aims to:

- safeguard the interests of both donors and beneficiaries;
- facilitate collections by bona fide charitable institutions and to ensure that good standards are met;
- prevent unlicensed collections from taking place; and
- prevent nuisance and harassment to residents, businesses and visitors to the Council area.

House to House Collections

House to House collections are regulated by the House to House Collections Act 1939 ("the 1939 Act"), together with the House to House Collection Regulations 1947 ("the 1947 Regulations"). The 1939 Act prohibits the making of house to house collections for charitable purposes except under the terms of a licence issued by the relevant Licensing Authority.

The 1939 Act also gives the Secretary of State the power to grant exemptions for house to house collections in respect of certain charities in England and Wales. An exemption has the same effect as a licence which has been granted for the areas to which it relates.

A house to house collection is defined within the 1939 Act as "an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property". Collections are not restricted to domestic properties and can include a place of business.

Although specifically excluded from the ambit of street collections, it is unclear whether proceeds, that is "money or other property" under section 11 of the 1939 Act includes the collection of direct debit information. This type of collection would not have been in existence at the time the legislation came into force. There is no case law on this issue or guidance from fundraising authorities and regulators. There is also inconsistency across other local authority policies in relation to whether licences are required for this type of collection.

It is considered that the purpose of regulating charitable collections is to protect residents and particularly the vulnerable, from being exploited and from possible fraudulent requests for donations. As a result, it is the view of officers that direct debit mandate information should be included within the requirement for a licence and the draft policy reflects this requirement.

A charitable purpose is defined as "any charitable, benevolent or philanthropic purpose, whether or not the purpose is charitable within the meaning of any rule of law". The collection must therefore be one that is made wholly or partly for charitable purposes whether it is for the collection of money, or any other items that may subsequently be sold for money, where either the money or the items are given for charitable purposes.

Collections can be made by individuals cold calling and requesting money or other items at the time of their visit or by leaving bags and / or making requests for donations to be collected at a later specified date. Collections which are made for purely commercial profit are not required to be licensed.

The draft policy sets out the application process, expected application submission timescales and reasons for possible refusal. The policy also specifies restrictions on collection periods

and hours plus a prohibition on collections where any notice is displayed preventing cold calling.

There is a statutory right of appeal against the refusal of a licence which lies with the Secretary of State.

In order to prevent nuisance to the public it is intended that only one licence will be issued to any area for any specified period, although this may be in addition to any exemption orders being issued for collections which may be taking place within the Council area.

Regulations which reflect the House to House Collection Regulations 1947 are set out at Appendix B of the draft policy. Licence holders and collectors will be expected to comply with these requirements to ensure that any collection is carried out in a lawful manner by properly authorised persons and that all proceeds are properly accounted for. It is intended that straightforward guidance notes will be issued to licence holders in addition to the Regulations.

Street Collections

The Council is empowered under Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 (the Act), as amended by the Local Government Act 1972, to authorise and issue permits for collections made in 'any street or public place' for 'charitable or other purposes'.

Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 allows local authorities to adopt provisions concerning the regulation of street collections in their area. A set of Regulations are set out at Appendix A in the policy. These are the "model" street collection Regulations set out in the Charitable Collections (Transitional Provisions) Order 1974 which do not require the approval of the Secretary of State but merely the adoption by resolution. All permit holders and collectors are expected to comply with the requirements of these Regulations which aim to ensure that any collection is carried out lawfully and without causing nuisance to residents and businesses.

There is no legal requirement for the Council to adopt a policy on how it proposes to process applications for charitable street collections and issue permits although it is considered best practice for the Council to adopt such a policy to encourage consistency and transparency in the way applications for street collection permits are considered and granted.

There is currently no policy covering street collections in the Tamworth Borough. As a result, applications are currently being determined according to historical practices which is resulting in inefficiency for those processing the applications and inconsistency and a possible perception of unfairness for applicants.

It is therefore considered necessary and appropriate to produce a single policy which sets out the Licensing Authority's approach to considering and determining street collection applications along with how such activities will be regulated and enforced.

Permits for this type of collection are generally only issued for one day on specified days of the week. The draft policy also specifies collection hours and locations, aiming to retain collections within town centre areas.

To ensure fairness and equal opportunities, charities are also restricted in relation to the number of permits which can be applied for annually.

To prevent nuisance to visitors and businesses collections are also generally restricted to one per area per day.

Site Management Agreements

As referred to at point 2.10 above, the collection of direct debit information is excluded from the ambit of street collections, although the Chartered Institute of Fundraising (CioF), previously known as the Public Fundraising Regulatory Authority (PFRA), control the collection of this information (collectors are commonly known as "chuggers") through Site Management Agreements which are agreed with the local authority. These agreements specify issues such as collection days, times, locations and any other relevant requirements.

General

The legislation concerning the refusal of applications for house to house and street collections is very specific and only allows certain matters to be taken into account. The draft policy aims to give both applicants and officers clear and robust guidance when determining applications for charitable collections.

There is no fee payable for the processing of applications for charitable collections or for the grant and issue of licences or permits.

To prevent fraud and ensure clarity for residents and businesses, details of all issued licences and permits will be made available on the Council's website.

Report Author

Sarah Gear – Senior Licensing Officer

List of Background Papers

House to House Collections Act 1939

<https://www.legislation.gov.uk/ukpga/Geo6/2-3/44>

House to House Regulations 1947

<https://www.legislation.gov.uk/uksro/1947/2662/contents/made>

Police, Factories, etc (Miscellaneous Provisions) Act 1916

<https://www.legislation.gov.uk/ukpga/Geo5/6-7/31>

Charitable Collections (Transitional Provisions) Order 1974

https://www.legislation.gov.uk/uksi/1974/140/pdfs/uksi_19740140_en.pdf

Fundraising Regulator's Code of Practice

<https://www.fundraisingregulator.org.uk/code>

Appendices

Appendix 1 – Draft Charitable Collections Policy 2024-2028

Appendix 2 – Impact Assessment Form

Appendix 3 – list of consultees

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Tamworth

Borough Council

CHARITABLE COLLECTIONS POLICY

2024 - 2028



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1. Introduction

- 1.1. Tamworth Borough Council (“the Council”) is responsible for licensing charitable collections within the Borough of Tamworth. Charitable Collections fall into two categories: House to House collections for money or property and Street Collections, which include collections for cash or the sale of articles in the street. If articles are sold for any form of personal gain or as a commercial activity then a Street Trading Consent will be required.
- 1.2. The licensing of charitable collections is regulated by two separate Acts of parliament: The ‘Police, Factories, etc, (Miscellaneous Provisions) Act 1916’ as amended by schedule 29 of the Local Government Act 1972 which regulates collections of money or sales of articles for charitable purposes in street and public places and ‘The House to House Collections Act 1939’ which regulates collections of money or other articles made by means of going from house to house. Both acts give Borough Councils powers to write regulations and policies to control charitable collections.
- 1.3. This policy document forms the Council’s Charitable Collections Policy (“local policy”) that will apply to Street and House to House Collection activities in the Tamworth Borough area.

2. Policy Purpose

- 2.1. The purpose of the policy is to:
 - Safeguard the interests of both public donors and beneficiaries;
 - Facilitate well organised collections by bona fide charitable institutions and to ensure that good standards are met
 - Prevent unlicensed collections from taking place.
 - Give detailed guidance on the application of the law relating to charitable collections
 - Provide a clear idea of the requirements that charitable organisations, promoters and collectors must meet before, during and after collections take place.
 - Detail the matters that will be taken into consideration when determining an application
- 2.2. This policy is designed to ensure that:
 - People who wish to donate to charity, through Street collections, are able to do so in good faith knowing that the money or products they donate will directly benefit the charity.
 - There is transparency, consistency and fairness in determining applications
 - Eligible requests are accommodated, subject to capacity and availability on certain days and locations
 - Applications are made in a timely way, neither too early nor too late
 - Collectors operate within the law and act fairly in their dealings with the public
 - Collections do not cause nuisance to the public
 - Fair maximum limits for applicants are set
 - A fair balance between local and national causes is achieved

- 2.3. This policy will be reviewed where there are any changes in legislation or when Tamworth Borough Council deem it necessary.

3. Street Collections

- 3.1. Raising money or selling goods for charity in the street or any other public place requires permission from Tamworth Borough Council. These collections (usually referred to as “street collections”) most commonly take the form of a collector asking members of the public to make a donation in a collecting box. A Street includes any highway and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not.
- 3.2. Street Collections are covered by regulations made under the Police, Factories etc (Miscellaneous Provisions) Act 1916 as amended by section 251, schedule 29 of the Local Government Act 1972. The regulations are attached at AppendixA.

General Principles

- 3.3. Charities must be registered with the Charity Commission or be a charitable organisation based within the borough of Tamworth or supporting residents of Tamworth Borough.
- 3.4. Applications will normally be granted on a first come first served basis. No guarantee can be given that an organisation preferred collection date will be available or be allocated to that organisation.
- 3.5. No more than 3 collections per charity per Calendar year will be allowed in the Tamworth Borough. Applications that consist of consecutive days will be considered as 1 collection
- 3.6. Only 1 collection will be permitted at any one time.
- 3.7. Collections can take place on any day of the week including Public Holidays.
- 3.8. Only 1 collection will be permitted Monday – Sunday.
- 3.9. Tamworth Borough Council will restrict the number of people taking part in a collection to three. If more than three people are requested these will be considered on a case by case basis
- 3.10. Exceptions to this policy may be made for collections such as the Royal British Legions Poppy Appeal.
- 3.11. The use of tables, stalls, trailers, vehicles or other displays or advertising in collection with a Street Collection will not be permitted unless the collection is part of a separate promotion or activity approved by the Licensing Team. The use of animals will not be permitted with the exception of assistance dogs.

Application

- 3.12 An application for a Street Collection Permit must be made to the Council in writing on the prescribed application form no later than one month before the proposed collection date. The application period of one month may be reduced if there are special reasons for doing so.
- 3.13 Street Collection Permit Application forms may be downloaded from the Council's website together with a copy of the street collection regulations or alternatively obtained from the Council's Licensing Section at the following address:- Tamworth Borough Council, Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ, Telephone 01827 709445 Email publicprotection@tamworth.gov.uk
- 3.14 The application form must be fully and correctly completed and accompanied by any required information.
- 3.15 The application form will need to include the location from which the organisation wishes to collect, the date & time of the collection and the number of collectors to be used.
- 3.16 If the location is on private land, for example The Ankerside, permission off the land owner will be required.
- 3.17 Where the application is on behalf of a registered charity a letter of authority is required and this must accompany the application form.
- 3.18 Failure to provide the necessary information may result in an application being delayed or refused.
- 3.19 Applications will be considered by the Licensing Authority on their respective merits and the Licensing Authority will either:
- Issue a permit specifying the requested date and location; or
 - Refuse to issue a permit.
- 3.20 Within one month after the date of any collection or sale the person, society, committee or other body of persons responsible for the collection shall forward to Tamworth Borough Council's Licensing Team a statement in the form set out in the schedule to the regulations.
- 3.21 The proceeds of statement form must be certified by the auditor of the society or by some independent responsible person.
- 3.22 This statement of returns must detail the amount received, the expenses incurred in connection with such collection or sale.
- 3.23 Where a street collection application has been refused, the applicant will be advised in writing of the reasons for refusal.

- 3.24 There is no formal right of appeal against any decision made by the Council to grant or refused an application for a street collection permit, other than by way of Judicial Review. However in the interest of fairness if an organisation is unhappy about the decision to refuse their application they can request that the decision is reviewed. They should do so by writing to the Head of Environmental Health, Tamworth Borough Council, Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ.

Direct Debit collections

- 3.25 Direct Debit collections are where pledges are collected for direct debit donations. This type of collection does not require permission from the Local Authority as there are no legal provisions for these types of collections.
- 3.26 In an attempt to regulate the frequency and location of Direct Debit collections the council has entered into a site agreement with the Chartered Institute of Fundraising (CIOF).

4 House to House Collections

- 4.1 House to House collections involve the collection of either money or items directly from a person's property. They are a vital source of funds for many charities as they offer a positive opportunity for the public to support charities. However, they need to be carried out for the benefit of the charity and in accordance with the law.
- 4.2 There has been an increase in the number of bogus House to House collectors in the last few years and as such it is vital that licences are issued to legitimate applicants. This can give the public confidence that if the collection is licensed an adequate proportion of their donations are being given to the appropriate charity.
- 4.3 House to House collections are currently regulated by the House to House Collections Act 1939 and the House to House Collections Regulations 1947. These regulations are attached as Appendix Two.
- 4.4 As a general rule, house to house collections for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the rule of law, are required to be licensed by Tamworth Borough Council as the Licensing Authority.
- 4.5 There are National Exemption Orders that are available to charities who have undertaken a high number of collections across local authority areas nationally in the preceding two years. Exemption certificates are issued by the Cabinet Office directly and allow an organisation to collect in the Borough without applying for a licence from the Licensing Authority. The organisation will not be exempted from the regulations or provisions of the Act and the organisation must inform the Licensing Authority of the dates and wards of any planned collections

General Principles

- 4.6 Charities must be registered with the Charity Commission or be a charitable organisation based within the borough of Tamworth or providing support to residents of Tamworth Borough.
- 4.7 Applications must be on behalf of charitable organisations. Applications from private companies for commercial reasons will not be considered.
- 4.8 Tamworth Borough Council will only allow 1 House to House Collection in any one area at any one given time.
- 4.9 Tamworth Borough Council will only allow an organisation to collect on six occasions per calendar year.
- 4.10 The maximum duration of any one collection will not exceed 2 weeks.
- 4.11 No collection shall be made other than on the time period specified on the permit.
- 4.12 Charities should not collect from households displaying no cold calling cards or in cold calling zones.
- 4.13 No collection shall be made in a manner likely to inconvenience or annoy any person
- 4.14 No collector shall pester any person to the annoyance of such a person.
- 4.15 When granting a licence for a house to house collection, the Council must be satisfied the applicant is a fit and proper person to hold a House to House Collection Licence. In deciding whether an applicant is fit and proper where there are convictions/cautions the Council will take into consideration the following:-
- Whether the conviction is relevant
 - The seriousness of the offence
 - In accordance with the Rehabilitation of offenders Act 1974, the length of time since the offence occurred
 - Whether there is a pattern of offending behaviour
 - Whether that person's circumstances have changed since the offence occurred, and the circumstances surrounding the offence and the explanation offered by that person.

Application Procedure

- 4.16 Applications are to be made in writing no later than one month before the collection is due to take place, this period may be reduced if the Council are satisfied there are special reasons for doing so.
- 4.17 Applications will be dealt with on a first come first served basis.

4.18 Failure to provide the necessary information may result in an application being delayed or refused.

4.19 Anyone wishing to conduct a house to house collection must complete the relevant application form.

4.20 Applicants must supply information relating to:-

- Whether it is a registered charity (please state number), and the objectives of the charitable cause as supplied to the Charity Commission
- A statement of the organisations aims as detailed in any literature
- Details of the history of the organisation, i.e when formed, names of trustees, directors, organisers etc.
- Relevant accounts and financial statements of the organisation.
- A written agreement between the applicant and organisation
- A declaration of any previous refusals for House to House Collections

4.21 Applicants must also provide details of the following:-

- The percentage of the proceeds that the charity will receive from the collection.

4.22 If the organisation has operated collections before a clear set of returns must be supplied.

4.23 Tamworth Borough Council may, in granting a permit, limit the collection to such streets or areas or such parts thereof as it thinks fit and specified on the permit. Tamworth Borough Council have a number of no uninvited traders zone's. Any applications that are granted a House to House collection permit these streets will be excluded from that permit.

4.24 Applicants will need to complete a declaration of convictions and submit this along with any application for a house to house collection licence.

4.25 Within one month after the date of any collection the person to whom a permit has been granted shall forward to Tamworth Borough Council:-

- A statement in the form set out in the schedule to these regulations, or in a form to the like effect, showing the amount received and the expenses and payments and payments incurred in connection with such collection and certified by that person and a member of the receiving charity in the form of a letter headed response
- List of collectors
- List of the amounts collected in each collecting box

4.26 The Council may refuse to grant a licence or, where a licence has been granted, revoke that licence where it appears to the Council that:

- The total amount likely to be given for charitable purposes as the result of the collection (including any amount already given) is inadequate in proportion to

- the value of the proceeds likely to be received (including any proceeds already received)
- That the remuneration by any person is excessive in relation to the total amount received or likely to be received
- The grant of a licence would be likely to facilitate the commission of an offence under section three of the vagrancy act 1824, or that an offence under that section has been committed in connection with the collection
- The applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of Her Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of an offence of a kind the commission of which would be likely to be facilitated by the grant of a Licence
- The applicant or the holder of the Licence, in promoting a collection in respect of which a Licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised or
- The applicant or holder of the licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs.

4.27 In addition, any action taken as a result of not complying with regulations on operating house to house collections would also be grounds for refusal, unless there are extenuating circumstances.

4.28 In order for the Council to be confident that the amount being given to charity is proportionate, the financial information provided on the application form and on any returns has to be detailed and accurate. Failure to provide detailed and accurate financial information may result in an application being refused or delayed.

4.29 In deciding whether the amount given to charity is proportionate the Council will use the following as a guideline:-

- The Council understands there are costs associated with organising and carrying out a house to house collection; however the costs associated with any one collection need to be balanced against the perception of the public that all of the items or money they donate will be given to charity. Therefore, the council will consider refusing an application where less than 80% of the value of the collection is being donated to the charity named in the application.
- It is also common practice for collectors to be paid by organisations to collect money and products. When determining the remuneration and whether it is excessive, the nature of the business and the overheads should be taken into

- account and balanced against the amount being given to the charity. The salaries received by directors and key employees should also be considered as part of this assessment. Therefore the council will give consideration to refusing an application where the amount of remuneration is greater than 20% of the value of the collection.

4.30 If no previous returns have been supplied to the council after previous licensed collections then any further applications are likely to be refused.

4.31 Any person aggrieved by the refusal to grant a licence or by the revocation of a licence already granted, may appeal against the decision within fourteen days of the date of the notice of refusal or revocation, as shown on the notice. Any appeal must be made to the relevant Secretary of State.

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Appendix A

5 Street Collection Regulations

1. In these Regulations, unless the context otherwise requires—
 - “collection” means a collection of money for the benefit of charitable or other purposes and the word “collector” shall be constructed accordingly;
 - “promoter” means a person who causes others to act as collectors;
 - “the licensing authority” means Tamworth Borough Council;
 - “permit” means a permit for collection;
 - “contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;
 - “collection box” means a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air shall be made in any street or public place within the Borough of Tamworth unless a promoter shall have obtained from the Licensing Authority a permit.
3. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection. Provided that the Licensing Authority may reduce the period of one month if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day stated in the permit.
5. The Licensing Authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. (1) No person may assist or take part in any collection without the written authority of a promoter.
(2) Any person authorised under paragraph (1) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the Licensing Authority or any police constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway. Provided that the Licensing Authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.
10. While collecting
 - (a) a collector shall remain stationary; and
 - (b) a collector or two collectors together shall not be nearer to another collector than 25 meters;

Provided that the Licensing Authority may, if it thinks fit, waive the requirement of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

11. No promotor, collector or person who is otherwise connected with a collection shall permit a person under the age of 16 years to act as a collector.
12. Where cash collections are taking place
 - (1) Every collector shall carry a collecting box
 - (2) all collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
 - (3) all money received by a collector from contributors shall immediately be placed in a collecting box.
 - (4) every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box which is duly numbered.
14. (1) Subject to paragraph (2) below a collecting box shall be opened in the presence of a promoter and another responsible person.
 - (2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
 - (3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.
15. (1) No payment shall be made to a collector.
 - (2) No Payment shall be made out of the proceeds of a collection, either directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the Licensing Authority.
16. (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the Licensing Authority –
 - (a) A statement in the form set out in the Schedule to the Street Collection Regulations in the Borough or in a form to the like effect, showing the amount/pledges received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant.
 - (b) A list of the collectors
 - (c) A list of the amounts contained in each collecting box

And shall if required by the Licensing Authority satisfy it as to the proper application of the proceeds of the collection.

- (2) The said person shall also, within the same period, at the expense of that person and after a qualified accountant has given his certificate under paragraph (1)(a) above, publish in such newspaper or newspapers as the Licensing Authority may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected, and the amount of the expenses and payments incurred in connection with such collection.
- (3) The Licensing Authority may, if satisfied there are special reasons for so doing extend the period of one month referred to in paragraph (1) above.
- (4) For the purposes of this Regulation 'a qualified accountant' means a member of one or more of the following bodies:

The institute of Chartered Accountants in England and Wales
The institute of chartered accountants of Scotland
The association of certified accountants
The institute of chartered accountants in Ireland

17. If a collection results in a sum of £500 or less being collected the Licensing Authority may if it thinks fit waive the requirements in Paragraph 16 (2), and paragraph 16 (4) of this regulation, that the statement of accounts shall be certified by a qualified accountant and waive the need to publish a notice in a newspaper as the Licensing Authority may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected, and the amount of expenses and payments and substitute therefore a certificate signed by an independent person acceptable to the Licensing Authority.

18. These regulations shall not apply:

- (a) In respect of a collection taken at a meeting in the open air; or
- (b) To the selling of articles in any street or public place when the articles are sold in the ordinary course of trade
- (c) Any person who acts in contravention of any of the foregoing regulations shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Appendix B

(d) House to House Regulations

1. (1) These regulations may be cited as the House to House collections Regulations 1947, and shall come into operation on the twenty-ninth day of December 1947.

(2) These regulations shall not extend to Scotland.
2. (1) In these regulations, unless the context otherwise requires-
 - (e) 'The Act' means the House to House Collections Act 1939;
 - (f) 'chief promoter' in relation to a collection, means a person to whom a licence has been granted authorising him to promote that collection or in respect of whom an order has been made directing that he shall be exempt from the provisions of Subsection (2) or Section 1 of the Act as respects that collection.
 - (g) 'collecting box' means a box or other receptacle for monetary contributions, securely closed and sealed in such a way that it cannot be opened without breaking a seal;
 - (h) 'licence' means a licence granted by the Local Authority under section 2 of the Act
 - (i) 'order' means an order made by the Secretary of State under Section 3 of the Act
 - (j) 'prescribed badge' means a badge in the form set out in the fourth Schedule to these regulations
 - (k) 'prescribed certificate of authority' means a certificate in the form set out in the Third Schedule to these regulations
 - (l) 'receipt book' means a book of detachable forms of receipt consecutively numbered with counterfoils or duplicates correspondingly numbered
 - (m) 'street collection' means a collection or sale to which regulations made under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916, apply
 - (2) A mark shall for the purposes of these regulations be deemed to have been made on a collecting box if it is made on a wrapper securely gummed to the collecting box.
 - (3) The interpretation act 1889 applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.
3. (1) Every certificate granted under subsection (4) of section 1 of the Act shall be in the form set out in the First Schedule to these regulations, and sections 5 and 6 and subsections (4) and (5) of section 8 of the Act shall be set forth on the back of every such certificate.

(2) Where such a certificate is granted as aforesaid, the provisions of these regulations shall not apply, in relation to a collection made for the purpose specified on the certificate, within the locality and within the period so specified, to the person to whom the certificate is granted or to any person authorised by him to act as a collector for the purposes of that collection.

4. (1) An application for a licence shall be in the form set out in the Second Schedule to these regulations, and shall give the particulars there specified
- (2) An application for a licence or for an order shall be made not later than the first day of the month preceding that in which it is proposed to commence the collection.

Providing that the Borough Council or as the case may be, the Secretary of State may grant the application notwithstanding that it was not made within the time required by this paragraph if satisfied that there are special reasons for so doing.

5. Every promoter of a collection shall exercise all due diligence.
 - (a) To secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and
 - (b) To secure compliance on the part of persons so authorised with the provisions of these regulations
6. (1) No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person
 - (a) A prescribed certificate of authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection
 - (b) A prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection; and
 - (c) If money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall in the case of a receipt book, also be marked on every receipt contained therein addition to the consecutive number of the receipt.
- (2) Every promoter of a collection shall exercise all due diligence to secure-
 - (a) That no prescribed certificate of authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it is issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
 - (b) That every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
- (3) In the case of a collection in respect of which a licence has been granted-
 - (a) Every prescribed certificate of authority shall be given on a form obtained from Her Majesty's Stationary Office, and every prescribed badge shall be so obtained; and
 - (b) Every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto in a manner approved by the licensing authority for the area in respect of which the licence was granted

7. Every collector shall:
 - (a) Sign his name on the prescribed certificate of authority issued to him and produce it on the demand of any police constable or of any occupant of a house visited by him for the purpose of collection
 - (b) Sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and
 - (c) Keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.
8. No person under the age of 16 years shall act or be authorised to act as a collector of money
9. No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof
10. (1) Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitting the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.
 - (2) Where as collector is collecting money by other means than a collecting box, he shall upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate, the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution.
11. Every collector, to whom a collecting box or receipt book has been issued, shall –
 - (a) When the collecting box is full or the receipt book is exhausted or
 - (b) Upon the demand of a promoter of the collection or
 - (c) When he does not desire to act as a collector or
 - (d) Upon the completion of the collection

Return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.

12. (1) Subject as provided in paragraph (2) of this regulation, a collecting box when returned shall be examined by, and if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.
 - (2) Where a collection box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.
 - (3) As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box in a list which shall be certified by the persons making the examination.
 - (4) Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the

contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination.

13. (1) Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope collection, and the Secretary of State is of opinion that the collection is for charitable purposes of major importance and is suitably administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.
- (2) Where an envelope collection is made in accordance with this regulation.
- (a) Every envelope used shall have a gummed flap by means of which it can be securely closed.
 - (b) No collector shall receive a contribution except in an envelope which has been so closed; and
 - (c) These regulations shall have effect subject to the following modifications:-
 - (i) Sub-paragraph (c) of paragraph (1) of regulation 6 shall not apply;
 - (ii) Regulation 10 shall not apply
 - (iii) Regulation 11 and 12 shall have effect as if each envelope in which a contribution is received were a collecting box;
 - (iv) In regulation 11 for the words 'with the seal unbroken' there shall be substituted the word 'unopened';
 - (v) In paragraph (3) of regulation 12 for the words 'As soon as a collecting box has been opened' there shall be substituted the words 'As soon as the envelope has been opened' and the words 'with the distinguishing number of the collecting box shall be omitted.
- (3) In this regulation 'envelope collection' means a collection made by persons going from house to house leaving envelopes in which money may be placed and which are subsequently called for.
14. (1) The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the licence authority by which the licence was granted within one month of the expiry of the licence.

Provided that if licences are granted to the same person for collections to be made for the same purpose in more than one licensing areas a combined account of the collections made in all or any of those licensing areas may, by agreement between the chief promoter and the respective licensing authorities be made only to such of the respective licensing authorities as may be so agreed.

- (2) The chief promoter of a collection in respect of which an order has been made shall furnish an account annually to the secretary of state so long as the order remains in force, and if the order is revoked a final account shall be furnished within three months of the date of the revocation of the order.

- (3) The police authority or the secretary of state may extend the period within which an account is required to be furnished to the authority or to him, as the case may be, if satisfied that there are special reasons for so doing.
- (4) The chief promoter of a collection which is made in connection in whole or in part with a street collection of which an account is required to be furnished to a licensing authority by regulations made under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916, may, if the said licensing authority agrees, combine the accounts of the house to house collection, in so far as it is made in connection with the street collection, with the accounts of the street collection and the amount so included in the combined account not be required to form part of the account required to be furnished under paragraph (1) or, as the case may be, paragraph (2) of this regulation, so, however that in the case of an account furnished under the said paragraph (2) the account shall show in addition to an account in respect of moneys received from house to house collections not made in connection with a street collection, a statement showing the total proceeds of all combined collections, the total expenses and the balance applied to charitable purposes.
15. The account required by the preceding regulation-
- (a) Where money has been collected, shall be furnished in the form set out in the Fifth Schedule to these regulations and, where property has been collected and sold, shall be furnished in the form set out in the Sixth Schedule to these regulations, and in either case shall be certified by the chief promoter of the collection and by an independent responsible person as auditor; and
- (b) Where property (other than money) has been collected and given away or used, shall be furnished in the form set out in the Seventh Schedule to these regulations and shall be certified by the chief promoter and by every person responsible for the disposal of the property collected.
16. (1) Every account furnished under paragraph (a) of regulation 15 of these regulations shall be accompanied by vouchers for each item of the expenses and application of the proceeds and, in the case of a collection of money, by every receipt book used for the purpose of the collection and by the list referred to in paragraph (2) of regulation 6 of these regulations and the list referred to in regulation 12 of these regulations.
- (2) Paragraph (1) of this regulation shall not apply to an account certified by an auditor who is a member of an association or society of accountants incorporated at the date of these regulations or is on other grounds accepted as competent by the authority to which the account is submitted, but where in such a case the vouchers, receipt books and lists mentioned in the said paragraph (1) are not submitted with an account, the chief promoter shall ensure that they are available for three months after the account is submitted and shall, if the authority to which the account was submitted so required at any time within that period, submit them to that authority.
17. The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificated of authority and prescribed badges obtained by him for that purposes of the collection are destroyed when no longer required in connection with that collection or in connection with a further collection which he has been authorised to promote for the same purpose.

Community Impact Assessment

Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Charitable Collections Policy	
Date Conducted	8/6/23	
Name of Lead Officer and Service Area	Sarah Gear Environmental Health	
Commissioning Team (if applicable)		
Director Responsible for project/service area	Anna Miller Environmental Health	
Who are the main stakeholders	Institute of Fundraising	
Describe what consultation has been undertaken. Who was involved and what was the outcome	Consultation will be with charity organisations, town centre managers, Staffordshire Police, Community Safety officers, residents, businesses, Members and Community Boards.	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)	N/A	
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input checked="" type="checkbox"/> x
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input checked="" type="checkbox"/> x
	Existing	<input type="checkbox"/>
	Being reviewed	<input type="checkbox"/>

	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>
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Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

Although there is no statutory requirement for a policy covering charitable collections, it is considered desirable and necessary to implement one so that the Licensing Authority is seen to be transparent, consistent, fair and open when considering and determining applications for this activity.

Who will be affected and how?

Charities – formalises what we already do but ensures expectations on licence holder and theirs of the authority are aligned.

Are there any other functions, policies or services linked to this impact assessment?

Yes No

If you answered 'Yes', please indicate what they are?

Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation)
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gender Reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marriage & Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those having an offending past	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Children	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Vulnerable Adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those who are homeless	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Mental Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Physical Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Other (Please Detail)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

Impact Area	Details of the Impact	Action to reduce risk
<i>Eg: Families</i>	<i>Families no longer supported which may lead to a reduced standard of living & subsequent health issues</i>	<i>Signposting to other services. Look to external funding opportunities.</i>

Part 5 - Action Plan and Review

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome
	Outcomes and Actions entered onto Covalent			

Date of Review (If applicable)

Draft Charitable Collections Policy

List Of Consultees

All previous Street Collection & House to House collection applicants within the last 2 years.

All Borough councillors

Ankerside

Tamworth Borough Council Partnerships

Chamber of Commerce

Staffordshire Fire

Tamworth Borough Council Arts & Events Team

Chartered Institute of Fundraising

PCC

Staffordshire Highways

Staffordshire Trading Standards

Tamworth Business Crime Reduction Partnership

Staffordshire Police

Street Angels

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Thursday, 12 October 2023

Report of the Assistant Director - Growth & Regeneration

Sexual Establishment Policy 2024 - 2028

Exempt Information

None

Purpose

To review the draft Sexual Establishment Policy set out at Appendix 1 and, subject to any recommended amendments, approve the draft policy for consideration and adoption by Full Council

Recommendations

It is recommended that the Licensing Committee recommend to Full Council that they consider the draft Sexual Establishment Policy 2024 – 2028 as suitable for adoption, subject to any amendments made following the comments received by Staffordshire Police.

Executive Summary

The Council, in its capacity as Licensing Authority, is required to consider applications and issue licences for Sexual Establishment Venues. There is currently no policy in force covering the Council area for these activities and it is considered necessary and appropriate for such a policy to be prepared, consulted upon and published in order to ensure that applications for this type of authorisation are considered and determined in a fair, consistent and transparent manner.

The draft policy sets out the legal requirements and application process, along with the Licensing Authority's approach to preventing nuisance to residents and businesses located within the Council area and the enforcement of unlicensed activities.

At the meeting of the Licensing Committee held on 22nd June 2023, the committee recommended that the draft Sexual Establishment Policy 2024 – 2028 be approved for consultation and that the draft policy be brought back to the Licensing Committee for consideration together with any comments received.

The public consultation exercise was held between the 3rd July 2023 and 24th September 2023. A list of those that were consulted is attached at Appendix 3. A response to the consultation was received and is attached at Appendix 4 for members consideration.

Members are asked to consider the insertion of the additional standard conditions as specified in the response and the addition of wording to pages 6, 9 & 11.

Options Considered

Although there is no statutory requirement for a policy covering sexual entertainment venues, it is considered desirable and necessary to implement one so that the Licensing Authority is

seen to be transparent, consistent, fair and open when considering and determining applications for this activity.

Resource Implications

There are limited financial implications from this report. Any additional cost will be recovered through the licence fee. The policy will be reviewed on a 5-yearly cycle. The current fee in relation to a new/renewal of a Sexual Establishment licence is £1011

Legal/Risk Implications Background

If a policy is not agreed then this could result in a lack of transparency, accountability, certainty and consistency in respect of decision making.

Equalities Implications

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

Environment and Sustainability Implications (including climate change)

The Council is committed to tackling climate change and the proposed Policy will assist in ensuring that it contributes appropriately to this ambition.

Background Information

Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to control by way of its licensing regime, sex establishments in the form of sex cinemas and sex shops.

Section 27 of the Policing Crime Act 2009 defined a new category of sex establishment namely 'sexual entertainment venue' which provides the means for local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 and gives local authorities more powers to control the number and location of these type of premises.

Tamworth Borough Council currently do not have a Policy. The draft Sexual Establishment Policy can be found at Appendix 1.

The Local Government (Miscellaneous Provisions) Act 1982 also permits Local Authorities to prescribe Standard Conditions applicable to Sexual Entertainment Venue Licences. A draft list of Standard Conditions can be found at Appendix A to the draft Policy. If these conditions are approved, every licence granted, renewed or transferred will be subject to these conditions. An applicant who does not wish to have one of more of these conditions, must communicate this to the Authority at the time of making the application.

Local Authorities are also entitled to attach individual conditions where concerns have been identified.

Tamworth Borough Council have been undertaking this activity in line with legislation for many years. By bringing forward this policy we will be providing a framework and be transparent about how we operate.

Report Author

Sarah Gear – Senior Licensing Officer

List of Background Papers

Appendices

Appendix 1 – Draft Sexual Establishment Venue Policy 2024 – 2028

Appendix 2 – Community Impact Assessment Form

Appendix 3 – List of Consultees

Appendix 4 – Response to Consultation

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**Sexual Establishment
Venue Licensing Policy
2024 - 2028**

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Appendices

- A. Standard Conditions applicable to licences for Sexual Establishment Venues

1 INTRODUCTION

1.1 The Policy

- 1.1.1 This document states Tamworth Borough Council's policy on the regulation of Sexual Establishment Venues. (SEV's)
- 1.1.2 This policy has been drafted as a result of new provisions that allow the Council to regulate Sex Establishments. This Policy will guide the Council when considering applications for licences, bearing in mind the spirit and intent of the legislation, government guidance and relevant case law. The Council will not follow this Policy inflexibly but shall consider each application on its merits.
- 1.1.3 The Council does not take a moral stance through the adoption of this policy. We recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a licensing authority to regulate such premises in accordance with the law.

1.2 Definitions

The Council	Tamworth Borough Council
The Act	The Local Government (Miscellaneous Provisions) Act 1982 as amended
Licensed Premises	any premises, vehicle or stall licensed under the Act
Licence Holder	a person who is the holder of a Sex Establishment Licence
Permitted Hours	The hours during which the licensed premises are permitted to be open to the public
Sex Establishment Licence	A licence granted pursuant to Schedule 3 of the Act (as amended)
Relevant Locality	the area of Tamworth Borough Council
Inappropriate Proximity	a minimum distance of 100 metres in direct line of sight between the proposed establishment or more in the case of the proposed establishment being in proximity to a primary school
Sex Establishment	Sex Cinema, Sex Shop or Sexual Entertainment Venue
Sex Cinema	Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced which: <ul style="list-style-type: none">• Are concerned primarily with the portrayal of or primarily deal with or relate to, or are intended to stimulate or encourage: i) sexual activity ii) acts of force or restraint which are associated with sexual activity• are concerned primarily with the portrayal of , or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling house to which the public is not admitted
Sex Shop	Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of

selling, hiring, exchanging, lending, displaying or demonstrating –

- a) sex articles;
- b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:-
 - i) sexual activity
 - ii) acts of force or restraint which are associated with sexual activity

Sex Article

Anything made for use in connection with, or for the purpose of stimulating or encouraging

- a) sexual activity or
- b) acts of force or restraint which are associated with sexual activity; and

- anything containing or embodying matter to be read or looked at or anything intended to be used either alone or as one of a set, for the reproduction or manufacture or any such article and

- to any recording of vision or sound which:-

1. is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or

2. is concerned primarily with the portrayal of, or primarily deals with or relates to genital organs or urinary or excretory functions.

Sexual Entertainment Venue Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. Relevant Entertainment means:-

- a) any live performance; or
- b) any live display of nudity; which is of such a nature that ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)

1.3 Relevant legislation

1.3.1 Tamworth Borough Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).

1.3.2 This means that the Council can control and regulate the operation of certain kinds of Sex Establishment within its area. No sexual establishment venue can operate unless

it has obtained a licence from the Council – any such licence will contain conditions that will restrict how that premises may trade.

- 1.3.3 Under Section 17 of the Crime and Disorder Act 2001, local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent crime and disorder in their area. This policy has regard to the likely impact of such licences on related crime and disorder in the Council's area.
- 1.3.4 Where applicable, the Council will involve the Community Safety Partnership (CSP) in decision making in relation to actual crime and disorder.
- 1.3.5 This Policy should be read in conjunction with, and without prejudice to, other existing National and European Union legislation, such as the Human Rights Act 1998 and the Equalities Act 2010.

2 SEXUAL ESTABLISHMENT VENUE LICENCE APPLICATIONS

2.1 Right to Waiver

- 2.1.1 It is not considered that it would be appropriate to permit waivers from the requirements to hold a sexual establishment venue licence, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12 month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

2.2 Application details

- 2.2.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to the council in accordance with the requirements set out in paragraph 10 of Schedule 3 to the 1982 Act.

2.3 Fitness of the Applicant

- 2.3.1. An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence, or a transfer of an existing one, the Council will take the following into account:
 - a) Previous relevant knowledge and experience of the applicant;
 - b) Any evidence of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other District or Borough.
 - c) Any report about the applicant and management of the premises received from statutory objectors.
 - d) Any responses from statutory consultees.
- 2.3.2 Whilst every application will be considered on its merits, the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent criminal convictions.

2.4 Impact of the Sexual Establishment Venue

- 2.4.1 In considering applications for the grant of new licences or variation of conditions, the Council will assess the likelihood of such grant causing adverse impacts, particularly to local residents. The council will take the following general matters into account:

- a) type of activity

- b) duration of proposed licence
- c) proposed hours of operation
- d) layout and condition of the premises
- e) the use to which the premises in the vicinity are put
- f) the character of the locality in which the premises are situated

2.4.2 In considering all applications for the grant of new licences or applications for variation of conditions the council will take into account the potential impacts of the application on:

- a) crime and disorder
- b) cumulative impact of licensed premises in the area including hours of operation
- c) the character of the locality in which the premises is situated

2.4.3 In considering all applications for the renewal of a sexual establishment venue licence the council will take into account:

- a) levels of recorded crime in the area of a sexual establishment venue that give the police cause for concern;
- b) past demonstrable adverse impact from the licensed activity;
- c) whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse related impacts.

2.5 The location of the premises

2.5.1 Applicants should be aware that planning permission to operate a premises as a sex establishment may not be in place. Planning is a separate process to obtaining a Sex Establishment licence. The Licensing Authority would recommend that potential licence applicants ensure that the appropriate planning permission is in place prior to submission of an application for a licence.

2.5.2 In accordance with relevant case law, the Council shall decide upon the suitability of a particular locality for a Sexual Establishment Venue by the particular circumstances of each case.

2.5.3 The Council is mindful of its power to determine that no Sexual Establishment Venue should be located in a particular locality.

2.5.4 Notwithstanding the above, licences will only be granted in predominantly commercial areas and the Council is mindful of its power to determine each application on its own merits. Applications will *not normally be granted* if they are to be within:

- a) areas that are exclusively, or predominantly, residential in character, or;
- b) the vicinity of residential properties, "vicinity" is not defined in the Schedule but in other statutory provisions has been defined as, "the state of being near in space", or;
- c) close proximity of a school or any other Premises used by children or vulnerable adults; or
- d) A publicly accessible open space that is regularly frequented by children or vulnerable adults, or;
- e) close proximity of a place of worship, or;
- f) areas with a level of recorded crime that give the police cause for concern, or;
- g) areas that are likely to be adversely effected due to the cumulative impact of existing Sexual Establishment Venues or;

h) 200m of an existing Sexual Establishment Venue.

2.5 Consultation Arrangements

2.5.1 Public Consultation

The applicant must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made. A notice must also be displayed on or nearby the premise in a place where it can be read by members of the public for a period of 21 days beginning with the date the application was made.

2.5.2 A notice must also be displayed on or nearby the premise in a place where it can be read by members of the public for a period of 21 days beginning with the date the application was made. The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16. The notice must be laminated or suitably protected to ensure that it remains legible throughout the public notice period.

2.5.3 The notice must state: (a) details of the application and activities that it is proposed will be carried on or from the premises,
(b) the full name of the applicant,
(c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
(d) the date, being 28 days after that on which the application is given to the Council, by which objections may be made to the Council and that the objections should be made in writing

2.5.4 There are similar notification requirements under the Licensing Act 2003 and where an applicant is making an application under both Schedule 3 and the 2003 Act at the same time they may wish to combine those requirements.

2.5.5 The applicant shall, not later than seven days after the date of application send a copy to Staffordshire Police.

2.6 Commenting on Licence Applications

2.6.1 Unlike some other licensing regimes (such as for alcohol, entertainment, or gambling), a wide range of people can raise objections about Sex Establishment licences. The police are a statutory consultee for all applications.

2.6.2 Although applicants are only required to provide notice of the application to the police, the Licensing Officer will publish a list of current sex establishment premises applications on the Council's website, to allow the public to view basic details and provide a contact number for the office processing the application.

2.6.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The grounds relevant to the majority of objectors are as follows:

- that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity of the premises, vehicle, vessel or stall in respect of which the application is made.

- 2.6.4 Any objections received by the Licensing Authority which do not relate to the grounds set out in the Act must be rejected by the Licensing Committee. Where objections are rejected, the objector will be given written reasons.
- 2.6.5 Objectors can include individual residents or businesses, residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Petitions may be accepted as an objection but must follow the guidelines set out in the Council's Procedure Rules for Petitions set out in the Council's Constitution.
- 2.6.6 The Licensing Authority will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by the Licensing Committee and not on the basis of any political judgement. Where objections are rejected, the objector will be given written reasons. A report will be made to the Licensing Committee determining the application, indicating the general grounds of the representation and the reasons why it should be considered for rejection. The Licensing Committee will determine whether the representation will be accepted or not.
- 2.6.7 An unreasonable objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 2.6.8 Objections must be made in writing (email is acceptable) and should include the following:
- the name and address of the person or organisation making the objection
 - the premises to which the objection relates
 - the proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this
 - the reasons for making the objections, which are clearly set out in relation to the grounds for refusal (as above).

3. DETERMINATION OF APPLICATIONS

3.1 General

- 3.1.1 In determining an application relating to a Sexual Establishment Venue licence the Council will assess the application on its merits having regard to the content of this Policy, the relevant legislation and any relevant guidance that may be issued from time to time.
- 3.1.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing Panel may authorise a departure from the policy if it feels it appropriate for a specific application.
- 3.1.3 We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of 12 months at a time to provide certainty to those operating businesses. In certain circumstances, the Licensing Panel may issue a licence for a lesser period where it deems this necessary.

3.2 Grant of a new Licence

- 3.2.1 All applications for the grant of a new licence where representation or objections are received will be determined by the Licensing Committee.
- 3.2.2 The Council will give the applicant(s) the opportunity of appearing before and being heard by a Licensing Committee before:
- a) refusing to grant a licence; or
 - b) refusing to renew a licence; or
 - c) refusing to vary an existing licence.
- 3.2.3 In determining an application for the grant, renewal or variation of a licence, the Council must have regard to any representations that it has received.
- 3.2.4 **Mandatory Reasons for Refusal:** The Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 Section 12 (1)(a-e) prohibits the Licensing Authority from granting a licence:
- a) to a person under the age of 18; or
 - b) to a person who is for the time being disqualified from holding a licence following revocation of such a licence; or
 - c) to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
 - d) to a body corporate which is not incorporated in an EEA state;
 - e) to a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Please note there is no right of appeal against refusal on these grounds.

- 3.2.5 **Discretionary Grounds for Refusal:** Under the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 Section 12 (3)(a-d) the Licensing Authority may refuse an application for the grant or renewal of a licence on one or more of the following grounds:
- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - c) that the number of sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made (determined) is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - d) that the grant or renewal of the licence would be inappropriate, having regard –
 - to the character of the relevant locality; or
 - to the use to which any premises in the vicinity are put; or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 3.2.6 An application for the transfer of a licence can only be refused by virtue of grounds (a) & (b) above. Holders of premises licences are not permitted to transfer licences between sites.

3.3 Renewal or Variation of an Existing Licence

- 3.3.1 The granting of an application for renewal, transfer or variation of an existing licence will be determined in accordance with the scheme of delegation determined by the Council.
- 3.3.2 Where representations are received, the application will be referred to a Licensing Committee for determination.

3.4 Refunds

- 3.4.1 In the event of an application being refused, the required application fee is non-refundable.

4. CONDITIONS

- 4.1 We have adopted standard conditions for Sexual Establishment Venues which are set out in **Appendix A** of this policy.
- 4.2 Where it is reasonable and necessary to do so, the Licensing Panel will impose additional proportional conditions on a licence. Wherever possible these will be discussed in advance with applicants by our licensing officers.
- 4.3 All licences will be granted, renewed or varied subject to these Standard Conditions unless expressly excluded or varied by a Licensing Committee.

5. HEARING PROCEDURE

- 5.1 Where the Council is required to determine an application by reference to a Licensing Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 5.2 In preparation for the hearing, all parties will receive a copy of the Licensing Officer's report prior to the hearing. The report will contain a summary of the application, representations and any other relevant information.
- 5.3 At the hearing, all parties will have the opportunity to address the Licensing Committee and ask questions of fact of other parties. The Licensing Committee may also ask questions of all parties that they feel relevant to the determination process.
- 5.4 The Licensing Committee will communicate their decision at the end of the hearing and the applicant will receive written confirmation of the decision.

6. OPERATION AND MANAGEMENT

6.1 Proposed Operation and Management

- 6.1.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions and health and safety regulations.
- 6.1.2 In terms of management of licensed Premises, the Council strongly encourages where possible and appropriate, that licensees:

- a) Work with statutory agencies such as the Police, and the Council in order to create and maintain a safe environment, both within licensed Premises and in the immediate vicinity;
- b) Develop crime prevention strategies in consultation with the Police and the Council particularly those whose Premises are located in areas with high levels of recorded crime,
- c) Develop strategies and procedures to increase access for disabled people to the Premises.
- d) Ensures that all relevant staff are appropriately trained in areas such as health and safety, first aid, and fire precautions.

6.1.3 The Licensee shall forthwith notify the Council in writing of his ceasing to carry on the business of a sexual entertainment venue.

7. ENFORCEMENT

7.1 This organisation recognises that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.

7.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Enforcement Policy and Regulators' Compliance Code.

7.3 The Council will not determine an application for the grant or renewal of a licence unless the applicant affords a duly authorised officer of the Council or a Police Constable a reasonable opportunity to enter the premises to make such examinations or enquiries as is necessary to determine the suitability of the applicant and the premises.

8. REVOCATION OF LICENCE

8.1 The Licensing Authority is given jurisdiction to revoke a Sex Establishment licence by virtue of Schedule 3 paragraph 17(1) of the Local Government (Miscellaneous Provisions) Act 1982.

8.2 The Licensing Authority may call a hearing, without requiring a third party to request such a hearing, and give the licence holder an opportunity to appear before them.

8.3 The Licensing Authority may revoke the licence on any of the mandatory grounds which are detailed above at Section 3.2.4 or in respect of (a) or (b) detailed at section 3.2.5 (above), namely that the licence holder is unsuitable or that the manager or beneficiary of the licence is unsuitable.

8.4 Should the Licensing Authority revoke a Sex Establishment licence then full reasons for the revocation would be provided to the licence holder within 7 days of the decision.

8.5 Revocation of a Sex Establishment licence would disqualify the licence holder from holding or obtaining another Sex Establishment licence in the Licensing Authority's area for a period of 12 months. However, this does not prevent the licence holder from holding a Sex Establishment licence in another Licensing Authority's area.

9. RIGHT TO APPEAL A DECISION

- 9.1 If an application is refused, or revoked, following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.
- 9.2 Appeals must be made to the local Magistrates' Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.
- 9.3 Please note that you cannot appeal against the Licensing Authority's decision if the application was refused on the grounds that: a) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or b) the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.
- 9.4 The Magistrates' Court will determine the appeal application. If you do not agree with the decision made by the Magistrates' Court, you can appeal to the local Crown Court. The decision made by the Crown Court will be final.
- 9.5 The Licensing Authority must comply with a decision made by the Magistrates' or Crown Court.

10. AMENDMENTS TO THIS POLICY

- 10.1 Any significant amendment to this policy will only be implemented after further consultation with the trade and the public. All such amendments to this Policy will be undertaken in accordance with the Council's Constitution.

For the purpose of this section, any significant amendment is defined as one that:

- a) is likely to have a significant financial effect on licence holders, or
 - b) is likely to have a significant procedural effect on licence holders, or
 - c) is likely to have a significant effect on the community.
- 10.2 Any minor amendments to this Policy may be authorised by the Head of Service responsible for Licensing and undertaken in accordance with the Council's Constitution. For the purpose of this section, any minor amendment is an amendment not defined as significant in Section 8.1 of this Policy.
- 10.3 The Standard Conditions appended to this policy (Appendix A) does not form part of the policy document, although may be referred to within the policy. These Standard Conditions could be subject to change during the duration of this policy, but such amendment may not result in review of this policy.

APPENDIX A

SEXUAL ESTABLISHMENT VENUE STANDARD CONDITIONS

These conditions are imposed by the Council pursuant to its powers under paragraph 13(1) of Schedule 3 of the Act as terms, conditions and restrictions to which a licence is in general to be granted, renewed or transferred by the Council save and in so far as they do not conflict with the provisions of the Act itself.

These standard conditions will apply to all licences unless varied by the Licensing Committee.

The granting of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.

In the event of a conflict between these Standard Conditions and any Special Conditions contained in a licence relating to a Sex Establishment, the Special Conditions shall prevail.

1. Premises shall only be used in accordance with the licence issued, including the plan, licensable hours and designated entertainment areas.
2. The copy of the licence and of these Standard Conditions required to accordance with paragraph 14 (1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence shall be displayed, framed and exhibited to the satisfaction of the Council. A clean and legible copy of these Standard Conditions shall be retained on the premises and available upon request.
3. Where the licensee is a body corporate or unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within fourteen days of such change. Such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within fourteen days of a request in writing from the Council.
4. The name of the person responsible for the management of a Sex Establishment shall be prominently displayed within the premises
5. No change of use of any portion of the premises from that approved by the Council shall be made without the consent of the Council.
6. The entrance to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by, and shall be so provided with a partition as to ensure that the interior of the premises remain invisible to such passers by when the entrance is open.
7. Windows and openings to the premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at a position approved by the Council, opaque screens or blinds of a type and size approved by the council.
8. No advertising including explicit photographs or information likely to cause offence shall be permitted inside, outside or in the vicinity of the premises.

9. In premises that are not used wholly as a sexual entertainment venue, a clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating "No persons under the age of 18 years will be permitted".
10. Under no circumstances must any entertainment be visible to members of the public from outside the premises.
11. No person under the age of 18 years of age shall be admitted to or allowed on the premises whilst licensable activities are taking place. An age verification process will be applied.
12. The licensee shall, without charge, display and make available in the Sex Establishment such free literature on counselling of matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.
13. No lewd or indecent conduct or conduct likely to cause a breach of the peace shall be permitted on the premises.
14. Door Supervisors, registered in accordance with the Security Industry Authority, shall be on duty at all times when licensable activities are taking place.
15. Performers shall be aged not less than 18 years.
16. Only the performers shall provide the entertainment, no audience participation shall be permitted.
17. The licensee or a nominated manager shall be present at the premises at all times whilst entertainment is taking place and shall be responsible for overseeing the activities of the performers.
18. A register shall be maintained and kept on the premises and be available for inspection at any time by police or officers of the licensing authority. This shall clearly record the identity of the licensee(s) on duty, the day, date, times of start and finish of duty, and the record shall be kept for a period of 12 months after the last entry in the register.
19. Dressing rooms will be provided for entertainers and access to these shall be restricted by management in accordance with approved arrangements before during and after the entertainment.
20. The entertainment will be provided only by the entertainers and no members of the audience shall be permitted to participate.
21. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers is strictly forbidden.
22. Entertainers or performers not performing shall not be in a licensed area in a state of undress.
23. Topless entertainment shall be given only by the performer/entertainer(s). There shall be no audience participation.

24. No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or otherwise exercising their calling.
25. Neither the licensee or any employer or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation anywhere in the Tamworth Borough Council's area.
26. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
27. Any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals shall not:
 - i. exhibit in the entranceway or in the areas surrounding the premises;
 - ii. tout for business; or
 - iii. distribute flyers.
28. Save in the case of an emergency, no access shall be permitted through the Premises to any unlicensed Premises adjoining or adjacent.
29. Suitable controlled access to the premises shall be maintained. Any mechanical device will be maintained in good working order.
30. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment. (This does not apply to toilet cubicles)
31. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.
32. CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition. The following conditions shall apply:
 - i. CCTV cameras shall encompass all entrance and egress to the premises and all areas where the licensable activity occurs including dancing booths provided.
 - ii. CCTV shall continually record whilst the premises are open to members of the public.
 - iii. CCTV equipment shall be maintained in good working order and recordings kept in date order, numbered sequentially and kept for a period of 31 days and made available to police or licensing officers on request.
 - iv. CCTV recording equipment, tapes or discs shall be kept in a secure environment under the control of the Licence Holder or other responsible named individual.
 - v. Appropriate signage representative in respect of the use of CCTV at the premises shall be displayed in conspicuous positions.
33. The Licensee shall inform the Council if they are convicted under the Obscene Publications Act 1959, the Protection of Children Act 1978, or the Customs and Excise Management Act 1979 or if an order of forfeiture is made under the Obscene Publications Act 1959 following the service of a summons on the Licensee. The Council will take into consideration any such, or similar, conviction or Order for possible revocation or non-renewal of the licence.

34. Any breach or failure to comply with the conditions attached to the licence may result in the revocation of the licence.

DRAFT

Community Impact Assessment

Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Sexual Establishments Policy	
Date Conducted	8/6/23	
Name of Lead Officer and Service Area	Sarah Gear Environmental Health	
Commissioning Team (if applicable)		
Director Responsible for project/service area	Anna Miller Environmental Health	
Who are the main stakeholders	Staffordshire Police	
Describe what consultation has been undertaken. Who was involved and what was the outcome	Full consultation including , town centre managers, Staffordshire Police, Community Safety officers, residents, businesses, Members, and Community Boards.	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)	N/A	
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input checked="" type="checkbox"/> x
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input checked="" type="checkbox"/> x
	Existing	<input type="checkbox"/>
	Being reviewed	<input type="checkbox"/>

	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>
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Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

Although there is no statutory requirement for a policy covering sexual entertainment venues, it is considered desirable and necessary to implement one so that the Licensing Authority is seen to be transparent, consistent, fair and open when considering and determining applications for this activity.

Who will be affected and how?

Business owners of sexual establishments – formalises what we already do but ensures expectations on licence holder and theirs of the authority are aligned.

Are there any other functions, policies or services linked to this impact assessment?

Yes No

If you answered 'Yes', please indicate what they are?

Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation)
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gender Reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marriage & Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those having an offending past	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legislation dictates offences that must be considered before granting a licence
Children	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Vulnerable Adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those who are homeless	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Mental Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Those with Physical Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Other (Please Detail)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

N/A This policy applies to all applying for a sexual establishments licence and has no bearing on any impact areas other than offending past.

Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

Impact Area	Details of the Impact	Action to reduce risk
<i>Eg: Families</i>	<i>Families no longer supported which may lead to a reduced standard of living & subsequent health issues</i>	<i>Signposting to other services. Look to external funding opportunities.</i>
Those having an offending past	If a relevant offence is held they will not be granted a licence	Advice provided as to when they would be able to apply for a licence.

Part 5 - Action Plan and Review

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome
	Outcomes and Actions entered onto Covalent			

Date of Review (If applicable)

Draft Sexual Establishment Policy

List Of Consultees

Angels

All Borough councillors

Chamber of Commerce

Tamworth Borough Council Partnerships

PFCC

Responsible Authorities as defined under the Licensing Act 2003

Local Police

Tamworth Business Crime Reduction Partnership

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Hi Sarah,

Please see the below comments regarding the matter in the subject line.

Page 6, 2.5.4 e I would suggest adding to the existing wording - or any other religious establishment.

Page 9, 3.2.2 add d) refusing to transfer an existing licence.

Page 11, add 7.4 Other authorities who consider enforcement appropriate remain operationally independent and will act as they deem necessary.

Page 11, 8.2 add to the existing wording, a third party may also apply to call a hearing.

I would say that time scales need adding to the above similar to LA 2003 reviews etc.

Page 12, 9.4 I've never seen any of the other SEV policies reference a second appeal to the Crown Court. They follow the route of the LA 2003 and go to mags only. Anything further is Judicial Review. Might be one to check in the legislation if possible.

Page 12, 9.5 may need amending dependant on the above.

I've attached a set of conditions from a different authorities policy as it has some in addition to the ones initially suggested. Another one I would suggest adding is "No performances shall include animals".

If you want to go through any of the above please feel free to get in touch, or if you need anything else please let me know.

Regards

Jim

PS 4613 Jim Finn

Licensing Manager.

Email: james.finn@staffordshire.police.uk

APPENDIX 1

Standard Conditions Regarding Sexual Entertainment Venues In these conditions:

'Relevant Entertainment' means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

'Authority' means Stafford Borough Council. 'Town' means Stafford and refers to it in its entirety.

'Premises' means any vessel, vehicle, stall, building, forecourt yard, place of storage or any part of any of these where Relevant Entertainment takes place and is the subject of a licence.

In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

General Conditions:

1 The premises shall only permit adult entertainment between the hours of hours and hours the following morning as determined by the licensing committee.

2 Only activities which have previously been agreed in writing by the Authority shall take place.

3 The agreed activities shall take place only in designated areas approved by the Authority.

4 There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.

5 Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

6 A copy of the licence is to be displayed prominently at the premises at all times.

Advertisements, solicitation and displays

7 There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements that indicate or suggest that any form of Relevant Entertainment takes place on the premises. This includes the display of any advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) including in any of the following ways:

(a) by means of personal solicitation in the locality of the licensed premises.

(b) by means of leafleting in the locality.

(c) by means of externally displayed advertisement (such as on billboards or posters) in any part of the Council's administrative area.

(d) by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

Premises

8 Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on the plan, including any change in the permitted signs on display shall not be made except with the prior approval of the Council.

9 A clear Notice shall be displayed inside the entrance to the premises in the following terms: "Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises."

10 The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.

11 When the premises are open for Relevant Entertainment no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 25 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.

Management and licensee

12 Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Authority within 14 days of such change.

13 The premises shall maintain a refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Authority.

Conditions regarding performers

14 Relevant Entertainment may only take place in 'designated areas' that are marked on the plan of the premises.

15 The audience must at all times remain fully clothed.

16 Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.

17 A 'Signing-in' Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised officers of the Authority.

18 During any performance there must be no physical contact between the performer and any member of the viewing public.

19 No performances shall include any sexual act with other performers.

20 No performances shall include any sexual act with objects.

21 There shall be no nudity by performers in public areas of the premises, unless the Authority has agreed in writing that the area may be used for performances of sexual entertainment.

22 At the completion of the Relevant Entertainment the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.

23 Performers are not to solicit, exchange addresses, telephone numbers or social media contact details with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.

24 An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.

25 Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.

26 Entertainers or performers not performing must not be in a licensed area in a state of undress.

27 There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices in respect of relevant entertainment, including any charge for the company of any person working at the premises, which shall be placed in such a position that it can, always, be easily and conveniently read by persons inside the premises.

28 Literature and contact details of organisations that provide advice and counselling on matters relating to:

(a) Modern slavery,

(b) Domestic abuse,

(c) Coercive control,

(d) Rape and sexual assault, shall be made available to performers free of charge in their changing area Briefing

29 Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

Door-Supervisors

30 Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Relevant Entertainment is taking place.

31 The licence holder, or his nominated deputy who is authorised in writing, or door-supervisors, shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with licence conditions by customers and performers.

32 Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.

33 A dedicated SIA-registered door supervisor shall remain, at all times, in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.

34 When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

CCTV System

35 A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 31 days. The CCTV system is to be installed in all areas as recommended by the Staffordshire Police Licensing team.

36 The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.

37 Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Stafford Borough Authority (who will carry identification).

38 No CCTV footage is to be copied, given away or sold (except as required by Police/Authority for investigation/enforcement purposes).

39 Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.

40 Notices shall be displayed informing customers of the presence of CCTV.

Goods available in Sex Establishments

41 Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging, sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned, or demonstrated in a Sex Cinema or Sexual Entertainment Venue.

42 All printed matter offered for sale, hire, exchange, or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.

43 No film or video film shall be exhibited, sold, or supplied unless it has been passed by the British Board of Film Censors and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

Yellow = Conditions that could be included in addition to what is in the draft policy

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