

CIVIC CENTRE,  
SUNDERLAND  
16 November 2015

**TO THE MEMBERS OF SUNDERLAND CITY COUNCIL**

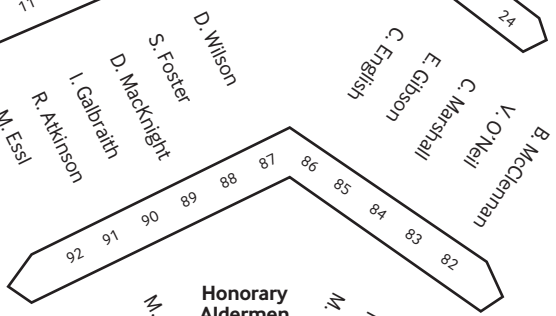
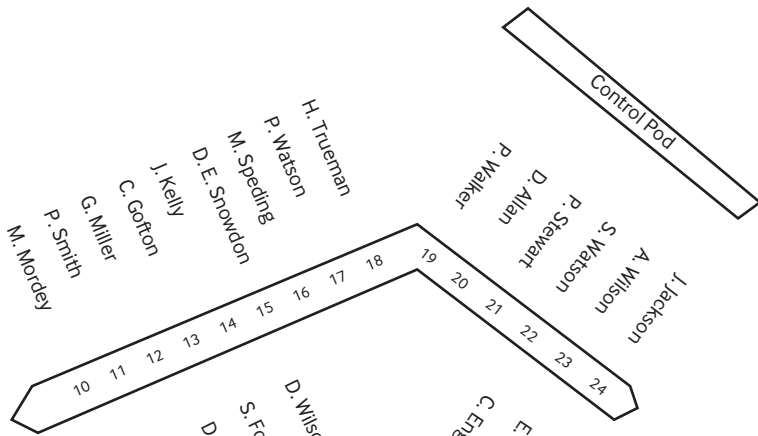
**YOU ARE SUMMONED TO ATTEND A MEETING** of Sunderland City Council to be held in the Council Chamber, Civic Centre, Sunderland, on **WEDNESDAY 25 NOVEMBER 2015** at **6.00 p.m.**, at which it is proposed to consider and transact the following business:-

<b>Item</b>	<b>Page</b>
1. To read the Notice convening the meeting.	-
A minute's silence will be observed in remembrance of those who lost their lives in the recent terrorist attacks in Paris.	-
2. To approve the minutes of the Meeting of the Council held on 23 <sup>rd</sup> September 2015 (copy herewith).	1
3. Receipt of Declarations of Interest (if any).	-
4. Announcements (if any) under Rule 2(iv).	-
5. Reception of Petitions.	-
6. Apologies.	-

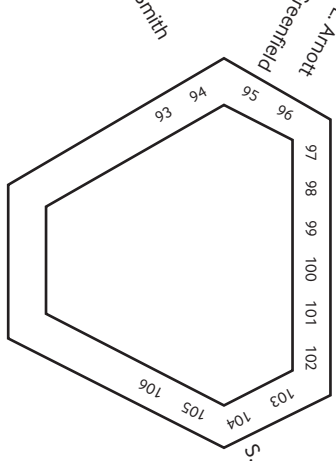
7.	Report of the Cabinet (copy herewith)	15
8.	Report of the Audit and Governance Committee (copy herewith).	195
9.	Written Questions (if any) under Rule 8.2.	-
10.	To receive a report on action on petitions (copy herewith).	203
11.	To consider the attached motion (copy herewith).	207
12.	To consider the following reports:-	211
	(i) Report on Special Urgency Decisions – report of the Leader (copy herewith).	213

*S. Toynall*

**INTERIM HEAD OF PAID SERVICE**



**Honorary Aldermen**



Head of Law and Governance  
E. Waugh

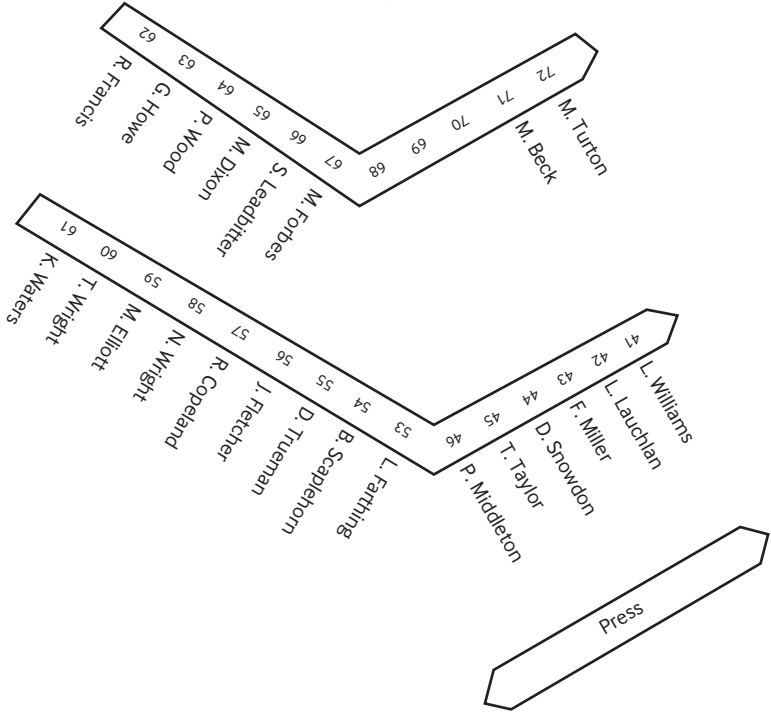
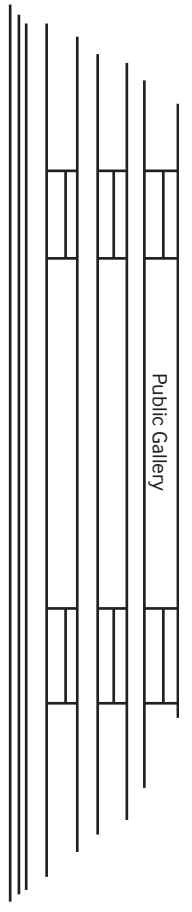
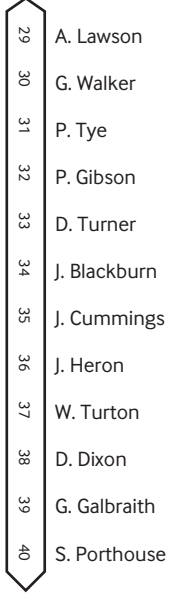
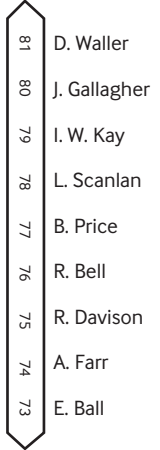
Mayor  
B. Curran

Head of Paid Service  
S. Tognarelli

Deputy Mayor  
A. Emerson

Governance Services

Governance Services





# ***Minutes***



## Sunderland City Council

At a meeting of SUNDERLAND CITY COUNCIL held in the CIVIC CENTRE on WEDNESDAY, 23 SEPTEMBER, 2015 at 6.00 p.m.

**Present:** The Mayor (Councillor Curran) in the Chair  
The Deputy Mayor (Councillor Emerson)

Councillors	Allan	Francis	Middleton	Turner
	Allen	Galbraith, G.	Miller, F.	Turton, M.
	Ball	Galbraith, I.	Miller, G.	Turton, W.
	Beck	Gibson, E.	Mordey	Tye
	Bell	Gibson, P.	O'Neil	Walker, G.
	Blackburn	Gofton	Porthouse	Waller
	Copeland	Heron	Price	Waters
	Davison	Howe	Scanlan	Watson, P.
	Dixon, M.	Jackson	Smith, D.	Watson, S.
	Elliott	Kay	Smith, P.	Williams
	Ellis	Kelly	Snowdon, D.	Wilson, A.
	English	Lauchlan	Snowdon, D.E.	Wilson, D.
	Essl	Lawson	Speding	Wood
	Farthing	MacKnight	Taylor	Wright, N.
	Fletcher	Marshall	Trueman, H.	Wright, T. H.
	Foster	McClennan		

Also Present:-

Honorary Aldermen: - M. Greenfield and M. Smith.

The notice convening the meeting was read.

### Minutes

15. RESOLVED that the minutes of the Meeting of the Council held on 24<sup>th</sup> June, 2015 (copy circulated), be confirmed and signed as a correct record.

### Declarations of Interest

The following Councillor declared an interest as follows: -

Item 11 – Notice of Motion (Defending the Right to Strike)

Councillor Bell

Member of the Union of Allied Trades and Technicians.

## **Announcements**

### **(i) Green Apple National Gold Award**

At the invitation of the Mayor, the Cabinet Secretary, Councillor Speding informed Members of the receipt of the prestigious Green Apple National Gold Award 2015 for the work carried out to breathe new life into Marine Walk and Seaburn Promenade.

Sunderland City Council won the Local Authorities' category at the national awards on 29 June. The awards, organised by The Green Organisation, rewarded and promoted environmental best practice around the world.

The judges commented that their job was harder than ever because of the greater number and higher quality of entries, so it was quite an achievement to win Gold under those circumstances. Cherwell DC and North Kesteven DC were runners up with Silver and Bronze.

The works at the sea front included energy efficient LED lighting, materials recycled from site and elsewhere in the City, and driftwood from Roker Beach. The materials chosen were durable and long lasting. The completed works subtly incorporated secondary sea defences and the sustainable design should be enjoyed by generations to come.

### **(ii) 2015 Northumbria in Bloom Award**

At the invitation of the Mayor, Councillor Mordey informed Members that the Annual Awards Ceremony for Northumbria in Bloom 2015 took place at the Swan Centre, Berwick on Tuesday 15 September.

Councillor Mordey expressed his gratitude to the Deputy Mayor and Deputy Mayoress for attending the event which was also attended by delegates from across the Northumbria in Bloom region.

The achievements of the City, its partners and many of the communities were reported to Council. The judging criteria for the competition were based on the Royal Horticultural Society standards.

Keel Square and St. Mary's Boulevard particularly impressed the judges and it received a Northumbria in Bloom Discretionary Award and Trophy.

Councillor Mordey presented the Mayor with the trophies, which was a great indication of the strong and thriving community that existed in the City. Councillor Mordey thanked all of the City Council's staff, community organisations and businesses for their efforts in achieving the collection of awards.

## **Reception of Petitions**

There were no petitions submitted to the meeting.



## **Apologies for Absence**

Apologies for absence were submitted to the meeting on behalf of Councillors Atkinson, Cummings, D. Dixon, Farr, Forbes, Gallagher, Leadbitter, Scaplehorn, Stewart, D. Trueman, P. Walker and Honorary Alderman M. L. Arnott.

## **Report of the Cabinet**

The Cabinet reported and recommended as follows: -

### **Revenue Budget Outturn for 2014/2015 and First Revenue Review 2015/2016**

That they have given consideration to a report of the Director of Finance on the Revenue Budget Outturn for 2014/2015 and First Revenue Review 2015/2016 namely requesting the Council to approve the transfer of funds.

In accordance with the Council's Budget and Policy Framework certain transfers require Council approval. The attached extract sets out the relevant extract from the Cabinet report, which refers to a proposal that £0.649m underspend is transferred to the Strategic Investment Reserve to support transitional arrangements arising from implementation of the savings programmes for 2015/2016 and future years.

They also referred the extract of the budget transfer to the Scrutiny Committee, for advice and consideration. The Scrutiny Committee supported the transfer of funds to the Strategic Investment Reserve to support transitional arrangements arising from implementation of the savings programmes for 2015/2016 and future years and supported the Cabinet recommendation that the transfer be submitted to Council for approval.

Accordingly the Cabinet recommended the Council to approve the budget transfer as set above and in the attached extract.

### **Capital Programme Outturn 2014/2015 and First Capital Review 2015/2016 (including Treasury Management)**

That they have given consideration to a report of the Director of Finance on an aspect of the report on the Capital Programme Outturn 2014/2015 and First Review 2015/2016 (including Treasury Management), namely requesting the Council to note the variations to the capital programme with an estimated cost variance of £250,000 or more in 2015/2016.

They referred the report to the Scrutiny Committee to note the variation to the Capital Programme 2015/2016 with an estimated cost variance of £250,000 or more, details of which are set out in the attached extract. The Scrutiny Committee noted the report and were satisfied with the proposed variation to the Capital Programme.

Accordingly, the Cabinet recommended the Council to note the proposed variations to the capital programme with an estimated cost variance of £250,000 or more in 2015/2016 as set out in the attached extract.

The Leader of the Council, Councillor P. Watson, duly seconded by the Deputy Leader, Councillor H. Trueman, moved the report of the Cabinet.

Upon the report of the Cabinet being put to the Council it was:-

16. RESOLVED that the report of the Cabinet be approved and adopted.

### **Report of the Audit and Governance Committee**

The Audit and Governance Committee reported and recommended as follows:-

#### **Annual Report on the work of the Audit and Governance Committee 2014/15**

That they have given consideration to a report by the Director of Finance on the work of the Audit and Governance Committee during 2014/15, demonstrating how they have fulfilled their delegated responsibilities. Accordingly, the Committee recommended Council to note the Annual Report on the Work of the Audit and Governance Committee 2014/15.

Councillor Farthing, duly seconded by the Cabinet Secretary, Councillor M. Speding, moved the report.

Upon the report of the Audit and Governance Committee being put to the Council it was:-

17. RESOLVED that the report of the Audit and Governance Committee be noted.

### **Written Questions under Rule 8.2**

Pursuant to Rule 8.2 of the Council Rules of Procedure, Members of the Council asked questions of the Leader and Members of the Executive.

### **Action Taken on Petitions**

The Council received and noted the report below detailing action taken in relation to the following petition which had been presented to Council.

#### **(i) Petition requesting the reinstatement of bus service 35A between East Herrington and Silksworth.**

The text of the petition read:

“The residents of Oakfield Court and the surrounding area are having difficulties in getting to Silksworth since Go North East have taken off the number 35A bus service and replaced it with the 35 which only runs once every hour.

This is causing hardship for especially the elderly residents who need to journey to Silksworth to access the Health Centre for Doctor’s appointments, also the Post Office.

For residents who live in parts of Farringdon the Gentoo office is also there.

They are aware that Nexus support an evening and weekend service 35A however this does not help with Doctor's appointments."

The petition was forwarded to the bus operator Go North East and to Nexus for their response. Details of their deliberations and response are outlined below.

Go North East responded to Councillor Galbraith on 30 June 2015. In this they acknowledged that they made changes to services in Sunderland at the end of January. A review of the service 35A was instigated following feedback from passengers about the route being too complicated, and the actual changes which were introduced were done so after a thorough review of passenger numbers and travel patterns, a consultation event at Park Lane Interchange, and face to face surveys with passengers on board service 35A in the affected area.

Their analysis showed that the number of people travelling directly between The Herringtons and Silksworth was not sufficient for a 20-minute service to continue to operate. However, the connection was still available throughout the day with no change of buses required. Service 38 provides a direct connection to Silksworth hourly on Monday to Saturday daytimes, with service 35A continuing to provide the link on evenings and Sundays. It was also possible to make the journey on a more frequent basis with one change of bus, by using service 33/33A from Silksworth to Barnes Park, and then service 35/36 from Barnes Park to the Herringtons, with each of these services running up to every 15 minutes on Monday to Saturday daytimes.

They had no plans to increase the frequency of the connection between The Herringtons and Silksworth at the current time, however they stated that they continually reviewed all of their services to ensure that they met the needs of passengers

Nexus wrote to Councillor Galbraith on 21 July with their response. This explained that as Go North East was a commercial operator, Nexus had very little control over the decisions made in relation to their commercial networks. Evening and Sunday journeys on the '35A' were financially supported by Nexus and continued to service Oakfield Court. Nexus also continued to provide an hourly daytime service for the residents of Oakfield Court in the form of the Nexus secured service '37'. This provided hourly links to Doxford Park, East Herrington and Washington Galleries. It also highlighted other services such as taxi-card and group travel which may assist residents.

The Nexus response mentioned that they believed that the changes in January were done without the appropriate consultation and encouraged the petitioners to continue to continue Go North East.

The City Council did not have any legal or financial responsibility for bus services. The City Council's powers in this context were limited to influencing or lobbying the commercial operators and requesting Nexus to

secure additional services to make good any gaps in the commercial network. In either instance the final decision on whether to reinstate the service would rest with the operator or Nexus.

In the case of this petition both avenues available to the City Council to resolving this matter had been exhausted and there was nothing further within the current legislative framework that could be done.

Councillor Gillian Galbraith and the petitioners had been notified.

## **Notices of Motion**

Councillor Wood, seconded by Councillor M. Dixon, moved the following motion:-

### **(i) Ofsted Judgement**

This Council deeply regrets the recent Ofsted judgement that “there are widespread and serious failures that leave children unsafe and mean that the welfare of children looked after is not adequately safeguarded or promoted” and resolves to do all in its power to realise Ofsted’s expectation “that all children and young people receive the level of help, care and protection that will ensure their safety and help prepare them for adult life.”

The Leader of the Council, seconded by Councillor P. Smith, proposed the following amendment:-

After “This Council” remove “deeply regrets” and insert “is profoundly concerned over” after “and” remove “resolves to do” and replace with “assures all City residents that it is doing”

So that the amended motion would read:-

“This Council is profoundly concerned over the recent Ofsted judgement that “there are widespread and serious failures that leave children unsafe and mean that the welfare of children looked after is not adequately safeguarded or promoted” and assures all City residents that it is doing all in its power to realise Ofsted’s expectation “that all children and young people receive the level of help, care and protection that will ensure their safety and help prepare them for adult life.”

Upon being put to a vote by a show of hands the amendment was unanimously agreed. The new substantive motion was then put to the meeting and accordingly it was:-

### **18. RESOLVED that:-**

“This Council is profoundly concerned over the recent Ofsted judgement that “there are widespread and serious failures that leave children unsafe and mean that the welfare of children looked after is not adequately safeguarded or promoted” and assures all City residents that it is doing all in its power to realise Ofsted’s expectation “that all children and young

people receive the level of help, care and protection that will ensure their safety and help prepare them for adult life.”

**(ii) Defending the Right to Strike**

Councillor Allan, seconded by the Leader of the Council, moved the following motion:-

This Council notes:

- In February 2015 the United Nations agency the International Labour Organisation (ILO) reaffirmed its belief that ‘without protecting a right to strike, Freedom of Association, in particular the right to organise activities for the purpose of promoting and protecting workers’ interests, cannot be fully realised.’
- In July 2015 the Conservative Government announced its intention to change legislation affecting trade unions and their members to make it harder to win ballots for industrial action. This will only be lawful if there is a 50% turnout among trade union members entitled to vote in addition to a simple majority voting for industrial action.
- The Conservatives seek a further requirement for those working in ‘important public services’ to secure the support of 40% of all trade union members. Non-voters will be counted as ‘against’ industrial action which is contrary to ILO guidance. This means that on a 50% turnout, 80% will have to vote for industrial action for it to be lawful in many public services.
- No such thresholds apply to elections in local government, for police and crime commissioners, or in European or Westminster elections.
- The government has refused the request of trade unions to make electronic balloting legally permissible and increase turnout this way.

This Council further notes:

- The proposed Conservative legislation will also introduce greater restrictions for picketing. These include requirements on unions to inform the police of the name of a picket supervisor and ensure that they have a letter of authorisation they must be required to carry, inform the police of how many will be expected to attend a picket line and what banners or materials will be used as well as notify the police of details of how trade unions intend to use social media during a dispute.
- The Trade Union Bill has been criticised by human rights organisations Liberty, Amnesty International and the British Institute of Human Rights arguing it “would hamper people’s basic rights to protest and shift even more power from the employee to the employer.”
- The Conservative government wants to remove the ban for employers to employ agency workers during a period of lawful industrial action
- The government want to grant Ministers the power to reduce the amount of facilities time agreed by employer and the workforce which is in place to ensure adequate workplace representation.

- Trade unions take industrial action for a wide range of reasons including defending wages and pensions, conditions at work and safety.

This Council believes:

- The right to strike and protest are fundamental rights which should be respected in a free and democratic society
- The Conservative government's Bill will undermine constructive employment relations across Wearside and that harmonious industrial relations are achieved by meaningful engagement and not additional legal restrictions to trade union members
- The government's Trade Union Bill is part of a disturbing trend to erode civil liberties and inhibit the right to speak out or protest against the government
- The Conservative government's Trade Union Bill is a politically-motivated attack on trade unions and could have negative consequences for working people in Sunderland and society

This Council resolves to:

- Oppose the Trade Union Bill 2015-16
- To write to the Secretary of State for Business, Innovation and Skills stating the council's opposition to their Trade Union Bill and to participate in any consultations
- Support the Northern TUC and civil liberties groups in campaigning to defend the right to strike and oppose the Trade Union Bill
- Continue to value the importance of meaningful workforce engagement and representation through trade unions in Sunderland

Upon being put to the vote the motion was carried with 58 Members voting in favour:-

The Mayor (Councillor Curran) in the Chair  
The Deputy Mayor (Councillor Emerson)

Councillors	Allan	Galbraith, G.	Middleton	Turner
	Allen	Galbraith, I.	Miller, F.	Turton, M.
	Ball	Gibson, E.	Miller, G.	Turton, W.
	Beck	Gibson, P.	Mordey	Tye
	Bell	Gofton	O'Neil	Walker, G.
	Blackburn	Heron	Porthouse	Waller
	Davison	Jackson	Price	Waters
	Elliott	Kay	Scanlan	Watson, P.
	Ellis	Kelly	Smith, D.	Watson, S.
	English	Lauchlan	Snowdon, D.	Williams
	Essl	Lawson	Snowdon, D.E.	Wilson, A.
	Farthing	MacKnight	Speding	Wilson, D.
	Fletcher	Marshall	Taylor	Wright, N.
	Foster	McClennan	Trueman, H.	Wright, T. H.

4 Members voting against:-

M. Dixon  
Howe  
Francis  
Wood

No Members abstained.

Accordingly it was:-

19. RESOLVED that:-

The Council notes:

- In February 2015 the United Nations agency the International Labour Organisation (ILO) reaffirmed its belief that 'without protecting a right to strike, Freedom of Association, in particular the right to organise activities for the purpose of promoting and protecting workers' interests, cannot be fully realised.'
- In July 2015 the Conservative Government announced its intention to change legislation affecting trade unions and their members to make it harder to win ballots for industrial action. This will only be lawful if there is a 50% turnout among trade union members entitled to vote in addition to a simple majority voting for industrial action.
- The Conservatives seek a further requirement for those working in 'important public services' to secure the support of 40% of all trade union members. Non-voters will be counted as 'against' industrial action which is contrary to ILO guidance. This means that on a 50% turnout, 80% will have to vote for industrial action for it to be lawful in many public services.
- No such thresholds apply to elections in local government, for police and crime commissioners, or in European or Westminster elections.
- The government has refused the request of trade unions to make electronic balloting legally permissible and increase turnout this way.

This Council further notes:

- The proposed Conservative legislation will also introduce greater restrictions for picketing. These include requirements on unions to inform the police of the name of a picket supervisor and ensure that they have a letter of authorisation they must be required to carry, inform the police of how many will be expected to attend a picket line and what banners or materials will be used as well as notify the police of details of how trade unions intend to use social media during a dispute.
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- The government want to grant Ministers the power to reduce the amount of facilities time agreed by employer and the workforce which is in place to ensure adequate workplace representation.
- Trade unions take industrial action for a wide range of reasons including defending wages and pensions, conditions at work and safety.

This Council believes:

- The right to strike and protest are fundamental rights which should be respected in a free and democratic society
- The Conservative government’s Bill will undermine constructive employment relations across Wearside and that harmonious industrial relations are achieved by meaningful engagement and not additional legal restrictions to trade union members
- The government’s Trade Union Bill is part of a disturbing trend to erode civil liberties and inhibit the right to speak out or protest against the government
- The Conservative government’s Trade Union Bill is a politically-motivated attack on trade unions and could have negative consequences for working people in Sunderland and society

This Council resolves to:

- Oppose the Trade Union Bill 2015-16
- To write to the Secretary of State for Business, Innovation and Skills stating the council’s opposition to their Trade Union Bill and to participate in any consultations
- Support the Northern TUC and civil liberties groups in campaigning to defend the right to strike and oppose the Trade Union Bill
- Continue to value the importance of meaningful workforce engagement and representation through trade unions in Sunderland

### **Appointments to Committees and Outside Bodies**

The Head of Law and Governance submitted a report to confirm the appointments of Hetton Town Council on the Standards Committee and to make appointments to the Health & Wellbeing Board Chairs Network and the North



East Culture Partnership of the Association of North East Councils (ANEC) and the Sunderland Autism Partnership Board.

(For copy report – see original minutes).

20. RESOLVED that:-

- (i) the appointments of Councillors R. Heron and K. Hepple as the representatives of Hetton Town Council on the Standards Committee be confirmed;
- (ii) the Leader of the Council be appointed to the Health and Wellbeing Chairs Network and the Public Health, Wellness and Culture Portfolio Holder to the North East Culture Partnership, and
- (iii) the appointment of the Children's Services Portfolio Holder on the Sunderland Autism Partnership Board be approved.

### **Quarterly Report on Special Urgency Decisions**

The Leader of the Council submitted a quarterly report (copy circulated) on executive decisions which had been taken as a matter of special urgency.

(For copy report – see original minutes).

There were no such instances to report.

21. RESOLVED that the report be received and noted.

### **Appointments – Interim Head of Paid Service, Returning Officer & Electoral Registration Officer, Deputy Electoral Registration Officer and Interim Director of Children's Services**

The Head of Law and Governance submitted a report to recommend Council to appoint an Interim Head of Paid Service, a Returning Officer & Electoral Registration Officer, a Deputy Electoral Registration Officer and an Interim Director of Children's Services and to approve appropriate amendments to delegated functions as a consequence of these designations.

(For copy report – see original minutes).

The Leader of the Council moved that the recommendations contained in the report be approved and it was:-

22. RESOLVED that:-

- (i) the operation of the Employment Procedure Rules (in particular Rules 2,3 and 4) as they applied to the appointments referred to in the report, be suspended, such suspension to be for the purpose of this item of business only.
- (ii) approval be given, with effect from 1 October 2015, to:-

- (a) the appointment of Sonia Tognarelli, Director of Finance, as Interim Head of Paid Service and that she be authorised to undertake the functions set out in Section A of the Appendix to the report on an interim basis, in addition to those functions delegated to the Director of Finance under the Constitution and
  - (b) the appointment of Sue Stanhope, Director of Human Resources and Organisational Development as Returning Officer and Electoral Registration Officer and that she be authorised to undertake the functions set out in Section B of the Appendix to the report, in addition to those functions currently delegated to the Director of Human Resources and Organisational Development under the Constitution, and
  - (c) the appointment of Lindsay Dixon, Head of Electoral Services, as Deputy Electoral Registration Officer and that she be authorised to undertake the functions of the Electoral Registration Officer in their absence.
- (iii) approval be given to the appointment of Steve Walker as Interim Director of Children's Services, the appointment of the Interim Director to the Health and Wellbeing Board and the authorisation of the Interim Director to undertake those functions which are within the remit of the statutory role of Director of Children's Services, which are currently delegated under the Constitution to the Executive Director of People Services.
  - (iv) the Director of Human Resources and Organisational Development, in consultation with the Leader, be authorised to determine the remuneration to be awarded in respect of the interim appointments and in respect of any officers who undertake additional responsibilities as a consequence of the interim arrangements; and
  - (v) the Head of Law and Governance be authorised to amend the Constitution as appropriate to reflect the delegations set out in the Appendix to this report and the delegation of relevant functions to the Interim Director of Children's Services and to make such other amendments as are appropriate to reflect the appointments agreed by the Council.

(Signed) B. CURRAN,  
Mayor.

# ***Report of the Cabinet***



**The CABINET reports and recommends as follows:-**

**1. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015**

That they have given consideration to a report of the Executive Director of Commercial Development (copy attached) which:-

- (a) sought approval to amend the Council's Constitution to reflect the authorisation of the Executive Director of Commercial Development to exercise the Council's full enforcement powers under the Draft "Smoke and Carbon Monoxide Alarm (England) Regulations", made under section 150(1)-(6) and (10) of the Energy Act 2013 and paragraph 3(a) of Schedule 4 to the Housing Act 2004 once those Regulations have been brought into force;
- (b) would ensure that the Council, as Local Housing Authority, was able to undertake its statutory duties in relation to the said Regulations; and
- (c) sought approval for the statement of principles which the Council would follow in determining the amount of a penalty charge related to a breach of the Smoke and Carbon Monoxide Alarm (England) Regulations.

The Cabinet approved the statement of principles which the Council would follow in determining the amount of a penalty charge related to a breach of the Smoke and Carbon Monoxide Alarm (England) Regulations and accordingly it recommended the Council to amend the Council's Delegation to Chief Officers in Part 3 of the Constitution as follows as from the date upon which the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 come into force:-

Section 2 – Executive Director of Commercial Development - Paragraph 2.46 to be amended to read as follows:- "To exercise the functions of the Council under the Building Act 1984, the Public Health Acts 1936 and 1961, Caravan Sites and Control of Development Act 1960, Environmental Protection Act 1990, Health and Safety at Work etc Act 1974, Local Government (Miscellaneous Provisions) Acts 1976 and 1982, Prevention of Damage by Pests Act 1949, and The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 in so far as they relate to housing conditions and to the management of housing."

## **2. Capital Programme Second Capital Review 2015/2016 (including Treasury Management)**

That they have given consideration to a report of the Director of Finance on the Capital Programme Second Review 2015/2016 including Treasury Management which set out:-

- reprofiling of projects since the First Capital Review for 2015/2016 was approved in June 2015;
- the inclusion of additional schemes and revisions to costs and resourcing for 2015/2016 since the First Capital Review was reported;
- the progress in implementing the Treasury Management Strategy for 2015/2016.

In accordance with the Council's Financial Procedure Rules, Cabinet may authorise variations to the Capital Programme provided such variations are within available resources and consistent with Council policy.

The attached Appendix A sets out the relevant extracts from the Cabinet Report which outlines the variation to schemes with an estimated cost in excess of £250,000 in 2015/2016 and future years.

They referred the relevant extracts to the Scrutiny Committee to note the proposed variation to the Capital Programme for 2015/2016 to include additional schemes with an estimated cost in excess of £250,000. The Scrutiny Committee noted the report, being satisfied with the proposed variation to the Capital Programme.

Accordingly, the Cabinet recommends the Council to note the proposed variation to the Capital Programme for 2015/2016 to include additional schemes and variations with an estimated cost in excess of £250,000. In relation to the Treasury Management Strategy and Prudential Indicators, the Cabinet recommended to Council to approve the revised 2015/2016 Prudential Indicators for both the Authorised Borrowing Limit for External Debt of £516.048m and the Operational Boundary for External Debt Limit of £442.196m to reflect changes arising from the Joint Waste Disposal (PFI) arrangement with Gateshead and South Tyneside Councils.

## **3. Revenue Budget Second Review 2015/2016**

That they have given consideration to a report of the Director of Finance on the overall Revenue position following the second review for 2015/2016 including proposed contingency transfers for the second quarter of 2015/2016.

In accordance with the Council's Budget and Policy Framework certain transfers require Council Approval. The following extract refers to those transfers of funds;

'At this stage savings are anticipated in respect of capital financing charges as a result of slippage on the capital programme, and additional income from interest on investments of approximately £6m at year end. It is proposed that these amounts and any further underspendings arising from unspent contingencies at the end of 2015/2016 are earmarked to support the overall 2015/2016 position and to meet transitional costs arising in 2015/2016 and future years.'

They also referred the above extract of the budgetary transfers to the Scrutiny Committee, for advice and consideration. The Scrutiny Committee supported the transfer of funds and any further underspendings arising from unspent contingencies at the end of 2015/2016 to support the overall position and transitional costs arising in 2015/2016 and future years and supported the Cabinet recommendation that the transfer be submitted to Council for approval.

Accordingly the Cabinet recommends the Council to approve the transfers as set out in the above extract.

#### **4. Budget Planning Framework 2016/2017 and Medium Term Financial Strategy 2016/2017-2019/2020**

That they have given consideration to a report of the Interim Head of Paid Service and Director of Finance (copy attached) outlining the key factors influencing the development of the Council's financial plans into the medium term and set out the budget planning framework for the Council for 2016/2017 and the headlines and context for the Medium Term Financial Strategy 2016/2017 to 2019/2020.

They also referred the report to the Scrutiny Committee for its comments in the context of the approved consultation arrangements for the Council's budget. The Scrutiny Committee was satisfied with the information provided and supported the Cabinet recommendation that the proposed Budget Planning Framework and Medium Term Financial Strategy are submitted to Council for approval.

Accordingly, the Cabinet recommends the Council to:-

- (i) approve the proposed Budget Planning Framework summarised at Section 11 of the report which will guide the preparation of the Revenue Budget for 2016/2017, and
- (ii) note that the full Medium Term Financial Strategy 2016/2017 to 2019/2020 will be presented to Cabinet in February.

**5. Gambling Act 2005 – Approval of the Council’s Statement of Principles**

That they have given consideration to a report of the Executive Director of Commercial Development (copy attached) to be considered by the Cabinet at its meeting on 25 November 2015. The report sought approval to the statement of principles to be published under the Gambling Act 2005.

They also referred the report to the Scrutiny Committee for advice and consideration. The Scrutiny Committee supported the proposal that Council be recommended to approve the statement of principles for publication under the Gambling Act 2005.

The recommendations of the Cabinet will be reported to the meeting.

**6. Licensing Act 2003 – Approval of the Council’s Statement of Licensing Policy**

That they have given consideration to a report of the Executive Director of Commercial Development (copy attached) to be considered by the Cabinet at its meeting on 25 November 2015. The report sought approval to the statement of licensing policy to be published under the Licensing Act 2003.

They also referred the report to the Scrutiny Committee for advice and consideration. The Scrutiny Committee supported the proposal that Council be recommended to approve the statement of licensing policy for publication under the Licensing Act 2003.

The recommendations of the Cabinet will be reported to the meeting.



## CABINET – 23 SEPTEMBER 2015

### THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

#### Report of the Executive Director of Commercial Development

#### 1. Purpose of the Report

- i) To seek approval to amend the Council's Constitution for the following purpose:  
  
to authorise the Executive Director of Commercial Development to exercise the Council's full enforcement powers under the Draft "Smoke and Carbon Monoxide Alarm (England) Regulations";
- ii) to ensure that the Council, as Local Housing Authority, is able to undertake its statutory duties in relation to the said Regulations; and
- iii) To seek approval for the statement of principles which the local authority will follow in determining the amount of a penalty charge related to a breach of the Smoke and Carbon Monoxide Alarm (England) Regulations.

#### 2. Description of Decision (Recommendations)

- 2.1 That Cabinet recommend to Full Council that the Council's Delegation to Chief Officers in Part 3 of the Constitution be amended as follows as from the date upon which the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 come into force:-

Section 2 – Executive Director of Commercial Development - Paragraph 2.46 to be amended to read as follows:- "To exercise the functions of the Council under the Building Act 1984, the Public Health Acts 1936 and 1961, Caravan Sites and Control of Development Act 1960, Environmental Protection Act 1990, Health and Safety at Work etc Act 1974, Local Government (Miscellaneous Provisions) Acts 1976 and 1982, Prevention of Damage by Pests Act 1949, and *The Smoke and Carbon Monoxide Alarm (England) Regulations 2015* in so far as they relate to housing conditions and to the management of housing."

- 2.2. It is recommended that Cabinet approve the statement of principles which the local authority will follow in determining the amount of a penalty charge related to a breach of the Smoke and Carbon Monoxide Alarm (England) Regulations.

#### 3. Introduction/Background

- 3.1 Under the Office of the Chief Executive's Delegation Scheme, the authorisation of enforcement action in respect of housing standards and enforcement is delegated to the Executive Director of Commercial Development to ensure that operational enforcement decisions can be made efficiently and in the public interest.

- 3.2 In March 2015, the Government laid before Parliament the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 requiring all private sector landlords from October 2015 to ensure that working smoke alarms and in some cases carbon monoxide alarms are installed in privately rented properties. It is estimated that this will prevent 26 deaths and 670 injuries each year across England. It is noted that people are 4 times more likely to die in a fire in the home if there is no working smoke alarm. These regulations come with strong support after a consultation into conditions in the private rented sector. The Regulations - made under section 150(1)-(6) and (10) of the Energy Act 2013 and paragraph 3(a) of Schedule 4 to the Housing Act 2004 - will, subject to Parliamentary approval, come into force on 1 October 2015.
- 3.3 The Regulations will require private landlords to ensure that there is a working smoke alarm installed on each storey of a privately rented home, that a working carbon monoxide alarm is in place in each room containing a solid fuel burning combustion appliance and to check that appropriate alarms are in working order at the start of each tenancy. There are approximately 15,000 privately rented properties in Sunderland with no precise data of how many of these have working smoke alarms on every storey. It is estimated that nationally 90% of properties in the private rented sector have one or more smoke alarms. If this were applied to Sunderland that would equate to 1500 properties without any form of smoke alarms. It is unclear though whether those who have smoke alarms, would have working smoke alarms on each storey. It is estimated that there are very few properties containing a solid fuel burning combustion appliance that would require a carbon monoxide alarm.
- 3.4 The Regulations will be enforced by Local Housing Authorities who must serve remedial notices on those landlords in breach of their duty to comply. In any case where a landlord fails to comply with a remedial notice, the Authority must, if the necessary consent is given by the occupier of the premises, arrange for remedial action to be taken. It may also require the landlord to pay a civil penalty charge of up to £5000.
- 3.6 Each of England's 46 fire and rescue authorities are expected to support private landlords in their own areas to meet their new responsibilities with the provision of free alarms, with one off grant funding from government. The Tyne and Wear area Fire and Rescue Authority have 8000 alarms to distribute and fit for landlords.

#### **4. Current Position**

- 4.1 The Constitution requires updating to enable the Executive Director of Commercial Development to exercise additional powers in relation to The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 once those Regulations have been brought into force.

Part 3, Section 2 of the Constitution – Executive Director of Commercial Development – requires paragraph 2.46 to be amended to read as follows:- “To exercise the functions of the Council under the Building Act 1984, the Public Health Acts 1936 and 1961, Caravan Sites and Control of Development Act 1960, Environmental Protection Act 1990, Health and Safety at Work etc Act 1974, Local Government (Miscellaneous Provisions) Acts 1976 and 1982, Prevention of Damage by Pests Act 1949, and *The Smoke and Carbon Monoxide Alarm (England) Regulations 2015* in so far as they relate to housing conditions and to the management of housing”.

- 4.2 Practical enforcement of The Smoke and Carbon Monoxide Alarm (England) Regulations will be undertaken by the Housing and Neighbourhood Renewal Team. The team is working with the Tyne and Wear Fire Authority to ensure that landlords are aware of the proposed regulations and to facilitate the distribution and fitting of smoke and carbon monoxide alarms where they are required pre October 2015. The Local Housing Authority is working with the Communications Team to get the key messages to landlords and managing agents and to sign post them to the Fire Authority if they require smoke or carbon monoxide alarms fitted.
- 4.3 Once the Regulations are approved (proposed to be 1 October 2015), it will be the duty of the Local Housing Authority to serve a remedial notice within 21 days where it has reasonable grounds to believe that a relevant landlord is in breach of the Regulations. The landlord has 28 days to comply and if the landlord does not comply with the remedial notice, the Local Housing Authority must arrange for an authorised person to take remedial action by undertaking the works in default and fitting the necessary alarms within a 28 day period. The Authority may require the landlord to pay a penalty charge which must not exceed £5000 and it must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge. There is a right of appeal to the First-Tier Tribunal for any landlord who is required to pay a penalty charge.
- 4.4 Sunderland Local Housing Authority will require the landlord to pay a penalty charge. A statement of principles to determine the amount of a penalty charge is attached at Appendix A and this will be published. The local authority may revise its statement of principles and where it does so, it must publish the revised statement. The reason that landlords will be required to pay a fixed penalty charge is because the local housing authority has a duty to arrange remedial action and works in default. These costs will need to be recovered. Additionally, the landlord will have already have been aware of their breach and given at least 49 days to comply. Penalty charges are only for landlords who refuse to co-operate with the local housing authority even after they have been aware of their breach. The costs will cover the works in default, officer time, administration charges, recovery costs and a fine. The landlord will be able to appeal to the local housing authority and then to a First-tier Tribunal against the local housing authority's decision.
- 4.5 The conditions within the licences for Houses in Multiple Occupation will also be reviewed and revised if necessary to bring them in line with the new regulations. This will only apply to licences granted on or after 1 October 2015.

- 4.6 The regulations exclude student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to healthcare provision.

## 5. Reasons for the Decision

- 5.1 To ensure that the Executive Director of Commercial Development is authorised to exercise all necessary operational enforcement powers under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 in respect of smoke and carbon monoxide alarms.
- 5.2 To ensure that the Local Housing Authority is able to undertake its statutory duty to serve remedial notices, to arrange remedial action and serve penalty charge notices.

## 6. Alternative Options

There are no viable alternative options to ensure the Council is able to exercise its full statutory enforcement powers in respect of smoke and carbon monoxide alarms as it is a statutory duty.

## 7. Impact Analysis

- (a) **Equalities** - the new regulations would not discriminate against any residents in Sunderland under protected characteristics as they apply to all tenants in privately rented properties covered by the regulations. See attached Equality Impact Assessment at Appendix 2.
- (b) **Privacy Impact Assessment** – there are no foreseen privacy risks. Landlords and tenants will be made aware of the new regulations through a national public marketing campaign by the Fire and Rescue Service and a local campaign by the Council. It is anticipated that Landlords will be written to through the Housing Benefits Team to make them aware of their duties under the new Regulations and asking them to contact the Fire Authority. Landlords are classed as businesses for data protection purposes but their addresses will not be given to the Fire Service or advertised publically.
- (c) **Sustainability** – the regulations have no significant impact on sustainability or the environment.
- (d) **Reduction of Crime and Disorder – Community Cohesion / Social Inclusion** – there are no implications for crime and disorder, community cohesion or social inclusion

## 8. Other Relevant Considerations / Consultations

- (a) **Co-operative Values** – The decision ensures that the tenants within the private rented sector have equitable measures with regard to smoke and carbon monoxide alarms as owners of newly built properties under Building Regulations. Landlords will have responsibility for having alarms and maintaining them.

- (b) (i) **Financial Implications** – There are no major financial implications for the Council as the smoke and carbon monoxide detectors will be either provided by the Fire Authority via a grant from Government or paid for by private landlords. The enforcement will be undertaken by existing members of the Housing and Neighbourhood Renewal Team. If a landlord does not comply with a remedial notice, the Local Housing Authority (or its agent) has a duty to undertake the work in default. Normal cost recovery mechanisms will be used.
- (ii) **Risk Analysis** – There are 15,000 privately rented homes in Sunderland. Within the existing resources of the Housing and Neighbourhood Renewal Team it is not possible to visit every property to ensure that they are complying with the new regulations. Inspections will be made in “hot spot” areas and during day to day work such as requests for service from tenants and accreditation inspections. There is a risk that there will still be properties within this sector which do not have adequate protection and could lead to loss of life. It is however, the landlords’ responsibility and not the Council’s to ensure adequate protection. Marketing campaigns will be undertaken to mitigate this risk so landlords in the private rented sector are aware of their duties with regards to the new regulations.
- (iii) **Employee Implications** – The enforcement duties of the Local Housing Authority will be undertaken within the existing resources of the Housing and Neighbourhood Renewal Team. This will be undertaken within normal day to day work and in “hot spot” areas but does not allow for proactive monitoring and inspection of all 15,000 properties within the private rented sector.
- (iv) **Legal Implications** – The Head of Law and Governance has been consulted with regard to the new Regulations.
- (v) **Policy Implications** – The Council’s Housing and Neighbourhood Renewal Team Enforcement Policy will be revised to include the new regulations.
- (vi) **Implications for Other Services** – There are no implications on other parts of the Council but the Housing and Neighbourhood Renewal Team is working with the Communications Team to relay the key messages to landlords and tenants. The Acting Director of Public Health has been consulted and the Housing and Neighbourhood Renewal Team will explore any links with the City’s Accident Prevention Group.
- (vii) **The Public / External Bodies** – The Tyne and Wear Fire and Rescue Authority has been consulted. The key duties within the new regulations have also been communicated to landlords and tenants.

## 9. Glossary

No acronyms or abbreviations have been used in this Report that have not been written out in full.

## 10. List of Appendices

Appendix 1 – Statement of Principles – The Smoke and Carbon Monoxide Alarm (England) Regulations 2015  
 Appendix 2 Equality Impact Assessment

## **11. Background Papers**

“The Smoke and Carbon Monoxide Alarm (England) Regulations 2015”  
<http://www.legislation.gov.uk/ukdsi/2015/9780111133439/contents>

## **Appendix 1**

### The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

#### **Statement of Principles.**

##### Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduces the following requirements for all landlords during any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy—

- (i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- (ii) a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- (iii) checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

##### Enforcement

Where the Local Housing Authority has reasonable grounds to believe that

- there are no or insufficient number of smoke alarms or Carbon Monoxide Detectors in the property as required by the regulations or;
- The Smoke Alarms or Carbon Monoxide Detectors were not working at the start of a tenancy or licence.

Then the Authority shall serve on the Landlord in a method prescribed by the Regulations, a Remedial Notice detailing the actions the landlord must take to comply with the Regulations.

If after 28 days the Landlord has not complied with the Remedial Notice. a Penalty Charge shall be levied through a penalty charge notice.

##### Principles to be followed in determining the amount of a Penalty Charge

The Authority considers that a lesser penalty will be merited on the occasion of a first offence and that prompt payment of the penalty on that first occasion should attract a reduced penalty in recognition of early admission of liability and savings in administration costs.

The level of penalty should, however, as a minimum, cover the cost of all works in default, officer time, recovery costs, an administration fee and a fine.

Repeated offences should attract a progressively higher penalty in view of continuing disregard for legal requirements and tenant safety.

If, following the service of a first penalty charge notice, a notice (or notices) is (are) served in respect of a further offence (or offences), but the further offence(s) arose prior to the service of the first notice, the penalty charge in respect of each notice shall be treated as a first offence penalty charge. Subsequent offences will, however, be treated cumulatively.

#### Level of Penalty Charge

The Penalty Charge shall be set at £1,000 for the first offence but this will be reduced to £750 if paid within a 14 day period.

Should the Landlord not comply with future Remedial Notices then the fine shall be set according to the table below :

<b>Offence</b>	<b>Fine</b>	<b>Offence</b>	<b>Fine</b>
<b>Second</b>	£2000	<b>Fourth</b>	£4000
<b>Third</b>	£3000	<b>Fifth or More</b>	£5000

No discount will be given for prompt payment after the first occasion.

#### Recovery of Penalty Charge

The local housing authority may recover the penalty charge as laid out in the Regulations.

#### Appeals in relation to a penalty charge notice

The landlord can request in writing, in a period that must not be less than 28 days beginning with the day on which the penalty notice was served, that the local housing authority review the penalty charge notice.

The local housing authority must consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice. A landlord who is served with a notice confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the local housing authority's decision.



## EQUALITY ANALYSIS

Please refer to Part 2 of the Equality Analysis Guidance

**Name of Policy/Decision/Project/Activity:**

The Smoke and carbon Monoxide Alarm (England) Regulations 2015

Date: July 2015

Version Number: 1

Equality Analysis completed by:

Name/Job title: Liz McEvoy, Principal Housing Manager

Responsible Officer or Group:

Name/Job title: Nick Wood, Valuation Manager

Is the Activity:

New/Proposed ( X )

Changing/Being Reviewed ( )

Other ( )

## 1. Purpose and scope

### **Purpose**

In this section outline briefly:

- what the policy, decision or activity is and what the intended outcomes/benefits are (linked to the Corporate Outcomes Framework)
- over what period of time the outcomes will be achieved
- why it needs to be implemented or revised
- what populations are affected by the proposal
- who is expected to benefit and how, i.e. young people, older people, carers, BME groups, ward areas/communities, etc
- whether there are any overlaps with regional, sub-regional, national priorities.

The decision is to authorise the Executive Director of Commercial Development to exercise the Council's full enforcement powers in respect of Draft Regulations "The Smoke and Carbon Monoxide Alarm Regulation" under section 150(9) of the Energy Act 2013 and section 250(6) (f) of the Housing Act 2004

To ensure that the Local Housing Authority is able to undertake its statutory duty in relation to Draft Regulations The Smoke and Carbon Monoxide Alarm Regulation under section 150(9) of the Energy Act 2013 and section 250(6) (f) of the Housing Act 2004.

The regulations are due to commence in October 2015.

It needs to be implemented as it will be part of statute.

Tenants and landlords within the private rented sector will be affected by the regulations and will also benefit from them through safer properties.

There are no overlaps with regional and sub regional priorities. It is a national (English) statute and applies to the whole country.

### **Intelligence and Information**

Please describe:

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- What sources of information have been used to inform this assessment/analysis (this should include but is not limited to consultations, resident/service user feedback and statistical data and intelligence)
- **What the information is telling you** – this should be broken down by each of the protected characteristics or other identified groups which could be disadvantaged.

Private Housing Stock Condition Survey 2014

Includes data on Lone Parents, single persons over and under 60 years of age, unemployed, retired, economically vulnerable

Census data on the make up of the private rented sector – would need this from the Intelligence Hub as we are unable to extract this by protected status

July 2013

### **Gaps in intelligence and information**

Having analysed the information available to you:

- are there any gaps in intelligence or areas where understanding needs to be improved? Please describe what these are and what actions you intend to take to obtain/improve the information. These actions should be covered in the action plan.
- are there any groups who should be expected to benefit who do not? Please describe why not and whether you will amend the decision to change this outcome. This should also be covered in the action plan.

Census reports on the protected groups

### **Additional Impacts**

The policy or action may also have an impact on other groups or individuals which are not covered by statutory requirements. Please outline any additional individuals or groups which have not already been covered. This could include socio-economic groups, voluntary and community sector, carers or specific communities which face additional challenges (such as former coal mining areas or areas of high deprivation)

There will be no additional impacts on protected groups.

## 2. Analysis of impact on people

In this section you must **review the intelligence described above and summarise the intended and potential impact of the policy, decision or activity** on the people of Sunderland. This includes specific consideration of the impact on individuals, groups with protected characteristics and communities of interest within the city. Please briefly outline any positive, neutral or negative impacts on the specific groups below. Please note that any negative impacts should have a corresponding action in the action plan in the page below.

In this assessment it is important to remember the **Council is required to give due regard to:**

- **Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act.**
- **Advance equality of opportunity between people who share a protected characteristic and those who do not.**
- **Foster good relations between people who share a protected characteristic and those who do not.**

Characteristic	List of Impacts		
	Positive	Neutral	Negative
Age	Additional safety in the home for tenants in private rented sector and advance warning of fire or carbon monoxide.	Additional safety measures	None
Disability	Advanced warning of fire or carbon monoxide in the home if require longer time to escape. Can also get flashing alarms for people who are hard of hearing or linked to Council's Telecare facility.	Additional safety measures	None
Gender/Sex	None	Additional safety measures	None
Marriage & Civil Partnership	None	Additional safety measures	None
Pregnancy and maternity	Advanced warning of fire or carbon monoxide in the home if require longer time to escape	Additional safety measures	None
Race/Ethnicity	None	Additional safety measures	None

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Religion/belief	None	Additional safety measures	None
Sexual Orientation	None	Additional safety measures	None
Trans-gender/ gender identity	None	Additional safety measures	None

**Please add any additional groups mentioned in “additional impacts” above to this table.**

### 3. Response to Analysis, Action Plan and Monitoring

In this section please outline what actions you propose to take to minimise the negative, and maximise the positive, impacts that have been identified through the analysis. By considering and implementing these actions the policy or action can be refined to make sure that the greatest benefits are achieved for the people of Sunderland. The performance monitoring process should also be set out to explain how ongoing progress is going to be followed to make sure that the aims are met.

From the analysis four broad approaches can be taken, (No major change; continue with the policy/action despite negative implications; adjust the policy/decision/action; or stop the policy/action). Please indicate, using the list below, which is proposed.

- No Major Change ( **X** )
- Continue Despite Negative Implications ( )
- Adjust the Policy/Decision/Project/Activity ( )
- Stop ( )

#### Action Plan

ACTION	WHO	WHEN	MONITORING ARRANGEMENTS
Fire Authority can provide adapted alarms for people who are hard of hearing and will speak to Telecare re using adapted alarms for telecare customers.	HNRT and Fire Service, landlords	July – October 2015	6 months after implementation

July 2013

**PLEASE ENSURE THE COMPLETED EQUALITY IMPACT ANALYSIS TEMPLATE IS PUBLISHED ON <http://citypoint/equalityanalysis/default.aspx>, WITH THE RELEVANT ACCOMPANYING DOCUMENTATION APPENDED, i.e. POLICY/STRATEGY. THE EQUALITY ANALYSIS MUST BE PRESENTED AT ANY DECISION POINT.**



## Capital Programme Second Capital Review 2015/2016 (including Treasury Management)

Cabinet Meeting 21 October 2015

### Extract of Report

<b>2015/2016 Additional Schemes and Variations in Existing Schemes in excess of £250,000 - Fully Funded</b>	<b>£000</b>
<b>Cabinet Secretary</b>	
<p>Port Capital Equipment – invest to save The Port have recently secured a new contract with Spartan UK to manage steel cargoes and also a 3 year extension with Sodra to handle wood pulp through the Port. To support this activity a new 32 tonne forklift truck has been purchased to mitigate current hire costs and necessary shed lighting improvement works are being procured to support the management of wood pulp through the Port. The cost of £0.250m will be met on an invest-to-save basis to be repaid over 3 years.</p>	250
<b>Children's Services</b>	
<p>School Asset Management Programme The EFA/DfE have allocated £1.786m per year for the School Condition grant (formerly Schools Capital Maintenance) for 3 years from 2015/2016. The programme of works has therefore been reviewed and progressed to escalate works where appropriate, resulting in an increase in the capital programme in 2015/2016 for that year's allocation of £1.786m. The planned works include various general improvements to schools across the city, major works to Castletown Primary School to facilitate an increase in the pupil admission numbers and a new extension build at South Hylton Primary to respond to bulge year groups currently on roll at the school.</p>	1,786
<b>Health, Housing and Adult Services</b>	
<p>Disabled Facilities Grants Additional funding of £0.508m has been received from Health partners to help address demand pressures for the provision of Disabled Facilities Grants in 2015/2016.</p>	508
<b>Public Health, Wellness and Culture</b>	
<p>Arts Centre Washington Improvements The Arts Centre Washington has successfully secured £0.258m funding from the Arts Council for capital works to the theatre and gallery as well as for other general improvements to the building. The total cost of works is £0.303m and the Council has provided £0.045m match funding via prudential borrowing. The works must be complete by the end March 2016.</p>	303



Cabinet 21st October 2015

**Budget Planning Framework 2016/2017 and Medium Term Financial Strategy  
2016/2017 – 2019/2020**

**Report of the Interim Head of Paid Service and Director of Finance**

**1 Purpose of Report**

This report identifies the key factors influencing the development of the Council's financial plans into the medium term and sets out the Budget Planning Framework for the Council for 2016/2017. The report sets out the headlines and context for the Medium Term Financial Strategy 2016/2017 to 2019/2020 which will be formally considered in due course.

**2 Description of Decision**

Cabinet is recommended:

- to agree the proposed Budget Planning Framework summarised at Section 11 of the report which will guide the preparation of the Revenue Budget for 2016/2017;
- to note that the full Medium Term Financial Strategy 2016/2017 to 2019/2020 will be presented to Cabinet in February.

**3 National Economic Context**

**3.1 Deficit Reduction Plan**

On 8<sup>th</sup> July 2015 the newly elected Government confirmed in their Summer Budget Statement that the economy is continuing to grow and that steady growth is projected in each year of the next parliament (2015/2016 to 2019/2020). The Chancellor set out revised high level plans to address the remaining deficit, with the aim of generating a budget surplus of circa £10bn in 2019/2020. This is a year later than that announced previously in the Coalition government's March Budget.

The government set out plans to achieve this position through an updated 'Consolidation Plan' which requires £37bn of savings, of which £32bn will come from public sector expenditure cuts by 2019/2020. This represents an increase in the cuts required across the period of £7bn compared to that announced in the March Budget. The Chancellor indicated savings were to be made in the following areas:

	£ billion			
	2016/17	2017/18	2018/19	2019/20
Welfare reform	5	7	9	12
Tax avoidance and evasion	1	2	4	5
Government Departmental Spending	3	11	18	20
<b>Total National Consolidation Plans</b>	<b>9</b>	<b>20</b>	<b>31</b>	<b>37</b>

Where the cuts in departmental spending will fall will be determined by the outcome of the Spending Review.

### 3.2 Inflation

CPI inflation decreased from 0.1% in July 2015 to 0.0% in August 2015, below the Government target level of 2%. While inflation levels may fall further in the short term, within the next 2 years the Bank of England intends to set monetary policy in order to ensure there is a return to the inflation target of 2%. The low level of inflation is welcomed as the impact of price increases on local government costs is not funded by central Government and must be contained within the Council budget planning.

### 3.3 Base Rate

The Bank Base Rate has remained at an all-time low of 0.50% since March 2009. The Bank of England Governor, has said that a rise in the base rate is “drawing closer”.

Financial analysts are speculating on the timing of an increase in the current Bank Rate with most anticipating a rise will not take place until the second quarter of 2016 following which base rates are expected to increase gradually to 1.75% by March 2018. This position will continue to be monitored and reviewed and the impact taken into account in budget planning.

## 4 Local Government Core Funding

4.1 At this stage the Government has not published details of funding for local government either nationally or at a local level as this will depend on the outcome of the autumn Spending Review to be announced on 25<sup>th</sup> November 2015. The following is therefore based on best available intelligence.

### 4.2 In year Funding Reductions 2015/2016

On 4<sup>th</sup> June 2015 the government announced £3bn of spending reductions to be achieved in year for 2015/2016. Included within this are:

- £230m DCLG savings to be achieved mainly through the sale of assets
- £200m of savings from Non - NHS Department of Health budgets which relates to proposed reductions in Local Authority Public Health grant allocations. The government has consulted on various options to deliver the savings but the outcome is awaited. Details on the potential impact for Sunderland are set out at paragraph 4.5. This funding was frozen in 2015/2016 at the 2014/2015 level, and at this stage it is not known if the government intends to cut this funding on an on-going basis;
- There is also concern that some of the in year cuts made by the government are one-off savings achieved through capital receipts and one-off under spending. If equivalent savings need to be found on a permanent basis from 2016/2017 the total departmental savings requirement may increase.

### 4.3 Spending Review 2015 - HM Treasury Guidance

The Chancellor has confirmed that some services would either be protected or see their funding increased in real terms as part of the spending reductions, including:

- NHS will receive £10bn additional funding by 2020/2021;

- Defence funding will grow by 0.5% above inflation and security spending will increase by £1.5bn by 2019/2020 to meet the NATO 2% pledge;
- Schools will have their funding 'protected';
- Foreign Aid will be increased in line with the growth in GDP.

As a result the cuts to non-protected government departments (of which DCLG is one) will need to be higher. As a consequence the Chancellor requested all such departments to provide details of cuts of 25% and 40% by 4<sup>th</sup> September 2015 followed by a period of discussion and negotiation.

The outcome of the Spending Review 2015 will be announced on 25<sup>th</sup> November, although the detailed impact on individual councils will not be known until late December when the Local Government Finance Settlement is announced.

#### 4.4 HM Treasury Announcement 5<sup>th</sup> October

##### 4.4.1 The Chancellor has announced a series of major reforms to local government finance linked to Business Rates:

- By the end of this Parliament, local government will retain 100 per cent of local taxes – including all £26 billion of revenue from business rates.
- The government will abolish the Uniform Business Rate although only to allow authorities to cut business rates to boost economic activity in their areas.
- Local areas which successfully promote growth and attract businesses will keep all of the benefit from increased business rate revenues.
- Directly elected mayors – once they have support of local business leaders through a majority vote of the business members of the Local Enterprise Partnership – will be able to add a premium to business rates to pay for new infrastructure (up to 2p in the pound has been indicated).
- The core (RSG) grant from Whitehall will be phased out by 2020, and local government will take on new responsibilities.
- The system of top up and tariffs which currently operates would be extended to protect authorities with lower levels of business rate income.

The government is to set out further details in the Spending Review.

##### 4.4.2 Detail underpinning the Government announcement is needed to understand the overall net impact for each local authority:

- Sunderland currently receives £69.9m in RSG. If the council retains full business rates this would provide an additional business rates income of £44.0m. Therefore the council would be £25.9m worse off as a consequence of phasing out RSG if no other actions are taken to offset the loss.
- The council currently receives Top-up grant of £35.9m. More detail is needed to understand how the Top-up and Tariff system will work under the new proposals, and whether that will result in any change to the cash amount currently received. Top ups and Tariffs are the only elements in the current system that recognise differing needs and the varying ability of individual authorities to raise income (resource equalisation).
- In addition the Government have indicated there will be 'new responsibilities' on Local Authorities. Detail of this is needed together with information on whether it is planned these will to be funded from the 100% locally retained business rates.

- It is also noted that RSG currently includes funding for a number of specific elements of government funding such as Council Tax Support scheme funding (circa £20m) and Council Tax Freeze Grant. The question arises as to how / if government will compensate for the loss of these elements as RSG is phased out.
- Self-sufficiency is the main theme of the government's proposals but this brings concerns around the fairness of the distribution of resources across authorities and over the adequacy of recognition in the system of the ability of differing areas to be able to raise income through local taxes.

Whilst high level detail will be available from the spending review announcement, the impact at a local level is pending the settlement announcement which will not be until late December. This creates more uncertainty for Local Government.

#### 4.5 Summary Prognosis on Core Funding

It is clear that local government is to face at least 4 more years of funding reductions. The scale of the cuts is very difficult to accurately assess at this stage however the request by the Chancellor for proposals for cuts of 25% and 40% from departments demonstrates the cuts over the next 4 years are going to be significant. This comes on top of the sustained cuts already experienced since 2010.

The Summer Budget also included policy measures such as a commitment to the National Living Wage which will also add significant additional cost pressures to local authority budgets, in addition to the proposed cuts to funding and inflationary and demand pressures faced.

While there is considerable uncertainty on the level of future funding, not least arising from the most recent announcement of the intention to phase out RSG and future full retention of business rates, it is clear that local government is entering the most challenging period yet faced.

#### 4.6 Other Funding Streams Issues

##### 4.6.1 Public Health

The final allocation for 2015/2016 was £21.036m. This reflected the transfer to LA's of commissioning responsibilities for '0 to 5 Healthy Child Programme' from 1<sup>st</sup> October 2015. This is the final part of the overall public health transfer to local government.

As referred to in section 4.2, Government is to implement an in-year reduction in 2015/2016 to Public Health Grant of £200m nationally. The Department of Health favours a flat rate reduction of 6.2% applied to all LAs which equates to circa £1.5m reduction for Sunderland although it is consulting on a range of options. It is unclear at this stage whether the Government plan this to be the basis of an on-going reduction in future years.

In addition, from 2016/17 the government has indicated Public Health allocations will be moved towards a distribution based on population needs. The fair shares formula would be based on advice from the Advisory Committee on Resource Allocation (ACRA). The Council will need to consider the impacts of the proposals once further detail is available.

#### 4.6.2 Better Care Fund

From April 2015 Sunderland established a Better Care Fund with CCG partners of £156m for an initial one year period. It is anticipated the Spending Review will inform next steps and funding implications for future Health and Social Care Integration.

#### 4.6.3 Adult Social Care New Burdens

The 2015/2016 settlement included £1.404m in relation to the Care Act. Recent Government announcements have delayed the implementation of the Care Act and the Government have begun consultation to ascertain if this funding can be clawed back. It is anticipated the outcome of the Spending Review will inform next steps.

#### 4.6.4 New Homes Bonus

The New Homes Bonus grant funding arrangement was introduced in 2011/2012 to cover a six year cycle which plateaus after 2016/2017. It is anticipated the outcome of the Spending Review will inform the position beyond this.

#### 4.6.5 Housing and Council Tax Benefit Administration and Local Council Tax Support Administration Grant

No announcement on future funding has been announced to date, however provision for a further reduction in funding of 10% has been included within the planning for 2016/2017 in line with reductions experienced in recent years. Given other reductions arising from welfare reform there is a potential that the reduction could be more than this. The position will be kept under review and the MTFs updated as more details emerge.

#### 4.6.6 Waste Collection – Weekly Collection Support Scheme

In November 2012, the council was successful in its bid for government funding to support the retention of weekly domestic refuse collections through to the end of 2016/2017.

#### 4.6.7 Schools Funding

The introduction of a national funding formula, will be considered by Government as part of the Spending Review. The Government through the new formula is seeking to develop a clear and transparent funding formula that supports the needs of pupils and enables Schools and Academies to be funded on a broadly comparable basis.

The Dedicated Schools Grant (DSG) is defined across three separate blocks (a funding allocation per pupil for each school, early years block and a base funding level for the high needs block). The Government has published the schools block funding for 2016/2017 with a decrease from £4528.48 to £4523.22 per pupil.

Long term the government is committed to reforming High Needs and Early Years Block funding as soon as possible and it is anticipated this will be published after the Spending Review.

#### 4.6.8 Education Services Grant (ESG)

The ESG is allocated on a simple per-pupil basis to local authorities and academies according to the number of pupils for whom they are responsible. The amount of funding to be received by the Council reduces with each school that transfers to an academy. Provision has been included within the Budget Planning Framework for the impact of a reduction in funding from academy transfers. The rates for 2016/2017 ESG are yet to be announced.

### 5 Other considerations which could impact on planning

#### 5.1 Business Rates (Revaluation and Review)

The government is undertaking a review of the Business rates system to “make them fit for purpose in a 21<sup>st</sup> century economy”. In addition to the proposed changes to retained business rates already announced (referred to at paragraph 4.4,) the Chancellor will report the outcome of this review in the Spring 2016 Budget. The government has indicated that the outcomes of the review will be fiscally neutral..

The current rating list is based on the 2010 revaluation with a new list due to be introduced from April 2017. At this stage it is not possible to quantify the potential impact on the Councils financial position, although it is anticipated that the Government will seek to neutralize the impact via a top-up/tariff arrangement. However it is anticipated there will be an increase in appeals following the introduction of the new rating list which will result in additional financial uncertainty.

#### 5.2 Devolution

As part of the Spending Review the Government invited submissions for proposals in line with their Devolution agenda. The North East Combined Authority has responded with a submission based on the principle of subsidiarity, with devolution from Whitehall, accompanied by a strengthening of local and community leadership. The proposals include a number of asks from government relating to both fiscal and financial elements as well as seeking to deliver an ambitious vision for the social and economic future of the North East.

Discussions with government are on-going. As the position becomes clearer, including as a consequence of the outcome of the Spending Review, the implications for the North East and specifically for Sunderland will be taken into consideration as part the council’s budget setting process and medium term financial strategy.

### 6 Summary Outlook

6.1 At this stage, the outlook for local government funding remains very bleak with continued unprecedented reductions and change until 2019/2020 at least.

6.2 The scale of reductions faced is very uncertain at an individual council level and detailed funding allocations for 2016/2017 will not be available until late December. Council planning at this stage assumes a 29% reduction in core funding over the medium term reflecting the trajectory of previous years reductions which is mid-range within the government Spending Review guidance.

6.3 Therefore, given the significant uncertainties at this stage it is proposed to progress with current planning of a £19m reduction in core funding for 2016/2017 subject to



the release of high level Spending Review information on 25th November 2015 when the position will be reviewed.

## **7 Local Income Position**

### **7.1 Council Tax**

7.1.1 The Localism Act provides for the provision of referendums to veto excessive council tax increases. This effectively places a limit on council tax increases and if councils exceed the government limits then the public will be able to vote to agree or veto any considered 'excessive' increase.

For 2015/2016 a referendum requirement applied for proposed increases in Council Tax above 2%. There is no definitive indication at present as to the proposed limit for 2016/2017.

7.1.2 Government have given no indication as to whether Council Tax Freeze Grant will be available for 2016/2017 or future years and is likely to emerge as part of the outcomes of the Spending Review. Consideration of this approach will be taken once information is available.

7.1.3 The Local Council Tax Support Scheme was introduced from April 2013 and is currently in its third year of operation. A review of the scheme is currently being undertaken to inform whether any changes should be introduced for the 2016/2017 financial year. Depending on the scale of proposed changes, proposals arising from the review will be subject to consultation and the financial impacts included in the budget planning as necessary.

7.1.4 Growth in the council tax base as a result of new homes built will be kept under review and additional income reflected in the budget planning as appropriate.

### **7.2 Business Rates**

7.2.1 Under the current Retained Business Rates funding arrangement the Council retains locally 49% of increased income arising from growth in Local Business Rates base (equally it shares the risk of any under achievement of income targets). (As outlined at paragraph 4.4 the Government have announced its intention to phase out RSG and move to a system of 100% locally retained business rates by 2020.)

7.2.2 Inherent within the scheme is growth arising from annual inflationary increases to Business Rates. However, there is continuing uncertainty specifically around appeals and avoidance tactics which can significantly impact on the level of income achieved.

7.2.3 The most significant opportunity for Business Rates growth arises through new developments. The position will be kept under review and additional income reflected in the Budget Planning Framework as appropriate.

### 7.3 Reserves and Balances

The Local Government Finance Act 1992 requires local authorities to have regard to the level of reserves needed for meeting estimated future expenditure when calculating the budget requirement.

In accordance with the approach adopted to date all earmarked reserves will be revisited as part of the budget process to ensure they still accord with the Council's priorities and overall funding position.

## 8 Spending Pressures and Commitments

It is proposed to take into account the following spending commitments in the Budget Planning Framework for 2016/2017, noting that at this stage in a number of cases specific cost detail require finalisation and will be subject to review and refinement throughout the budget setting process:

### 8.1 Replacement of One-off Resources and Budget Pressures in 2015/2016

In meeting the funding gap for 2015/2016 the Council utilised £8.8m of one off resources to meet specific costs on a one off basis. Where these pressures are of an on-going nature, reference is included within the relevant spending pressures paragraph below.

### 8.2 Pay and Pensions

#### 8.2.1 Pay

The Government has indicated a limit on public sector pay of a 1.0% pay increase. For planning purposes a prudent provision has been built into the MTFS from 2016/2017.

#### 8.2.2 Pensions

The Triennial Actuarial review of the Local Government Pension Scheme was undertaken in 2013 covering 2014/2015 to 2016/2017. The outcome of the review has been reflected in the planning for 2016/2017. Prudent provision has been included in the MTFS for the potential impact of the next actuarial triennial review due in 2017.

The Pensions Act 2008 introduced the requirement to automatically enrol certain workers into a pension scheme. The Council opted to defer auto-enrolment for current workers until 2017. Prudent provision for the cost pressure has been factored into the medium term planning.

#### 8.2.3 National Insurance

The Pensions Act 2014, provided for reform of the state pension system, introducing a single tier pension. As part of the reforms, the contracting out for occupational pension schemes from April 2016 will be abolished. For employers, the abolition of contracting out will result in an increased cost of 3.4% on national insurance contributions. The Act provides no method to alleviate the additional financial burden. The impact for 2016/2017 of £2.5m is reflected within the planning.

#### 8.2.4 National Living Wage

The government's proposal to implement the national living wage of £7.20 rising to £9.00 by 2020 represents a significant additional cost pressure for local councils both through council own staff costs and external contract suppliers passing the cost on through increased contract prices.

At this stage there is significant lobbying of government from both public and private sectors on the implications of this policy proposal. Government have indicated they are considering the impact as part of the spending review. Lobbying will therefore continue to seek to ensure the impact is fully funded by government and the position will be kept under review.

#### 8.2.5 Workforce Transformation

Latest financial implications associated with workforce transformation have been factored into the budget planning and will be kept under review.

#### 8.3 Energy Prices

Energy and vehicle fuel prices continue to be volatile. It is therefore proposed that prudent provision be included for continued annual increases in charges for gas, electricity and vehicle fuel in the medium term.

#### 8.4 Adult Services Demand Issues

The increasing longevity of the national and specifically, the city's population continues to place pressure on Adult Social Services budgets. In addition, client expectations and increasing demand to support clients with complex cases to enable clients to maintain independent living, is requiring reconfigured services and additional investment. The position will be kept under review and prudent provision included as appropriate.

#### 8.5 Children's Services Demand Pressures

There continues to be increasing demand pressures in relation to safeguarding and looked after placements. Provision within the planning reflecting the improvement plan arrangements will be reviewed once finalised.

#### 8.6 Local Economy

Resources have previously been earmarked to support service pressures and actions in response to the economic position as part of the previous years' budgets. Given the continuing uncertainties, this will need to be kept under review and appropriate provision made throughout the budget process.

#### 8.7 Welfare Reform

The Council continues to monitor and plan for the Welfare Reform changes and the potential adverse impacts anticipated across the city. This will need to be kept under review and appropriate provision made throughout the budget process.

## 8.8 Capital Financing

Prudential borrowing has been provided for within the medium term financial position in relation to known investments over the period, together with a provision to provide future flexibility at this stage to enable strategic priorities of the Council to proceed in the future.

## 9 Spending Priorities

### 9.1 Priorities from Consultation

9.1.1 The Budget Consultation for 2015/2016 was undertaken within the context of the need to significantly reduce spending for a fifth year in light of the Government funding reductions. The findings demonstrated general support amongst respondents for the direction of travel of services and for the councils overall approach to making savings.

9.1.2 The proposals for the 2016/2017 Budget Consultation process are set out elsewhere on today's Cabinet agenda.

## 10 Summary Resource, Pressures and Commitments Position

10.1 The total reduction in resources and spending pressures represents the estimated gross funding gap. However at this stage there remain significant uncertainties:

- The outcome of the Spending Review and the level of government funding reductions in 2016/2017 and beyond;
- Settlement confirmation for 2016/2017, probably not available until late December;
- The outcome of the development of revised funding approaches e.g. Business rates review and revaluation, and devolution proposals;
- Significant other changes within the system (Welfare Reform, Schools etc.);
- The general economic position and public sector finances (direct connectivity between the economy and public finances).

10.2 The level of funding reduction as currently presented represents an unprecedented challenge given the already compound impact of significant reductions and increased cost pressures since 2010. It is clear that further significant reductions will be required year on year over the 2016-2020 period.

10.3 As outlined the savings requirement for 2016/2017 and beyond remains very uncertain. However high level estimated reductions over the next four years are set out below:

	2016/17	2017/18*	2018/19*	2019/20*	Total
	£'m	£'m	£'m	£m	£m
Government Grant Changes	19.0	13.1	8.8	5.7	46.6
Total Ongoing Spending Pressures	21.5	20.0	10.7	10.8	63.0
<b>Total Funding Gap</b>	<b>40.5</b>	<b>33.1</b>	<b>19.5</b>	<b>16.5</b>	<b>109.6</b>

*\*high level assumptions at this stage*

- 10.4 As part of the 2015/2016 budget process initial high level plans were approved for 2016/2017 to part address the initial funding gap for that year. After taking these plans into account the remaining funding gap is as set out below.

	2016/17	2017/18*	2018/19*	2019/20*	Total
	£'m	£'m	£'m	£m	£m
Estimated Funding Gap	40.50	33.10	19.50	16.50	109.60
Previously approved high level plans	-2.10				-2.10
<b>Remaining Estimated Funding Gap</b>	<b>38.40</b>	<b>33.10</b>	<b>19.50</b>	<b>16.50</b>	<b>107.50</b>

## 11 Budget Planning Framework

- 11.1 As a result of the scale of reductions faced by the council over the medium term it is necessary to radically reconsider the role of the council as fundamental change will be required to the way the council operates in the future. This will involve further transforming service delivery, reducing service standards and commissioned activity and prioritising resources to support statutory requirements and key priorities:

- People - protecting and supporting the most vulnerable adults and children in our communities;
- Place - keeping our communities as safe, clean and well maintained as possible within the resources available;
- Economy - continuing support to the economic regeneration of the city by encouraging businesses and jobs into the city.

- 11.2 The councils approach to transforming services, which is required to deliver the significant savings over the medium term, is embraced within the council's community leadership role in the city which seeks to build relationships with partners and in communities.

### 11.3 Community Leadership Programme

- 11.3.1 The Council is committed to strengthening its Community Leadership role in the city. As a democratically elected body, the Council will continue to be

- champion and advocate for Sunderland communities and interests;
- a focal point of leadership for partners to work together to deliver on priority outcomes on Health and Well Being, Education, and Skills and the economy.

- 11.3.2 The approach includes working with partners in getting closer to communities, to understand and interpret needs and local priorities and in developing innovative means of addressing those needs priorities. The approach continues to focus on:

- understanding the priorities of communities, using intelligence and evidence to focus attention on the right priorities and decisions;
- shaping the most appropriate response to needs;
- developing relationships with partners, and communities to promote self-help and self-reliance and maximising the contribution of communities;
- harnessing the potential contribution from other organisations and individuals in achieving key outcomes;
- promoting Sunderland's interests at sub-regional, regional, national or international levels.

11.3.3 The Council will continue to use innovative approaches to address priority needs through:

- development of improved customer and service insight and intelligence which provides the Council and partners with the information necessary to understand and prioritise what it needs to do and ensure it is doing the right things;
- implementing strategies and policies that enable the Council to manage demand and facilitate those services which make a difference in the most effective way. The CSN continues to be the focus as the gateway for demand and supply for services, encouraging and supporting self-help where appropriate;
- developing alternative models for service delivery and increasing commercialisation to ensure the most effective and efficient models of service provision;
- further and continual review of Strategic Services and fixed assets to meet the future needs of the Council and its communities;
- intelligent strategic commissioning, using improved intelligence and strong performance management to ensure the council commissions services in the most cost effective way .

#### 11.4 Addressing the Savings Requirement

It is proposed the budget planning framework as set out below is adopted:

- General Issues
  - Budget planning be based on high level position outlined at paragraph 10 and updated in light of the Spending Review in November and the Local Government Settlement in December;
  - Provision for spending commitments be included at this stage on the basis set out at paragraph 8 and kept under review;
  - Spending priorities be considered in line with the findings of the budget consultation and service improvement plans as set out in paragraph 9;
  - Budgets be prepared on the basis that all spending pressures not specifically identified above as commitments be accommodated within Directorate cash limits;
  - All commitments against reserves to be reviewed;
  - The position regarding Council Tax to be considered as part of the budget process;
  - Commitments against general balances as set out in Appendix 1 be noted and updated throughout the budget process.
- Current Budget Savings Programme:

In accordance with the budget planning framework agreed for 2015/2016

  - Original permanent planned savings for 2015/2016 will be achieved or an alternative must be delivered on an on-going basis in 2016/2017;
  - Savings originally identified for 2016/2017 will be achieved. Alternative savings will need to be identified by Directorates where a proposal has become unviable;

- **Additional Savings Proposals**

A programme of activity be developed to address the gap taking into account the strategic vision of the council's role in the future and reflecting the Improvement Framework key principles outlined at 11.1 to 11.3. For all service areas this will include consideration of:

- Ensuring resources are targeted on statutory services and protecting key priority services;
- Redesigning and reshaping services to deliver required outcomes at least cost;
- Reduced commissioning and service standards;
- Pressing forward with new models of service delivery at reduced cost and increasing commercialisation;
- Continued focus on progressing Regeneration, Funding Leverage & Commercial Opportunities.

The framework will be robustly managed to ensure financial resilience is maintained.

## **12 Reasons for Decision**

12.1 The Budget Planning Framework forms an essential part of the process of the preparation and compilation of the Revenue Budget for 2016/2017.

## **13 Alternative Options**

13.1 There are no alternative options recommended.

## **14 Impact Analysis**

14.1 Impact assessments of Directorate actions to ensure the achievement of savings targets and a balanced budget position will be undertaken within Directorates as each action is developed.

## Statement of General Balances

	£m
<b>Balances as at 31<sup>st</sup> March 2014</b>	<b>7.570</b>
<b>Use of / Addition to Balances 2014/2015</b>	0
<b>Balances 31<sup>st</sup> March 2015</b>	<b>7.570</b>
<b>Use of Balances 2015/2016</b>	
- Contribution to Revenue Budget	(8.812)
<b>Additions to Balances 2015/2016</b>	
- Transfer from Strategic Investment Reserve to support the budget over the medium term	3.212
- Reserves released to support 2015/2016 budget	5.600
<b>Estimated Balances 31<sup>st</sup> March 2016</b>	<b>7.570</b>



## **CABINET – 25 November 2015**

### **Gambling Act 2005 - Approval of the Council's Statement of Principles**

#### **Report of the Executive Director of Commercial Development**

#### **1. Purpose of the Report**

- 1.1 To brief the Cabinet upon the responsibility of the Council with regard to the publishing of a statement of principles under the Gambling Act 2005 (the "Act").

#### **2. Description of Decision (Recommendations)**

- 2.1 To recommend the Council to approve the statement of principles attached as Appendix 1.

#### **3. Introduction/Background**

- 3.1 The Act requires the Council, as a Licensing Authority, to prepare and publish a statement of principles that we propose to apply in exercising our functions under the Act. These functions include the licensing of premises for the provision of gambling facilities.
- 3.2 The Act further requires that this statement is published before each successive period of three years. The current statement was agreed at a meeting of the Council in November 2012 and published on 31 December 2012. A reviewed statement is required to be published before January 2016.
- 3.3 In reviewing the policy the Act requires the Council to consult specified persons including statutory agencies, representatives of the interests of persons carrying on gambling businesses in our area and persons who represent the interests of persons who are likely to be affected by the exercise of the our functions under the Act. This consultation exercise has now concluded.

#### **4. Current Position**

- 4.1 Comments on the proposed statement of principles were received from two gambling trade associations and a gambling business.
- 4.2 The comments suggested minor changes and these have been incorporated in the revised statement of principles attached.
- 4.3 Copies of the consultation responses can be found at Appendix 2.
- 4.4 On 5 November 2015 the Scrutiny Committee considered the proposed statement of principles and resolved to support the Council's responsibility in publishing a statement of principles under the Gambling Act 2005.

## **5. Reasons for the Decision**

5.1 To enable the Council to comply with the statutory obligation to publish a Gambling Act 2005 statement of principles.

## **6. Alternative Options**

6.1 As this is a statutory obligation no other options have been considered.

## **7. Impact Analysis**

**(a) Equalities** – No impact

**(b) Privacy Impact Assessment (PIA)** – No impact

**(c) Sustainability** – The statement of principles is intended to assist responsible businesses.

**(d) Reduction of Crime and Disorder – Community Cohesion / Social Inclusion** – One of the objectives of the Gambling Act 2005 is preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime and this is dealt with by the statement of principles.

## **8. Other Relevant Considerations / Consultations**

**(i) Legal Implications** – The Head of Law and Governance advises that the Council has a legal requirement to publish the statement of principles.

**(ii) The Public / External Bodies** – Statutory consultees have been consulted.

## **9. Glossary**

None.

## **10. List of Appendices**

Appendix 1 - Statement of Principles  
Appendix 2 – Consultation responses

## **11. Background Papers**

None

## **APPENDIX 1**

### **Gambling Act 2005**

### **Statement of Principles**



## Part A

### 1. The licensing objectives

1.1 Sunderland City Council is designated as a Licensing Authority under the Gambling Act 2005. In exercising most of its functions under that Act, the Council must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

1.2 It should be noted that the Gambling Commission has stated: 'The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling'.

1.3 The Council is aware that, in accordance with Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the Council's statement of principles.

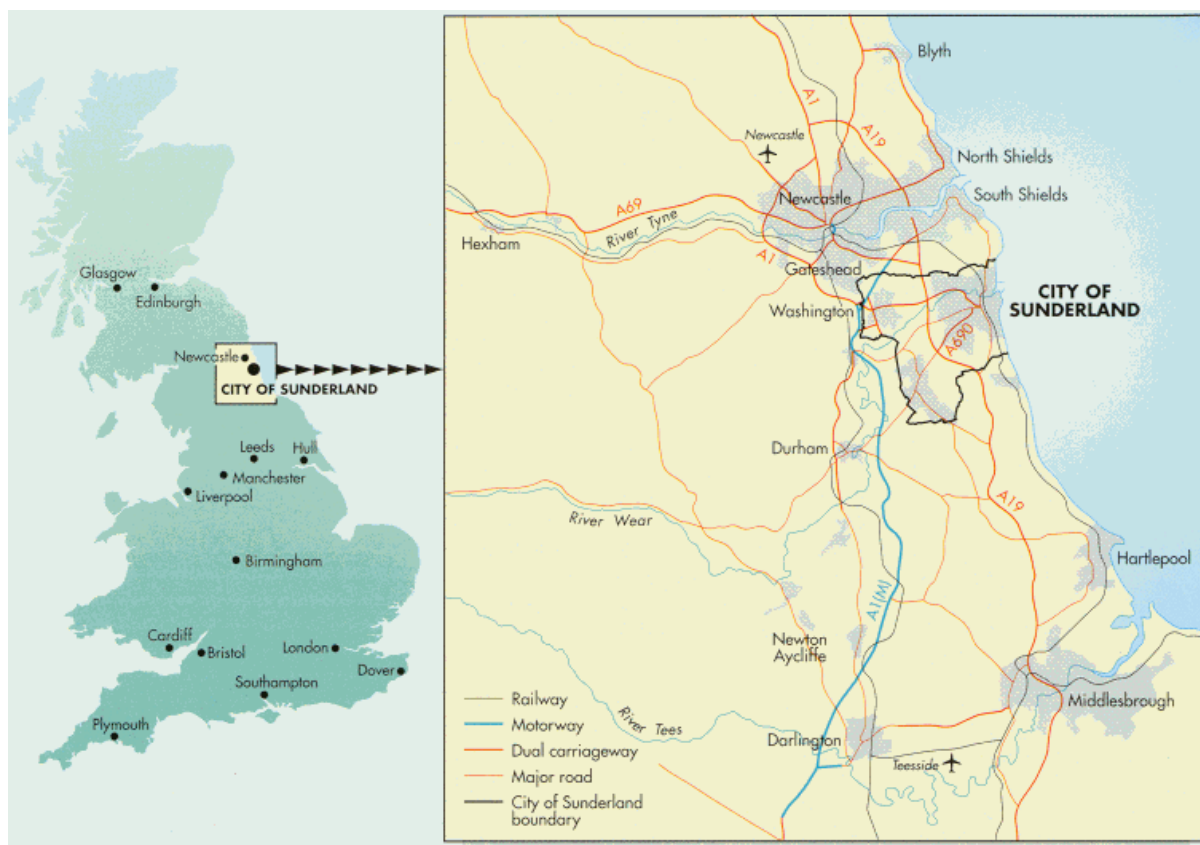
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**Statement of Principles**

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**2. Introduction**

- 2.1 The City of Sunderland has a population of 276,080 according to the 2013 mid-year estimate and is situated on the north east coast of England. In terms of area, it covers approximately 137 square kilometres (13,700 hectares) and is mainly urban in character. Its location is shown in the map below.



- 2.2 The Council is required by the Gambling Act 2005 to publish a statement of the principles which it proposes to apply when exercising its functions under the Act. This statement is required to be published before each successive period of three years. The statement must also be reviewed from 'time to time' and any revision consulted upon. Any revised statement must be then published before it may have effect.
- 2.3 The Council consulted widely upon this statement before its publication. A list of those persons consulted is provided below.
- 2.4 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;

- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

2.5 In formulating this statement of principles, the Council has sought the views of:

- Northumbria Police;
- Tyne and Wear Fire and Rescue Service;
- Sunderland City Council, Development Control Section;
- Sunderland City Council, People Directorate;
- Sunderland City Council, Public Protection and Regulatory Services (Environmental Health);
- Safer Sunderland Partnership;
- GamCare; and
- Various representatives of the gambling trade and premises licensees in the City.

2.6 This statement of principles was approved at a meeting of the Council on XX 2015 and was published on XX XXXXXXXX 201X. Copies are available by request to:

Sunderland City Council, Public Protection and Regulatory Services, Licensing Section, Commercial Development Directorate, Jack Crawford House, Commercial Road, Sunderland SR2 8QR

or via e-mail: [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk).

2.7 Should you have any comments with regard to this statement of principles please send them via letter to:

Sunderland City Council, Public Protection and Regulatory Services, Licensing Section, Commercial Development Directorate, Jack Crawford House, Commercial Road, Sunderland SR2 8QR.

**Statement of Principles**

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or via e-mail: [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk).

2.8 It should be noted that this statement of principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2.9 This statement is in line with and will contribute to the Safer Sunderland Partnership's strategic priorities which are to:

1. Reduce crime and disorder and improve feelings of safety; and
2. Prevent and reduce harm to our most vulnerable people and places.

2.10 The Council is concerned about the impact on our community of problem gambling including the effects of the use of fixed odds betting terminals situated within betting shops. We intend to seek and consider any available evidence with regard to incidences of problem gambling in the City and to prepare a local area profile as described in the Guidance to Licensing Authorities issued by the Gambling Commission. We will consider the outcome of that exercise in pursuing our duties under the Act. If, in the light of this exercise, we consider it necessary to review this statement, we will conduct a consultation process in line with the requirements of the Act.

### **3. Declaration**

3.1 In producing this statement of principles, Sunderland City Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission (the 'Gambling Commission's Guidance'), and any responses from those persons consulted on this statement of principles. . If and when the Gambling Commission's guidance is revised the Council may consider it necessary to review this statement.

### **4. Responsible authorities**

4.1 The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Council about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the Council's area; and



- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

4.2 In accordance with the Gambling Commission's Guidance the Council designates the Sunderland Safeguarding Children Board for this purpose.

4.3 The contact details of all the responsible authorities under the Gambling Act 2005 are available from the Licensing Section via e-mail at [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk).

## **5. Interested parties**

5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in section 158 of the Gambling Act 2005 as follows:

'For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)'

5.2 The Council is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance at paragraphs 8.11 to 8.18. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor or MP represents the ward likely to be

affected. Likewise, Hetton Town Council, if its area is likely to be affected, will be considered to be an interested party. Other than these parties however, the Council will generally require written evidence that a person or body (e.g. an advocate or relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation will be sufficient.

- If individuals wish to approach Councillors to ask them to represent their views, care should be taken that the Councillors are not part of the Licensing Committee. Details of which Councillors sit on that Committee are available from the Licensing Section.

## **6. Exchange of information**

- 6.1 The Council is required to include in its statement the principles it will apply in exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that the Council will apply is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Any protocols which may be established with regard to information exchange with other bodies will be made available in due course at [www.sunderland.gov.uk](http://www.sunderland.gov.uk).

## **7. Enforcement**

- 7.1 The Council is required by the Gambling Act 2005 to state the principles to be applied by the Council in exercising its functions under Part 15 of the Act with respect to the inspection of premises and its use of the powers available under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 The Council's principles are that:
- It will be guided by the Gambling Commission's Guidance and

will endeavour to be:

- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs minimised;
  - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
  - **Consistent:** rules and standards must be implemented fairly;
  - **Transparent:** regulators should be open; and
  - **Targeted:** regulation should be focused on the problem and seek to minimise side effects.
- In accordance with the Gambling Commission's Guidance the Council will endeavour to avoid duplication with other regulatory regimes so far as possible.
  - The Council has adopted and implemented a risk-based inspection programme based on;
    - The licensing objectives;
    - Relevant codes of practice;
    - Guidance issued by the Gambling Commission; in particular at Part 36; and
    - The principles set out in this statement.
  - The main enforcement and compliance role for the Council in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for operating and personal licences. It should be noted that concerns about the manufacture, supply or repair of gaming machines are not dealt with by the Council but will be notified to the Gambling Commission.
  - The Council will also keep itself informed of developments with regard to the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.
  - Bearing in mind the principle of transparency, the Council's enforcement policy is available upon request to the Licensing Section.

7.3 The Council recognises that certain operators have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to notify the Council of a single named point of contact, who should be a senior individual. The Council may contact this person first should any compliance queries or issues arise.

## **8. Licensing authority functions**

8.1 The Council in its role as the licensing authority is required under the Act to:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences;
- issue provisional statements;
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via the issuing of club gaming permits and/or club machine permits;
- issue club machine permits to commercial clubs;
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- receive notifications of the use of two or fewer gaming machines from premises licensed for the sale of alcohol under the Licensing Act 2003;
- issue licensed premises gaming machine permits for premises licensed under the Licensing Act 2003 to sell/supply alcohol for consumption on the premises where there are more than two machines;
- register small society lotteries below prescribed thresholds;
- issue prize gaming permits;
- receive and endorse temporary use notices;
- receive occasional use notices;
- provide information to the Gambling Commission regarding details of licences issued (see section 6 above on Exchange of information); and

- maintain registers of the permits and licences that are issued under these functions.
- 8.2 It should be noted that the Council is not involved in licensing remote gambling. This is the responsibility of the Gambling Commission by means of operating licences.

## Part B - Premises licences

### 1. General principles

- 1.1 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations thereunder, including specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. However, the Council is able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### Decision making

- 1.2 The Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the Council's statement of principles.
- 1.3 It is appreciated that, in accordance with the Gambling Commission's Guidance, 'moral objections to gambling are not a valid reason to reject applications for premises licences' and also that unmet demand is not a criterion for a licensing authority.
- 1.4 **Definition of 'premises'** - In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow discrete premises licences to be obtained in respect of large, multiple unit premises such as a pleasure park, pier, track or shopping mall, where appropriate safeguards are in place. However, the Council will pay particular attention if there are issues about sub-divisions of a single building or plot and will seek to ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in its Guidance that: "In most cases the expectation is that a single building/plot will be the subject of an

application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

1.5 The Council takes note also of the Gambling Commission’s Guidance which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, the Guidance states that licensing authorities should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

1.6 The Guidance also states that factors about which a licensing authority should be aware in making a decision include:

- Whether the premises have separate registration(s) for business rates;
- Whether the premises neighbouring the premises in respect of which a licence is sought are owned by the same person or someone else;
- Whether each of the premises may be accessed from the street

or a public passageway; and

- Whether the premises may only be accessed from any other gambling premises.

1.7 The Council will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

1.8 The Gambling Commission's relevant access provisions for each premises type are reproduced below:

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at paragraph 7.24 of the Guidance);
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons; and
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

### **Adult gaming centres**

- No customer must be able to access the premises directly from any other licensed gambling premises.

### **Betting shops**

- Access must be from a street (as defined at paragraph 7.24 of the Guidance) or from another premises with a betting premises licence; and
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect, there cannot be an entrance to a betting shop from a shop of any kind and there may not be a betting shop at the back of a café – the whole area would be required to be licensed.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino; or
  - an adult gaming centre.



### **Bingo premises**

- No customer must be able to access the premises directly from:
  - a casino;
  - an adult gaming centre; or
  - a betting premises, other than a track.

### **Family entertainment centres**

- No customer must be able to access the premises directly from:
  - a casino;
  - an adult gaming centre; or
  - a betting premises, other than a track.

Part 7 of the Gambling Commission's Guidance contains further guidance on this issue, which this Council will also take into account in its decision-making.

## **1.9 Premises "ready for gambling"**

The Guidance states that a licence to use premises for gambling should only be issued where an authority is satisfied that the premises will be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, the Council will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling; and
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that the Council is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.60-7.67 of the Guidance.

#### 1.10 Location

The Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. In accordance with the Gambling Commission's Guidance, the Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon with regard to areas where gambling premises should not be located, this statement will be updated. Any revision to the statement in this regard would be justified by evidence and subject to consultation. It should be noted that any such area-specific policy would not preclude any application being made and that each application will be decided on its merits, with the onus being upon the applicant to show how potential concerns can be overcome.

#### 1.11 Planning

The Gambling Commission's Guidance states, at paragraph 7.60, that:

'In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.'

Commensurate with this guidance, the Council will not take into account irrelevant matters. In addition, the Council notes paragraph 7.67 of the Guidance which states:

'When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building control and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.'

#### 1.12 **Duplication with other regulatory regimes**

The Council will seek to avoid any duplication with other statutory regulatory systems where possible, including planning. The Council will not consider whether premises for which a licence application has been submitted are likely to be awarded planning or building consent. The Council will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with an application for a premises licence in respect of a finished building, the Council will not take into account whether that building is in compliance with any necessary planning or building consent. Fire or health and safety risks will not be taken into account also, as these matters are dealt with under relevant planning control, building and other regulations and must not form part of the consideration of a premises licence.

#### 1.13 **Licensing objectives**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Gambling Commission's Guidance and our comments are made below.

#### 1.14 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does, however, envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, should an area be known to have high levels of organized crime (which is not the case in any part of the Council's area), the Council would consider carefully whether gambling premises are suitable to be located there and whether conditions may be necessary such as the provision of door supervisors. The Council is aware of the distinction between disorder and nuisance and would consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

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

The Council has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and

open way as this will be addressed via operating and personal licences. The Council has, however, more of a role with regard to tracks which is explained in more detail in Section 7 below.

#### **1.16 Protecting children and other vulnerable persons from being harmed or exploited by gambling**

The Council has noted that the Gambling Commission's Guidance states that this objective means preventing children from taking part in gambling (as well as the restriction of advertising so that gambling products are not aimed at, or are, particularly attractive to children). The Council will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances and machines, segregation of areas etc.

1.17 The Council is also aware of the Codes of Practice which the Gambling Commission issues with regard to this licensing objective, in relation to specific premises such as casinos.

1.18 With regard to the term 'vulnerable persons', it is noted that the Gambling Commission does not seek to offer a definition but states that 'it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, learning disability, alcohol or drugs.' The Council will consider this licensing objective on a case by case basis.

#### **1.19 Conditions**

Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence requested;
- fairly and reasonably related to the scale and type of the premises; and
- reasonable in all other respects.

1.20 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Council will

consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The Council will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

- 1.21 The Council will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, the segregation of gambling from non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises. These matters are in accordance with the Gambling Commission's Guidance.
- 1.22 The Council will also seek to ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - only adults are admitted to the area where these machines are located;
  - access to the area where the machines are located is supervised;
  - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
  - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply, among other premises, to buildings where multiple premises licences are in use.

- 1.23 The Council is aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track. In accordance with the Gambling Commission's Guidance, the Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.24 It is noted that there are conditions which the Council cannot attach to premises licences. These are:

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- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body is required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes.

**1.25 Door supervisors**

The Gambling Commission advises in its Guidance that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example, by children and young persons) it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition to this effect upon a premises licence.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether such supervision is provided by Security Industry Authority (SIA) licensed personnel will be necessary. It will not be automatically assumed that such personnel need to be licensed, as the statutory requirements for different types of premises vary (as described by the Gambling Commission's Guidance, Part 33).

**2. Adult gaming centres**

- 2.1 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy it that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 2.2 The Council expects applicants to offer their own measures to meet the licensing objectives. Appropriate measures or licence conditions may cover issues such as:
- Proof of age schemes;
  - CCTV;

- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes; and
- Provision of information leaflets and/or helpline numbers for organisations such as GamCare.

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

### **3. (Licensed) Family entertainment centres**

3.1 The Council will have regard specifically to the need to protect children and vulnerable persons from harm or being exploited by gambling and expects the applicant to satisfy it that there will be sufficient measures taken to ensure, for example, that under 18 year olds do not have access to the adult only gaming machine areas.

3.2 The Council expects applicants to offer their own measures to meet the licensing objectives. Appropriate measures or licence conditions may cover issues such as

- CCTV;
- Supervision of entrances and machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets and/or helpline numbers for organisations such as GamCare; and
- Measures and training for staff on how to deal with suspected truant school children on the premises.

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

- 3.3 The Council will, in accordance with the Gambling Commission's guidance, refer to the Commission's website to consider any conditions applying to operating licences which cover the way in which the area containing the category C machines should be delineated. The Council will also take account of any mandatory or default conditions on such premises licences.

#### 4. Casinos

- 4.1 **No casinos resolution** - The Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this statement of principles with details of that resolution.

#### 5. Bingo premises

- 5.1 The Council notes that the Gambling Commission's Guidance states at paragraph 18.4:

'Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This is a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.'

Children and young people are allowed into bingo premises. However, they are not permitted to participate in the bingo and, if category B or C machines are made available for use, these must be separated from areas where children and young people are allowed.

#### 6. Betting premises

- 6.1 **Betting machines** – The Council will, in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator wants to offer.



## **7. Tracks**

- 7.1 The Council is aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track. In accordance with the Gambling Commission's Guidance, the Council will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.2 The Council therefore expects applicants for premises licences to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3 The Council expects applicants to offer their own measures to meet the licensing objectives. Appropriate measures or licence conditions may cover issues such as:
- Proof of age schemes;
  - CCTV;
  - Supervision of entrances and machine areas;
  - Physical separation of areas;
  - Location of entry;
  - Notices/signage;
  - Specific opening hours;
  - Self-exclusion schemes; and
  - Provision of information leaflets and/or helpline numbers for organisations such as GamCare.

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

## **7.4 Gaming machines**

Where the applicant holds a pool betting operating licence and uses

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the entitlement to four gaming machines, machines (other than category D machines) should be located only in areas from which children are excluded.

**7.5 Betting machines**

The Council will, in accordance with paragraph 7.27 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

**7.6 Applications and plans**

The Gambling Act (Section 151) requires applicants to submit plans of the premises with their application, in order to ensure that a licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan may also be used by licensing authorities to plan future premises inspection activity. (See the Gambling Commission's Guidance, paragraph 20.28).

7.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See the Gambling Commission's Guidance, paragraph 20.29).

7.8 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See the Gambling Commission's Guidance, paragraph 20.31).

7.9 In rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See the Gambling Commission's Guidance, paragraph 20.32).

7.10 The Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with identifying exact locations for some types of track. Applicants should

provide sufficient information to enable the Council to satisfy itself that the plan indicates the main areas where betting might take place.

## **8. Travelling fairs**

- 8.1 It will fall to the Council to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The Council will also consider whether the proposed activities of the applicant fall within the statutory definition of a travelling fair.
- 8.3 The Council notes that the 27-day statutory maximum for land being used as a fair applies on a per calendar year basis, and applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional statements**

- 9.1 Developers may wish to apply to the Council for a provisional statement before entering into a contract to buy or lease property or land in order to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for an applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Gambling Act allows a person to make an application to a licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as when applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to an application for a premises licence, an applicant for a provisional statement does not need to hold or have applied for an operating licence from the Gambling Commission (except in the

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case of a track) and they do not need to have a right to occupy the premises in respect of which their provisional application is made.

9.5 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Council will be constrained in the matters it can consider when determining the premises licence application, and, in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

9.6 In addition, the Council may refuse a premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the Council's opinion reflect a change in the operator's circumstances; or
- where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and the Council may discuss any concerns it has with the applicant before making a decision.

## 10. Reviews

10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, the Council will decide whether a review is to be undertaken. This will be on the basis of whether the request for the review is in accordance with the considerations listed below:

- any relevant Code of Practice issued by the Gambling Commission;
- any relevant guidance issued by the Gambling Commission;
- reasonable consistency with the licensing objectives; and
- the Council's statement of principles.

- 10.2 The request for the review will also be subject to consideration by the Council as to whether it is frivolous, vexatious, or whether it will certainly not cause the Council to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 10.3 The Council can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 10.4 Once a valid application for a review has been received by the Council, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins seven days after the application was received by the Council. The Council will publish notice of the application within seven days of receipt.
- 10.5 The Council must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether the Council should take any action in relation to the licence. If action is justified, the options open to the Council are to:
- a) add, remove or amend a licence condition imposed by the Council;
  - b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - c) suspend the premises licence for a period not exceeding three months; or
  - d) revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, the Council must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, the Council may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 10.9 Once the review has been completed, the Council must, as soon as possible, notify its decision to:
- the licence holder;

- the applicant for review (if any);
- the Commission;
- any person who made representations;
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

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## Part C

### Permits, temporary and occasional use Notices

#### 1. **Unlicensed family entertainment centre (FEC) gaming machine permits (Statement of principles with regard to permits – Schedule 10, Paragraph 7 of the Act)**

- 1.1 It is possible to apply to the Council to provide gaming machines where no premises licence is held. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and, in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Gambling Commission under section 25. The Gambling Commission's Guidance also states: 'In their three year principles statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. ...., licensing authorities will want to give weight to matters relating to child protection issues.' (paragraph 24.6)
- 1.3 The Guidance also states: '...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's;
  - that the applicant has no relevant convictions (these are set out in Schedule 7 of the Act); and
  - that staff are trained to have a full understanding of the maximum stakes and prizes. (paragraph 24.7)

It should be noted that the Council cannot attach conditions to this type of permit.

- 1.4 **Statement of principles** - The Council expects applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The effectiveness of such policies and procedures will each be considered on their merits. However, they may include appropriate measures and training for staff

with regard to suspected truant school children on the premises, measures and training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises. The Council will also expect, in accordance with the Gambling Commission's Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's; that the applicant has no relevant convictions (these are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13, Paragraph 4(1) of the Act)**

### **Automatic entitlement: two machines**

2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically be able to have two gaming machines of categories C and/or D. The operator of the premises merely needs to notify the Council. The Council can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has not been provided to the Council, the prescribed fee has not been provided or that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

### **Permits: three or more machines**

2.2 If an operator of a premises wishes to have more than two machines, it is necessary to apply for a permit and the Council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and 'such matters as they think relevant.' This Council considers that 'such matters' will be decided on a case by case basis. However, generally, the Council will consider the need to protect children and vulnerable persons from harm or being exploited by



gambling and will expect the applicant to satisfy it that there will be sufficient measures taken to ensure that under 18 year olds do not have access to adult only gaming machines. Measures which may satisfy the Council that there will be no access may include the locating of adult machines in sight of the bar, or in the sight of staff who will ensure that the machines are not being used by those under 18. Notices and signage may also be of help. With regard to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets and helpline numbers for organisations such as GamCare.

- 2.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with, as an adult gaming centre premises licence.
- 2.4 It should be noted that the Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.5 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

**3. Prize gaming permits – (Statement of principles with regard to permits - Schedule 14 Paragraph 8 (3) of the Act)**

- 3.1 The Gambling Act 2005 states that licensing authorities may ‘prepare a statement of principles that they propose to apply in exercising their functions under this Schedule’ which ‘may, in particular, specify matters that the authority proposes to consider in determining the suitability of the applicant for a permit’.
- 3.2 The Council has prepared a statement of principles in this regard. These state that an applicant should set out the types of gaming that is intended to be offered and that the applicant should be able to demonstrate:
- an understanding of the limits to stakes and prizes that are set out in regulations;
  - that the gaming offered is within the law; and
  - clear policies that outline the steps to be taken to protect children from harm.
- 3.3 In making its decision on an application for a permit the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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**Statement of Principles**

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3.4 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the Council cannot attach conditions to permits. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, which must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if a non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

#### **4. Club gaming and club machine permits**

4.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club machine permit. A club gaming permit will enable the premises to provide gaming machines (up to three machines of categories B, C or D), equal chance gaming (see Section 269 of the Act) and games of chance as set out in regulations. A club machine permit will enable the premises to provide gaming machines (up to three machines of categories B, C or D).

4.2 The Gambling Commission's Guidance states: 'Members' clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is restricted to bridge and whist. A members' club must be permanent in nature, but there is no need for a club to have an alcohol licence'

4.3 The Commission's Guidance also notes that 'licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;

- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Commission or the police’.

4.4 There is also a ‘fast-track’ procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003 (Schedule 12, Paragraph 10). As the Gambling Commission’s Guidance states: ‘Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which a licensing authority can refuse a permit are reduced.’ and ‘The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under Schedule 12;
- that, in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.’

4.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **5. Temporary use notices**

5.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

5.2 A temporary use notice may be given by a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

5.3 The Secretary of State has the power to determine what forms of gambling can be authorised by temporary use notices. The relevant regulations (SI no. 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only

Statement of Principles

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be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner. This, in practice, means poker tournaments.

- 5.4 There are a number of statutory limits with regard to temporary use notices. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission’s Guidance to Licensing Authorities. As with “premises”, the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act, “premises” is defined as including “any place”.
- 5.5 In considering whether a place falls within the definition of “a set of premises”, the Council will look at, among other things, the ownership/occupation and control of the premises.
- 5.6 The Council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission’s Guidance.

**6. Occasional use notices**

- 6.1 The Council has very little discretion with regard to these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. However, the Council, with regard to relevant premises, will consider the definition of a ‘track’ and whether any applicant is permitted to avail him/herself of the notice.

This statement can be made available in large print, Braille, audio and other languages.

Please contact the Licensing Section on 0191 520 5550

or email [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk) for assistance.

# **APPENDIX 2**



## **Gambling Policy Statement of Principles consultation | ABB response**

August 2015

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### **Introduction**

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Our members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the current consultation on the Council's review of its gambling policy statement.

This sets out the ABB approach to partnership working with local authorities and details our views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime. We are concerned to ensure these changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle.

In our view the current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.

It is important that this is also set within the context of declining betting shop numbers. Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest [Gambling Commission industry statistics](#) show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

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### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

- **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the

*"...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Learnings from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said:

*"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

*"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

- **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.



## **Local area risk assessments**

From April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB supports this requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

- **Evidence based approach**

It is important that any risks identified are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the aim to permit principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We particularly comment on this in relation to paragraph 1.10 in the Council's statement: "Should any specific policy be decided upon with regard to areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy would not preclude any application being made and that each application will be decided on its merits, with the onus being upon the applicant to show how potential concerns can be overcome."

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

- **Concerns around increases in the regulatory burden on operators**

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

- **Employing additional licence conditions**

It is our view that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so – in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

- **Operators' risk assessments**

As indicated, any exposition of risk in the Statement of Principles should not be based on anything less than empirical evidence and proportionality needs to be applied to all licensing decisions. For example successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Although our members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that would be against better regulation principles with operators being allowed to gear risk assessment to their own operational processes; informed by Statements of Principle and the local area profile.

- **Additional concerns**

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

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## **Conclusion**

The ABB and our members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

---

**Contact:** For any responses or requests for additional information please contact [REDACTED], Public Affairs Executive [REDACTED].

**Response from: The Bingo Association**

From: [REDACTED]  
Sent: 12 August 2015 15:26  
To: [REDACTED]  
Subject: FW: Revision of Gambling Policy 2016-2019

Dear Mr [REDACTED]

Thank you for informing The Bingo Association of Sunderland City Council draft Gambling Policy document.

The Bingo Association has not been called the British Bingo Association since the 1990s, when the current name was adopted.

I note that the section below, copied from 12.1 of the draft policy purports to refer to paragraph 18.8 of the fifth edition of the Gambling Commission's guidance to LAs. However, the wording below comes from the third edition of this advice and this particular section was deleted in the GC's e-bulletin to LAs dated 7th September 2012.

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight categories B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

The entitlement to category B3 machines was increased in 2011 to 20% of the total machine estate in both bingo licensed premises and AGCs. Please see attached S.I. and explanatory letter from DCMS setting out the particular circumstances for businesses licenced after the introduction of this change in 2011.

With kind regards

[REDACTED]

[REDACTED]  
Company Secretary



Licensing Section  
Sunderland City Council  
Jack Crawford House  
Commercial Road  
Sunderland  
SR2 8QR

Sent by e-mail

14<sup>th</sup> August 2015

Dear Sir

Consultation on Sunderland City Council's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

We have detailed below our response:-

Coral Racing Limited are supportive of the document; it again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. We kindly suggest that it is worth noting that the Local Authority should not take into account any moral objections to gambling either when judging applications.

Whilst it is not detailed within the consultation document, Coral Racing Limited recognise the requirement to supply risk assessments with future applications following the consultation completion and seek to clarify an area which the Council will take into account when considering applications for Premises Licences. Specifically and in relation to the note that the Licensing Authority will take into account 'the proximity of the application whereby its location may impact on children & vulnerable persons being harmed or exploited by gambling'. Whilst the list of such locations is yet to be created by the Council, we would like to point out the following:-

- Coral knows of no evidence that the location of a licensed betting office within the proximity of the aforementioned causes harm to the licensing objectives. It involves a four-fold suggestion that a) those using such facilities are inherently problem gamblers, b) that having visited such facilities, users are more likely to visit a betting office than if they had not used such facilities, c) that if they do, that they are more likely to engage in problem gambling, and d) that the protective mechanisms arising from the Licence Conditions and Codes of Practice are insufficient to mitigate the risk. There is no evidence for any of these propositions.
- Coral knows of no evidence that children coming from schools for example are gaining access to betting offices. Coral's general experience, in common with every bookmaker, is that children are not



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company

Interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems.

The reason for Coral's caution against making such perceptions, which we anticipate is similar to that of the other main bookmakers, is that it already operates systems which ensure that the licensing objectives are strongly promoted across its estate.

For example:

- Coral benefits from an operating licence granted by the national regulator, the Gambling Commission. Therefore, its corporate systems for the promotion of the licensing objectives have been approved by the Commission, which continues to exercise vigilance in this regard through inspections and examination of regulatory returns.
- Coral is subject to the Licence Conditions and Codes of Practice, which are effectively the national code of operation to ensure that the licensing objectives are promoted.
- It carries out health and safety risk assessments pursuant to its legal obligations. These assessments are shortly to be extended so that formal compliance assessments are conducted.
- It conducts risk assessments in relation to Exposure to Violence, Aggression and Conflict (EVAC assessments).
- It operates the assessment principles of the Safe Bet Alliance, the national code for safe premises. It was one of the architects of the code.
- It operates the ABB's Code for Responsible Gambling, and again was one of the architects of that code.
- It operates an extensive compliance manual, upon which all staff members are trained. Copies are available for your inspection if required.
- It contributes to the Responsible Gambling Trust, which seems to promote responsible gambling who in-turn contribute to GamCare, the national problem gambling charity.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications from April 2016, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. In other words, there should be no requirement to list specific locations (as there is no evidence that there is a link between such venues and a betting office), however notwithstanding this, such locations would automatically be included with the operators risk assessment submitted when the application is considered.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,

  
Director of Development – Coral Retail

## CABINET – 25 NOVEMBER 2015

### LICENSING ACT 2003 - APPROVAL OF THE COUNCIL'S STATEMENT OF LICENSING POLICY

#### Report of the Executive Director of Commercial Development

#### 1. Purpose of the Report

- 1.1 To brief the Cabinet upon the responsibility of the Council with regard to the publishing of a statement of licensing policy under the Licensing Act 2003 (the "Act").

#### 2. Description of Decision (Recommendations)

- 2.1 To recommend the Council to approve the statement of licensing policy attached as Appendix 1.

#### 3. Introduction/Background

- 3.1 The Act requires the Council, as a licensing authority, to be responsible for the licensing of premises for the provision of "licensable activities" as defined. These activities include the sale by retail of alcohol and the provision of regulated entertainment.
- 3.2 The Act requires that licensing authorities publish, in respect of a period of five years, a statement of licensing policy which indicates how they will undertake these functions. The current policy statement was agreed at a meeting of the Council in November 2010 and its period of validity will expire on 6 January 2016. A renewed statement is required to be published before 7 January 2016.
- 3.3 In determining policies the Act requires licensing authorities to consult specified persons including statutory agencies and representatives of the public and the licensed trade. This consultation exercise has now concluded.

#### 4. Current Position

- 4.1 Comments on the proposed statement of licensing policy were received from the following person and organisations:
- The Sunderland Health and Wellbeing Board;
  - The Council's Acting Director of Public Health
  - The Safer Sunderland Partnership; and
  - Balance, the North East Alcohol Office.

As appropriate, the responses of these respondents have been incorporated in the revised statement of policy attached.

4.2 The consultation responses are attached at Appendix 2.

4.3 On 5 November 2015 the Scrutiny Committee considered the proposed statement of licensing policy and resolved to support the Council's responsibility in publishing its statement of licensing policy under the Licensing Act 2003.

## 5. **Reasons for the Decision**

5.1 To enable the Council to comply with the statutory obligation to publish a Licensing Act 2003 statement of policy.

## 6. **Alternative Options**

6.1 As this is a statutory obligation no other options have been considered.

## 7. **Impact Analysis**

(a) **Equalities** – No impact

(b) **Privacy Impact Assessment (PIA)** – No impact

(c) **Sustainability** – The statement of policy is intended to assist responsible businesses and to minimise the environmental impact of non-compliant businesses e.g. with regard to noise pollution.

(d) **Reduction of Crime and Disorder – Community Cohesion / Social Inclusion** – One of the objectives of the Licensing Act 2003 is the prevention of crime and disorder and this is dealt with by the statement of policy.

## 8. **Other Relevant Considerations / Consultations**

(i) **Legal Implications** – The Head of Law and Governance advises that the Council has a legal requirement to publish the statement of licensing policy.

(ii) **The Public / External Bodies** – Statutory consultees have been consulted.

## 9. **Glossary**

None.

## 10. **List of Appendices**

Appendix 1 - Statement of Licensing Policy  
Appendix 2 – Consultation responses



**11. Background Papers**

None



## **APPENDIX 1**

# **Licensing Act 2003 Statement of Licensing Policy**



**Licensing Act 2003**  
**Statement of Licensing Policy**  
(Issued pursuant to Section 5 of the Act)

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## **1. Introduction**

- 1.1 The purpose of this Statement of Licensing Policy pursuant to Section 5 of the Act is to set out the Council's policy with respect to the exercise of its functions as the Licensing Authority under the Licensing Act 2003 ("the Act"). It relates to the 'licensable activities' defined in Section 1 of the Act namely:
- (a) the sale by retail of alcohol;
  - (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - (c) the provision of regulated entertainment; and
  - (d) the provision of late night refreshment.
- 1.2 The policy will promote the four licensing objectives described in section 4(2) of the Act. These objectives are:
- (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.
- 1.3 Each objective has equal importance. The Council will seek to work closely with the Police, the Fire and Rescue Service, Sunderland Safeguarding Children Board, local businesses, community representatives and local people, in order to meet these objectives. The Council's decision making is constrained by the provisions of the Act or Regulations made under it and by having regard to the guidance issued under Section 182.
- 1.4 This revised Statement of Licensing Policy takes effect on **7 January 2016** and replaces the previous statement. It will remain in force for a period of five years beginning with that date. During that period the policy will be kept under review and may be revised as the Council considers appropriate.

### **Legal Background to this Statement of Licensing Policy**

- 1.5 The Council is responsible for decisions to grant or reject applications for the sale of alcohol, the provision of entertainment or late night refreshment. These decisions must be made in line with the statutory requirements of the Act and must be granted unless relevant representations are made about the likely effect on the promotion of the licensing objectives. Conditions designed to ensure safety, protect children from harm, prevent crime and disorder and prevent public nuisance can be attached to licences where appropriate for the promotion of the licensing objectives. For example, the Council could, in appropriate cases, restrict licensed hours in order to prevent people resident nearby being disturbed.
- 1.6 The Council must have due regard to this policy. We may, if we consider it appropriate, deviate from the policy but would need good reasons, which we can justify, to do so.

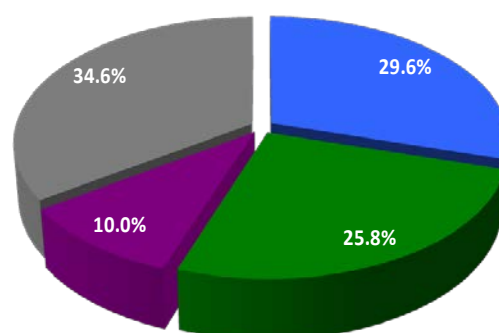
## Context

- 1.7 The Sunderland Health and Wellbeing Board (HWBB), which has the overall aim of achieving “the best possible health and wellbeing for the people of Sunderland”, considers that licensing policy plays an important part in achieving this vision. In the last year, the HWBB included alcohol and best start in life among its list of immediate priorities and believes that licensing plays a fundamental part of achieving improvement in outcomes in these areas.
- 1.8 The HWBB have signed up to the regional alcohol declaration and included its support to the lobby for minimum unit pricing for alcohol. In this context, the role that licensing has to play is central to achieving these commitments.
- 1.9 For Sunderland to achieve its potential, in spite of reducing public resources, the Council needs to address issues which place a burden on the City. Alcohol-related harm impacts upon a range of frontline services across the City including the NHS, Police, Ambulance Service, the Licensing Section and Social Services.
- 1.10 It is estimated that the irresponsible use of alcohol costs the city around £92.49 million per year; with the greatest costs being borne by workplaces (£32 million) and local NHS services (£27 million). It should be noted that this does not take account the health and social consequences suffered by individuals, their families, and the wider community.

**Figure 1 Cost Breakdown for 2013/14**

<b>NHS:</b>	<b>£27.34m</b>
<b>CRIME &amp; LICENSING:</b>	<b>£24.21m</b>
<b>SOCIAL SERVICES:</b>	<b>£9.25m</b>
<b>WORKPLACE:</b>	<b>£32.04m</b>
<b>OVERALL COST*:</b>	<b>£92.49m</b>

\*Total cost excludes crime related healthcare costs. The crime cost used for the adjacent pie chart is £23.86m



- 1.11 Recorded crime has been rising slowly in recent years and the proportion of total crime that is related to alcohol continues to rise. As the consumption of alcohol in the home increases, the impact of alcohol becomes less visible and more hidden. For example, in Sunderland in 2014/15 there were 6,389 domestic abuse incidents; 1,457 of these incidents were recorded as domestic violence crimes and, of these, 50% were alcohol related.
- 1.12 Sunderland residents experience significant health problems as a result of alcohol and we have some of the highest rates in the country for alcohol-related hospital admissions, premature deaths and ill health caused by alcohol. The rate of alcohol-related hospital admissions among the Sunderland population is the third highest among 152 upper tier local authority populations. These admissions comprise those that are wholly attributable to alcohol such as alcoholic poisoning

or alcoholic liver disease (1,700 people admitted in Sunderland in 2012/13), and those where a proportion of admissions can be attributed to alcohol e.g. type 2 diabetes or stroke (a further 2,700 people admitted in 2012/13).

- 1.13 Sunderland is in the top (worst) 10% of the 152 upper tier local authority populations for:
- Alcohol-specific mortality (persons and males);
  - Alcohol-related hospital admissions (persons);
  - Alcohol-specific hospital admissions in young people aged under 18;
  - Admissions for alcohol related conditions narrow (persons and males);
  - Admissions for alcohol related alcoholic liver disease conditions (persons); and
  - Admissions for alcohol related mental and behavioural disorders due to the use of alcohol conditions narrow (persons and male).
- 1.14 There is clear international evidence from a number of countries, including France, the USA and Canada, that decreased availability of alcohol results in decreased alcohol consumption in the population. This is true when availability is restricted either by physical means or by price. Where changes have been robustly measured and assessed, it can be seen that the effects happen at local, regional and national levels and lead to substantive reductions in alcohol-related morbidity and mortality.
- 1.15 The burdens of alcohol-related harm on public health, society and the economy within Sunderland are amongst the highest in the UK, and fall disproportionately on the most disadvantaged members of our community. The Council therefore seeks to bring about meaningful reductions to the unacceptable and unfair toll of ill health and premature mortality related to the inappropriate use of alcohol.
- 1.16 Minimum unit price (MUP) remains the best evidenced and most cost-effective regulatory intervention for alcohol harm reduction. The Council has strongly supported MUP and was disappointed by the reluctance of the previous UK coalition government to follow through on its stated commitment in relation to MUP. As a consequence, the licensing authority and responsible authorities are likely to be the major influence on the availability of alcohol in both on-trade and off-trade sectors in a local area.
- 1.17 The licence application process is essentially a “permissive system” whereby, unless successful objections are tabled by the public or one or more responsible authority in the form of relevant representations all applications are effectively approved. The difficulties of making successful challenges to new licence applications arising from the statutory requirements, combined with the already high concentration of outlets in many parts of the City, may require the Council to explore a number of innovative new policies to lawfully achieve its objectives. For

example, this could involve evaluating the need for the adoption of ‘cumulative impact’ or special policies for certain areas’, a late light levy and the modification of existing licences through voluntary arrangements or where licence reviews have been brought and it is appropriate for the promotion of the Licensing objectives to do so.

- 1.18 As many licensing authorities throughout England are beginning to demonstrate, these policy approaches have begun to address the excessive burden of alcohol harms. They can also have positive effects on the profitability of night-time economies (as higher value activity and establishments are encouraged). As a licensing authority with one of the highest burdens attributable to alcohol, the Council will, over the forthcoming year, actively explore these types of policy options with a view to deciding on what would be most suitable for local introduction.

### **Further Information**

- 1.19 Further information upon the Licensing Act and its implications is available from:

Sunderland City Council  
Public Protection and Regulatory Services  
Licensing Section  
Jack Crawford House  
Commercial Road  
Sunderland  
SR2 8QR

Telephone: (0191) 5205550  
Fax: (0191) 5531658  
Email: [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk)

## **2. Consultation and Guidance**

- 2.1 There are a number of groups who have an interest in the leisure industry. These include providers, customers, residents and enforcement agencies. They all have views and concerns that require consideration as part of the licensing function.

- 2.2 In formulating this Statement of Licensing Policy, the Council has paid regard to the Guidance issued by the Secretary of State under Section 182 of the Act in March 2015 and has consulted the following:

- Northumbria Police;
- Tyne and Wear Fire and Rescue Service;
- Sunderland Safeguarding Children Board;
- Director of Public Health;
- Representatives of the licensing trade and members’ clubs;
- Local businesses and their representatives; and
- Local residents and their representatives.

- 2.3 Further consultation with the organisations and people mentioned above will be undertaken where any revision to this policy is proposed.
- 2.4 In addition, in formulating this policy, the Council has paid regard to the provisions of the **European Convention on Human Rights**; in particular the rights that everyone has to respect for their home and private life and to the peaceful enjoyment of their possessions (including a licence).
- 2.5 The **Human Rights Act 1998** makes it unlawful for a public authority to act in a way that will be incompatible with a convention right. Consequently, an aim of this policy, particularly in relation to the decision-making processes of the Council, is to ensure that a licensing decision does not cause a breach of a convention right.
- 2.6 The Council has also taken into account the provisions of the Crime and Disorder Act 1998. This requires local authorities to have regard to the likely effect of the exercise of their functions on crime and disorder in their area and to do all they reasonably can to prevent such incidences.
- 2.7 The Government has published an Alcohol Strategy in which it outlines how the Act can be used to address some of the social, health and crime and disorder issues raised by the misuse of alcohol when licensing authorities are considering applications for licences. The Council will take this strategy into account; including with regard to the investigation of the sale of alcohol to persons under the age of eighteen and the undertaking of steps with the aim of preventing anti-social behaviour.

### **3. Scope of Policy**

- 3.1 The Act is concerned with the sale of alcohol, the supply of alcohol by clubs, the provision of regulated entertainment and late night refreshment at any premises (defined by the Act as any vehicle, vessel or moveable structure or any place or any part of any premises).
- 3.2 Activities that require a licence under the Licensing Act 2003 and covered by this policy include the:
- retail sale of alcohol;
  - supply of hot food or drink (i.e. non-alcoholic beverages) from premises from 23:00 to 05:00 hours;
  - supply of alcohol or provision of regulated entertainment to club members;
  - provision of entertainment of a type listed below (known as regulated entertainment) to the public or club members or with a view to profit:
    - film exhibitions;
    - performances of a play;
    - indoor sporting events;
    - boxing or wrestling;

- live music performances;
- playing of recorded music; and
- dance performances.

3.3 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (premises licences), the supply of alcohol or the provision of regulated entertainment at certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notices).

3.4 In general, a reference in this policy to a premises licence will include a club premises certificate.

3.5 The scope of the policy covers new applications, renewals, transfers and variations and also temporary event notices. Additionally, the review of licences, which could lead to their revocation, is also within its remit.

#### **4. Live Music Act 2012 and other entertainment licensing deregulation**

4.1 The Live Music Act 2012 removed the licensing requirements for:

- Amplified 'live' music between the hours of 08:00 and 23:00 before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises<sup>1</sup>;
- Amplified 'live' music between the hours of 08:00 and 23:00 before audiences of no more than 500 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)<sup>1</sup>;
- Unamplified 'live' music between the hours of 08:00 and 23:00 in all venues; and
- The provision of entertainment facilities.

4.2 Any licence conditions relating to 'live' music on licensed premises have been suspended, but it is possible to impose new conditions or reinstate existing conditions following a review.

4.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. Organisers are encouraged to check with the Council if in doubt.

4.4 Another deregulation of entertainment licensing has been brought about by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between the hours of 08:00 and 23:00 on any day:

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<sup>1</sup> The Live Music Act 2012 was amended by the Legislative Reform (Entertainment Licensing Order) 2014 in order to increase the audience ceiling from 200 to 500.

- A performance of a play in the presence of an audience of no more than 500 people;
- An indoor sporting event in the presence of an audience of no more than 1000 people; and
- A performance of dance in the presence of an audience of no more than 500 people.

4.5 Finally, the Legislative Reform (Entertainment Licensing) Order 2014 deregulated certain types of regulated entertainment as follows:

### **Cross-activity exemption**

This exemption relates to councils, health care providers and schools and allows them to provide certain licensable activities on their premises between the hours of 08:00 and 23:00 without the need for a licence. Also, there is no limit on audience sizes at these events.

The licensable activities covered by this exemption are:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance; and
- Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

The sale of alcohol continues to be required to be licensed at these types of premises and the above-mentioned exemptions do not apply should any sexual entertainment be provided at the premises.

The types of council premises covered by this exemption are:

- Public parks and other public spaces;
- Town halls and administrative offices;

- Libraries;
- Swimming pools and leisure centres;
- Community halls; and
- Museums and galleries.

The Order allows councils, health care providers and school proprietors to permit third parties to perform live music or play recorded music on their own defined premises.

### **Recorded music in relevant alcohol-licensed premises**

The Order removed the requirement for the licensing of the playing of recorded music between the hours of 08:00 and 23:00, before audiences of no more than 500 people, on relevant premises authorised to be used for the sale of alcohol. The fact that the premises are licensed for alcohol purposes means that they remain subject to the licensing framework and it is the alcohol licence that provides the means by which any issues (should they arise) can be addressed.

### **Music at Community Premises etc.**

For community premises (as defined) which are not domestic premises the Order exempts live and recorded music activities between the hours of 08:00 and 23:00 and before audiences of no more than 500 people, but only if those premises are **not** authorised by a premises licence to be used for the supply of alcohol on the premises. This exemption will not apply unless the relevant person (as defined) has given permission for that music entertainment to take place.

'Community premises' are defined as:

- premises that are or form part of a church hall, chapel hall or other similar building, or a village hall, parish hall, community hall or other similar building;
- the premises of a hospital;
- premises in which a council has a relevant property interest or which are lawfully occupied by a council; or
- the premises of a school.

Where particular community premises are licensed for the sale of alcohol, any performance of live music or the playing of recorded music on relevant alcohol-licensed premises will be subject to the conditional deregulation described above.

The Order requires that any person concerned in the organisation or management of entertainment must have first obtained written consent from the council, health



care provider or school concerned before the event can go ahead. An event organiser of music entertainment is not able to self-certify this written consent, nor can they rely on a prior written consent if full disclosure is not made, or purported consent is obtained from someone who is clearly unqualified or insufficiently senior.

## **Circuses**

The Order exempts travelling circuses from licensing requirements for the performance of a play, an indoor sporting event, a performance of live music, the playing of recorded music and performances of dance between the hours of 08:00 and 23:00, with no audience restrictions. Circuses will still need to have a premises licence or a Temporary Event Notice if they wish to put on an exhibition of film or a boxing or wrestling entertainment.

The exemption will only apply to travelling circuses where the entertainment takes place wholly within a moveable structure, and where the spectators are accommodated wholly within that structure, and where the travelling circus has not been on the same site for longer than 28 days.

“Travelling circus” is defined as a circus which travels from site to site for the purposes of giving performances.

## **Greco-Roman and freestyle wrestling**

The Order exempts Greco-Roman and freestyle wrestling disciplines from licensing as ‘boxing or wrestling entertainment’. This exemption is subject to an audience limit of 1,000 people.

## **5. General Principles of the Policy**

- 5.1 In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits. Licence conditions will be tailored to the individual application and only those appropriate to meet the licensing objectives will be imposed. All applicants will be expected to incorporate into their operating plan the steps proposed to comply with the four licensing objectives. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public; health and safety at work and fire safety legislation for example.
- 5.2 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Licensing Act 2003. Any terms and conditions that may be attached to the various licences will be focused on matters that are within the control of individual licensees or clubs. These matters will centre on the premises and places being used for licensable activities and their vicinity. The Council will primarily focus on the direct impact of the activities taking place at the licensed premises and on members of the public living, working or engaged in normal activity in the area concerned. In considering all licensed activities with regard to the objectives, the Council will take account of the following additional factors:

- The use of the premises and the numbers of people likely to attend;
- The availability of public transport and private car parking;
- The proposed hours and frequency of the licensed activity; and
- Any past history of problems, related to any or all of the licensing objectives, and the impact of any measures taken to counteract the problems.

5.3 The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of a licensee. However, licensing law is a key aspect of such control and is part of a holistic approach to the management of anti-social behaviour. We therefore expect all licensees to take responsible steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises e.g. on the pavement, in a beer garden or in a smoking shelter where and to the extent that these matters are within their control.

5.4 The Council is not able to authorise the supply of alcohol from premises used primarily as a garage, i.e. for the retailing of petrol or diesel or the sale or maintenance of motor vehicles. The issue of whether any use is primarily as a garage will be judged in each case on its merits.

## **6. The Need for Licensed Premises**

6.1 The Council will not take 'need' into account when considering an application, as this is not a licensing function but a matter for planning control (to a limited extent) and the market.

## **7. The Cumulative Impact of a Concentration of Licensed Premises**

7.1 The Government's Guidance for licensing authorities allows the Council to consider whether a large concentration of licensed premises in any area may have a potential impact on crime and disorder or public nuisance in that locality. We may then adopt a special policy of refusing new licences in a specified area; a rebuttable presumption that granting the application will add to the cumulative impact upon the licensing objectives whenever we receive relevant representations from a responsible authority or another person.

7.2 The Council has not yet adopted any cumulative impact policies. However, we now intend to consider the introduction of one or more such policies. In practice, such policies have, elsewhere, had the effect of discouraging applications where the likelihood of success is low (e.g. city centre areas with an already high concentration of outlets and established 'trouble hot-spots'). Such policies have also prompted applicants to give serious consideration as to how best to upgrade the quality of their application and discouraged in particular premises used as 'vertical drinking establishments' in favour of more upmarket restaurants and wine bars. The discouragement of vertical drinking establishments has also been found

to reduce the administrative burden on council licensing officers in the medium to long term. The Council will consult with the police and draw upon its own health intelligence data to decide whether and where it would be appropriate to designate a cumulative impact area or areas.

7.3 Any proposal to adopt such a policy would be dealt with separately to this policy.

## **8. Other Mechanisms for Controlling Cumulative Effect**

8.1 The Council recognises that, once away from licensed premises, a minority of consumers may behave badly and unlawfully. The Council may use various mechanisms, both inside and outside the licensing regime, to address these problems. These steps may include:

- planning controls (where possible);
- positive measures to create safe and clean urban centre environments in partnership with local businesses and transport operators;
- the provision of CCTV surveillance and hackney carriage stands;
- designating parts of the City as places where alcohol may not be consumed publicly following intervention by the Police;
- cooperating with the Police who may enforce the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- working with the Police who have powers to close down immediately any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
- receiving representations from the Police, other responsible authorities or local residents or businesses who may seek the review of the licence or certificate in question.

## **9. Early Morning Restriction Orders (EMRO)**

9.1 The Police Reform and Social Responsibility Act 2011 gave licensing authorities the discretion to restrict sales of alcohol by introducing an Early Morning Restriction Order (“EMRO”). Such an order would restrict the sale or supply of alcohol in a specified area between the hours of midnight and 06:00 with the aim of tackling high levels of alcohol-related crime and disorder, nuisance and anti-social behaviour.

9.2 The Council has not yet introduced any EMROs. Any proposal to do so would be considered separately to this policy.

## 10. Late Night Levy

- 10.1 The 2011 Act also gave licensing authorities the discretionary power to charge a late night levy (“the levy”) upon all relevant premises licences issued within their area. The levy is an annual fee payable in relation to all premises in a licensing authority area that are licensed to sell alcohol between the hours of midnight and 6:00. The purpose of a levy is to obtain contributions towards the costs of policing the night time economy.
- 10.2 The Council has not yet introduced a levy. Any proposal to do so would be considered separately to this policy.

## 11. Policy relating to Personal Licences

- 11.1 The Act confers very little discretion upon licensing authorities in relation to the granting of personal licences. Provided that an applicant is aged eighteen or over, possesses a licensing qualification and has not, within the preceding five years, held a licence which has been forfeited, a licence **must** be granted **unless** the applicant has been convicted of a ‘relevant offence’ (as defined in section 113 of the Act) or a comparable foreign offence.

- 11.2 Where (a) relevant offence(s) has/have been committed, the Council must give notice of this/these to the Police. If the Police are satisfied that, in the light of such conviction(s), the granting of the licence would undermine the crime prevention objective, notice to that effect (an ‘objection notice’) must be given to the Council within fourteen days. If no objection notice is given, the licence must be granted. However, in cases where an objection notice is received, the Council must hold a hearing.

### 11.3 Policy

**At any hearing, the Council’s Licensing Sub-Committee would consider carefully whether the grant of a licence will promote the crime prevention objective. It would consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) was/were committed and any mitigating circumstances. The application will normally be refused unless, in the opinion of the Sub-Committee, there are exceptional and compelling circumstances that justify granting the application.**

### 11.4 Reason

*Prevention of crime is not merely one of the four licensing objectives under the Act; it is also an important responsibility of the Council under the Crime and Disorder Act 1998. A Personal Licence holder should be a person who will assist the fight against crime. Granting a licence to an individual with a criminal conviction would, in many cases, undermine rather than promote the crime prevention objective.*

## 12. Policy relating to Premises Licences and Club Premises Certificates

## Structure/Physical Characteristics/Location of the Premises

- 12.1 The Act covers a wide range of premises that require licensing, including cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways.
- 12.2 Each of these types of premises presents a mixture of risks, with many common to most premises and others unique to specific operations. Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances, for example noise, light and odours. These may impact on people living, working or sleeping in their vicinity. It is therefore essential that premises are constructed or adapted and operated to safeguard occupants against these risks.
- 12.3 The Council will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek advice from the Council's Environmental Health Officers, Northumbria Police and Tyne and Wear Fire and Rescue Service before preparing their plans and schedules. All plans must be clear and legible in all material respects.

### 12.4 Policy

**An application for a licence will not be granted for premises that are unsafe for members of the public. The Council may, where necessary, e.g. for reasons of public safety or the prevention of crime and disorder, impose conditions restricting capacity and may attach conditions relating to the monitoring of these capacities e.g. the installation of automatic counting systems.**

### 12.5 Reason

*Under the public safety objective the Council has a duty to ensure that licensed premises are of a suitable standard that makes them safe for use by both staff and members of the public. Whilst the Council acknowledges that there are powers available under health and safety legislation and fire safety legislation to ensure that premises are of a suitable standard, the Council will use all of its powers to ensure that, at the time a licence is granted, the premises are safe for use by both staff and members of the public. In addition, premises that are operating beyond their capacity may create problems of crime and disorder, which the Council will reflect in its licensing decisions.*

## Sex- related entertainment

- 12.6 The Licensing Act makes no specific provision with respect to certain activities such as "lap", "table" and "pole" dancing. These and similar forms of sexual entertainment are not themselves designated as licensable activities under the Act but may require licensing under the Local Government (Miscellaneous Provisions) Act 1982. Advice with regard to this Act is available from the Licensing Section.

- 12.7 Any licensable activities undertaken on premises which provide sexual entertainment (e.g. the sale of alcohol or the provision of regulated entertainment that is not sexual entertainment), will require authorisation under the Licensing Act in respect of those activities.

## **Access and Facilities for the Disabled**

### **12.8 Policy**

**The Council expects licensees to provide reasonable facilities and access for people with disabilities.**

### **12.9 Reason**

*The Council works within the Equality Act 2010 and recognises the duty to make reasonable adjustments for disabled people. Equality law recognises that bringing about equality for disabled people may mean changing the way in which services are delivered, providing extra equipment and/or the removal of physical barriers.*

## **Drugs**

- 12.10 In this policy a reference to drugs includes novel psychoactive substances. The Council recognises that drug misuse may occur in public houses and nightclubs. Consequently, where appropriate, conditions may be imposed upon the licences of relevant venues in order to reduce the likelihood of drugs being sold and consumed.

### **12.11 Policy**

**The Council will expect applicants for licences in respect of venues where alcohol is to be supplied for consumption on the premises or music is to be performed or played to detail in their operating schedules the steps they will take to prevent the use of drugs within their premises. The Council will expect licensees to be familiar with the Home Office Drug Strategy Booklet entitled Safer Clubbing (ISBN 1840827807) or subsequent editions.**

### **12.12 Reason**

*The Council has a duty to prevent crime and disorder under the Crime and Disorder Act 1998 and tackling substance misuse is a key priority for the statutory Safer Sunderland Partnership.*

## **Street Cafés and external areas**

- 12.13 Some licensees may seek to extend their operating premises onto the street by the creation of a street café area. The Council supports and encourages the provision of street cafés in the city. Authorisation for such extensions must be obtained from the Council in our capacity as the Highway Authority, under **Section**

**115E of the Highways Act 1980, and not under the Licensing Act 2003.** This is a separate and additional process and all enquiries should be directed to Network Control on 0191 5205550 or via the Council's website at [www.sunderland.gov.uk](http://www.sunderland.gov.uk).

- 12.14 Some premises incorporate external areas which patrons use for smoking. The Council expects such licensees to have measures in place so that use of these areas does not lead to anti-social behaviour e.g. glass breakages. The Council will, where appropriate, consider imposing conditions in order to improve the management of outside areas or to restrict their use in order to promote the public nuisance objective.

### **Variations**

- 12.15 The Council will determine whether an application for a new licence, as opposed to an application for a variation, is necessary in line with the Government's Guidance upon the Act.

### **Minor Variations**

- 12.16 The Council will determine an application for a minor variation in line with the Government's Guidance upon the Act.

### **Community Premises**

- 12.17 Persons in control of premises such as church or chapel halls, village or parish halls, community halls and buildings of a similar nature may find the permitted annual number of Temporary Event Notices too restrictive. They may, therefore, wish to consider whether applying for a Premises Licence would be more beneficial.
- 12.18 Additionally, the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 allows persons controlling licensed community premises to apply to have the mandatory condition which requires their employment of a Designated Premises Supervisor removed from their licence.
- 12.19 This mandatory condition would be replaced with an alternative requiring that every supply of alcohol under the Premises Licence must be made, or authorised by, the management committee.
- 12.20 Where there is doubt as to whether premises may be considered to be "community premises", the Council will consider each case on its merits, with primary consideration being given as to how the premises are predominantly used.
- 12.21 The fact that a school or private hall is made available for hire by the community would not in itself be sufficient to qualify the premises as "community premises". The Council would consider whether halls used largely for private hire by individuals or private entities are genuinely by their nature "community premises". The statutory test is directed at the nature of the premises themselves, as reflected in their predominant use, and not only at the usefulness of the premises for members of the community for private purposes.

12.22 The Council would expect the management committee to be a formally constituted, transparent and accountable body. The committee should provide sufficient oversight of the premises to minimise any risk to the licensing objectives.



## **Late Night Takeaway Food Premises**

- 12.23 Premises which are principally used for selling hot food for consumption off the premises (“takeaway premises”) may be associated with disorder as persons under the influence of alcohol having left late night venues may congregate at such locations. Applicants seeking to authorise the provision of late night refreshment at such premises are therefore recommended to have written policies for dealing with disorder and nuisance.
- 12.24 We will not generally permit the sale of alcohol from takeaway premises that are licensed for late night refreshment, due to the inherent potential for late night alcohol fuelled crime, disorder and anti-social behaviour. Applicants seeking approval to sell alcohol from takeaway premises will need to clearly identify how they will ensure that their activities will not lead to such problems.
- 12.25 Operators of takeaway premises (including mobile units) must have suitable arrangements in place for the containment and disposal of their waste in accordance with the Environmental Protection Act 1990 and subsidiary regulations. Operators of premises where food or drink is provided in disposable containers for consumption elsewhere than on the premises are expected to consider the potential for litter near their premises and take steps to actively reduce the amount of litter generated by their customers. Applicants are also asked to consider the necessity and type of packaging containers used in order to minimise nuisance.
- 12.26 Where the Council considers it appropriate and necessary, we may impose a condition on a premises licence which requires the licensee to provide litter bins in the vicinity of the premises. We may also require a licensee to service those litter bins as part of their own waste management arrangements.

## **13. Licensing Hours**

- 13.1 The Council recognises that in some circumstances, flexible licensing hours for the sale of alcohol from public houses and night clubs may avoid large numbers of people leaving premises at the same time, which in turn could reduce the friction at late night fast food outlets, hackney carriage stands, private hire offices and other sources of transport that can lead to disorder and disturbance.
- 13.2 Fixed trading hours within designated areas are not set at present although consideration may be given to the use of an EMRO where evidence suggests that such an action may promote the licensing objectives.
- 13.3 The Council will generally deal with the issue of the licensing hours of public houses and nightclubs having due regard to the individual merits of each application. However, consideration may be given to restricting hours and/or imposing stricter conditions, e.g. in respect of noise control, where premises are situated in mainly residential areas. In any event, the Council encourages applicants to seek licences with terminal hours no later than 03.00. In a climate of reduced resources, this would help to ensure that the Council has sufficient time to clean the streets before the shops open again the next day. It will also assist the Police in relation to changes of shifts and policing the City in the early hours.

13.4 The Council will generally consider licensing shops to sell alcohol for consumption off the premises at any times they are open for shopping. However, we may restrict those hours, e.g. where the Police or local residents make representations in respect of disorder and disturbance, in order to prevent a breach of the licensing objectives.

#### **14. Proxy sales of alcohol and the delivery of alcohol to residential properties**

14.1 The Council expects that licensees will ensure that they have adequate procedures in place to ensure that all members of their staff are routinely trained and regularly reminded of their responsibilities in relation to the issue of proxy sales of alcohol (i.e. purchases by adults on behalf of children), and should ensure that all reasonable steps and procedures are in place and implemented to prevent such sales. Measures should also be in place to ensure that designated premises supervisors and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold to persons under eighteen or purchased on their behalf.

14.2 It is expected that applicants who intend to sell or supply alcohol by delivery will set out in their operating schedules to how they will ensure that they do not:

- Serve alcohol to a person who appears to be drunk;
- Serve alcohol to a person who is aged under 18 years old;
- Serve alcohol to a person who it is believed will pass it on to a person under 18 years old; or
- Take payment for the alcohol at the place where it is delivered (sales should be pre-paid only).

#### **15. Children**

15.1 The protection of children from harm is one of the four licensing objectives and the Council has a separate legal duty to safeguard children. In determining applications the Council will have regard to the views of the Sunderland Safeguarding Children Board. The Council expects that all applicants will include in their operating schedule a statement of the measures they will take to protect children from harm.

15.2 The Act prohibits the admission of children to premises in certain specified circumstances and, even where admission is lawful, such admission is at the discretion of those managing the premises. The Act contains no presumption of giving children access or any presumption of preventing this. Each application will therefore be considered on its own merits. However, the Council may find it necessary to limit the access of children to premises in order to protect them from physical, moral or psychological harm. Examples of situations where limitations may be necessary include premises:

- where entertainment or services of an adult or sexual nature are commonly provided;
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

15.3 The controls which may be implemented include the following:

- limitations on the hours when children may be present;
- limitations concerning the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- limitations on the parts of premises to which children might be given access;
- age limitations;
- requirements for accompanying adults (including for example, a combination of requirements which provide that persons under a particular age must be accompanied by an adult);
- full exclusion of persons under the age of eighteen from the premises when any licensable activities are taking place;
- the requirement that adequate supervision is in place for entertainment specifically aimed at children;
- requirements relating to recruitment policies and practices including the obtaining of enhanced Disclosure and Barring checks for all staff working with children; and
- the requirement to serve drinks in containers made from plastic or toughened glass.

15.4 It should be noted that the Council may not require that children may be admitted to licensed premises.

- 15.5 In submitting an application to license premises the applicant must submit copies to certain 'responsible authorities' as defined by the Act. These authorities include the Sunderland Safeguarding Children Board (SSCB), SSCB Business Unit, Room 13, Sandhill Centre, Grindon Lane, Sunderland, SR3 4EN who will advise on matters pertaining to the prevention of children from harm.
- 15.6 Tackling child sexual exploitation (CSE) is a City-wide strategic priority. Licensed premises can play a key role in identifying risks, signs and symptoms.
- Alcohol is also often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.
  - Under the Act, a premises licence may be at risk if the licensee does not take action to protect children. Licensees have a legal responsibility to make sure people under the age of eighteen are protected from physical, psychological and moral harm. Applicants for licences and existing licensees in the event of relevant problems will need to demonstrate that reasonable steps will be/have been taken to manage such risks. Information is contained on the Sunderland Safeguarding Children Board website about what to do if a person has concerns about a child or young person <http://sunderlandscb.proceduresonline.com>
  - Sunderland Safeguarding Children Board (SSCB) has a CSE communications strategy to raise awareness of the warning signs of child sexual exploitation and how to report concerns. The SSCB wants businesses to take responsibility for managing the risk of child sexual exploitation on their premises and report it in accordance with the SSCB Multi-Agency Safeguarding Children Procedures. The CSE communications strategy is aimed at a range of target audiences including businesses.
  - The SSCB works with other statutory authorities and will engage with the licensing trade to promote risk management in relation to child sexual exploitation. The SSCB and its partner agencies provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly. The SSCB in conjunction with the Licensing Authority encourages licensees: (i) to ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and (ii) to raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in the area.

- The Council expects that licensees will not display or promote alcohol advertising near to schools and other places used by children e.g. homes for 'looked after children'.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

- 15.7 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks is considered by the Council to be an important tool in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner that may appeal to or attract such persons. The Portman Group also issues retail alert bulletins that identify products that have breached this code. The Licensing Authority will expect the Code of Practice and retail alert bulletins to be fully implemented by licensees.

### **Children and Cinemas**

- 15.8 Where applicants seek a licence to show films we expect that they will indicate in their operating schedules their arrangements for restricting children from viewing age-restricted films.
- 15.9 The Council will include a condition in all such licences that will restrict the admission of children in accordance with the recommendations of the British Board of Film Classification (BBFC) or, if a film has not been classified by the BBFC, the Council. Information upon obtaining such a recommendation is available from the Licensing Section at the address shown in Paragraph 1.19 above.

### **“Under 18” Discos/Events**

- 15.10 Such events present special risks for persons under the age of eighteen, e.g. assault, child sexual exploitation (as children and young people may be groomed in the vicinity of such events), exposure to drugs, theft etc., and can be the focus of disorder in the surrounding neighbourhood. The Council expects applicants to identify strategies for managing foreseeable risks and the measures expected to be considered include:
- The Police, the Sunderland Safeguarding Children Board and the Council to be notified of any “under 18” event at least 28 days in advance of the event. Such notification should be made by the Premises Licence holder or Designated Premises Supervisor, as they would be held accountable should the event undermine any of the licensing objectives.
  - A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of the Council and the Police. Such a system must:
    - Ensure coverage of all entrances and exits to the licensed premises both internally and externally;

- Ensure coverage of such areas as may be required by the Council and the Police;
  - Such recordings must be retained (on tape or otherwise) for 28 days and must be supplied to an Officer of the Council or a Police Officer on request; and
  - An operational daily log report, endorsed by signature, must be maintained in order to indicate that the system has been checked and is compliant, or, in the event of any failings; that specified actions have been taken.
- The licensee to ensure that sufficient numbers of SIA registered security personnel (who have been checked with the Disclosure and Barring Service) are employed at the premises; specifically to the following minimum ratios: two supervisors for the first 100 customers, one of which being female, two for the second 100 customers and one for every 100 customers thereafter. At least one member of the security personnel should be employed as a floorwalker in order to constantly monitor patrons for evidence of alcohol- or drug- use and to protect patrons from unwanted attention or harassment. All security personnel must have been trained in safeguarding awareness either through the Sunderland Safeguarding Children's Board or through the vulnerability training provided to night time economy staff by Northumbria Police.
  - Where entertainment is to be provided specifically for children, and where it is likely that a child will be left in the care of a person employed by or contracted to the management of the premises for that purpose, or left in the care of a person using that premises for the provision of children's entertainment, the Council expects that enhanced checks with the Disclosure and Barring Service (DBS) are carried out in respect of the persons providing the entertainment to, or supervising the children. We may impose this requirement by way of condition, either through the review process, or in the event of the application being subject to representations.
  - Ensure efficient entry and dispersal procedures are in place so that young people are not left in a vulnerable position outside of the premises.
  - Where there is normally a bar, ensuring that alcohol is not on display and is locked away.
  - Ensuring that there is an interval of at least one hour between the conclusion of the "under 18" event and the venue opening for the commencement of any adult entertainment.
  - Searches on entry, to include all bags, to prevent alcohol and other illegal substances being brought onto the premises.

- Where alcohol is seized from persons aged under eighteen, the details to be recorded in a register.
- Any prior marketing of the event (internet, flyers, posters etc.) to make it clear that no alcohol will be sold to person aged under eighteen, that persons appearing to have consumed alcohol will be refused admission to the event and searches will take place to ensure that no alcohol is brought into the venue. Permissible ages for attendance at the event to be printed in prominent writing on any tickets issued for the event.
- Ensure a policy is in place for dealing with persons aged under eighteen who appear to be under the influence of drugs or alcohol and which incorporates the level of duty of care expected to be provided.
- Toilets and waste bins are checked for evidence of discarded alcohol containers and drug paraphernalia at regular intervals and records of such checks retained.
- First aid provision to be available at the premises.
- Ensure a policy is in place to prevent persons aged under eighteen returning to the premises after consuming alcohol outside.
- A terminal hour for the event of 22:00.
- An area should be designated as a safe space, whereby unwell or intoxicated persons can be taken for medical treatment and, in the case of persons aged under eighteen, to remain until reunited with a parent, guardian or responsible adult.

## **Mixed Age Events**

15.11 Mixed age events (where alcohol may be available for sale to persons aged over eighteen and where persons aged under eighteen may also be in attendance) significantly increase the potential risks identified above with regard to events for persons under eighteen only. Such events can be risk areas for grooming children and so staff working in licensed premises need to be aware of the risks and signs to look out for and what to do if they have a concern in relation to child sexual exploitation. Clear management plans should be in place demonstrating how the licensee intends to control and mitigate the potential harm to individuals under eighteen years of age attending these events, irrespective of whether alcohol is available or not. Therefore the Council expects licensees operating mixed age events to identify strategies for managing the foreseeable risks additional to those outlined above in paragraph 15.10. The following is a list of the additional measures expected to be considered:

- All patrons to be given a secure wristband of different colours, differentiating persons aged at least eighteen from those aged under eighteen.

- Only one alcoholic drink to be purchased by an individual at any one time.
- At least two SIA-registered security personnel to act as floorwalkers in order to constantly monitor patrons aged under eighteen for evidence of alcohol- or drug- use and also to protect patrons from unwanted attention or harassment.
- Children under the age of sixteen should not be permitted to attend the event unless accompanied by a responsible adult. Each responsible adult should not be responsible for more than four such children.
- All drinks to be served in plastic or polycarbonate glasses.

15.12 It must be stressed that the above measures are not considered to be an exhaustive list and licensees are encouraged to discuss the management of any such events in detail with the responsible authorities as part of their risk management process.

## **16. Integrating Strategies**

16.1 The Council recognises that there should be a clear separation of the planning, building control and licensing regimes in order to avoid duplication and inefficiency.

16.2 The Council has established a Multi-Agency Events Group (MAEG) consisting of Council officers and representatives from the emergency services in order to advise and co-ordinate planning for public events within the City of Sunderland.

## **17. Crime Prevention**

17.1 The conditions attached to licences will, in so far as possible, reflect crime prevention strategies. For example, closed circuit television cameras may be required to be provided in premises authorised to supply alcohol and images may be retained for a specified period to facilitate inspection by the Police or Council.

17.2 The Council encourages all holders of premises licences which permit the sale of alcohol for consumption **ON** the premises to be members of a local Pubwatch Scheme, which is approved by both Northumbria Police and the Council, where available. The Council may require such membership by means of a licence condition following any review of a licence or on application following the receipt of relevant representations from a responsible authority.

17.3 Where representations are made by the Police in respect of crime and disorder with regard to applications for the licensing of public houses or club type premises, the Council may attach licence conditions which require that all drinks are served only in containers made from plastic or toughened glass. This condition may be applicable on a permanent basis or triggered following a specified period of notice given by the Police for a specified period of time associated with a special event such as a high-risk football match or the Sunderland Air Show.



17.4 Again, following representations from the Police, conditions may be imposed on premises licences that require the employment of specified numbers of door supervisors during specified periods.

## **18. Cultural Strategies**

18.1 The Council wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. Therefore, we will consider the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing, and take care to ensure that only appropriate, proportionate and reasonable licensing conditions impose any restrictions on such events. Should there be any indication that such events are being deterred by licensing requirements, the matter will be considered with a view to investigating how the situation might be reversed. Advice upon whether cultural activities are required to be licensed is available from the Licensing Section whose address and contact details are at the introduction to this policy.

## **19. Promotion of Equality**

19.1 The Council, in pursuing its functions under the Licensing Act, will comply with the Equality Act 2010 and the Public Sector Equality Duty. The Equality Act 2010 bans unfair treatment and promotes equal opportunities in the workplace and in wider society. It protects everyone from unfair treatment through covering nine key protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

19.2 The Act also places the Public Sector Equality Duty on Local Authorities and other public bodies. The Duty requires public authorities, in the exercise of their functions, to have 'due regard' to the three aims of the Duty:

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and those who do not share it.

## **20. Duplication**

- 20.1 In operating this policy, the Council intends to avoid duplication with other regulatory regimes in so far as possible. Conditions that replicate the requirements of other legislation will not be imposed. However, where regulations do not cover the unique circumstances that may pertain to specific licensed premises, tailored conditions may be utilised.

## **21. Conditions**

- 21.1 All applications for new licences or for variations of existing ones should be supported by an operating schedule. The schedule should specify (among other things) the steps that the applicant proposes to promote each licensing objective.
- 21.2 Where no relevant representations are received, providing the application has been correctly made and advertised (as required by the Act), the Council must grant a licence in line with the proposed operating schedule. The only conditions that can be imposed are the mandatory conditions and any conditions that are consistent with the operating schedule.
- 21.3 Any conditions attached to licences following relevant representations will focus on matters within the control of the premises licence holder or club management committees. They will be used to ensure that the premises are safe and do not create a nuisance. They will address matters which have a direct impact on those living, working or engaged in normal activities in the vicinity
- 21.4 Conditions will not be used as a means of attempting to attach responsibility to premises licence holders or club management committees for matters outside their reasonable control, such as anti-social behaviour once away from the premises or licensable activity, unless information to the contrary is available to the Council. This information could include recorded police data and NHS data on alcohol-related violence, which might provide evidence linking increases in incidents to specific licensed premises.
- 21.5 The Council acknowledges that the content of operating schedules can be open to interpretation. Consequently, the Council will often apply a standard interpretation in respect of more commonly offered conditions. A pool of model conditions which may be used in the production of licences is attached as Appendix 1.
- 21.6 A list of the current Mandatory Conditions is attached as Appendix 2.

## **22. Enforcement**

- 22.1 Once licensed, it is essential that premises are maintained and operated to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act. We will monitor premises and take enforcement action, where appropriate, in order to encourage such compliance.
- 22.3 The Council has established a Responsible Authority Group which seeks to ensure that resources are targeted upon problem and high-risk premises.

## **23. Reviews**

- 23.1 The Licensing Act provides a mechanism for reviewing licences where the operation of premises appears to be contrary to the promotion of the licensing objectives.
- 23.2 At any stage during the life of a licence, an application for a review can be made to the Council by any responsible authority or any other person.
- 23.3 Subsequent to such an application, the Council will hold a hearing and take any appropriate steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor or suspension or revocation of the licence.
- 23.4 Persons concerned about the operation of a licence may first consider other options before requesting a review of a licence, including:
- Contacting the management of the premises to let them know about the problem and giving them the opportunity to address the issues, or
  - Contacting the relevant “responsible authority” (e.g. the Council’s Environmental Health Officers in relation to noise nuisance, the Sunderland Safeguarding Children Board in relation to child safety or the Police in relation to crime and disorder) about the problem.
- 23.5 Applicants for the review of a licence are required to send a copy of their application to the licence holder and the “responsible authorities”, together with any accompanying documents, on the same day as the application is given to the Council. The Council will advertise the review to enable others (responsible authorities or other persons) to comment on it. Responsible authorities have the option, if they wish, to comment on any application for a review.
- 23.6 Where an application for a review is considered to be frivolous, vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Council will reject it. Frivolous representations would concern minor issues which the Council could not reasonably be required to take any action to remedy. Representations may be considered vexatious if they

appear to be intended to cause aggravation or annoyance without reasonable cause.

- 23.7 The Council will not expect a licence to be reviewed more than once within any twelve month period on similar grounds, except in exceptional circumstances or following a Closure Order.

## **24. Responsible drinking**

- 24.1 The Council is aware that low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. The Council, through this policy, would like to encourage people consuming alcohol in the City to do so responsibly. Where there is evidence that the licensing objectives are not being promoted, or are likely not to be promoted, and licence holders do not respond to advice, the Council through its responsible authorities will consider reviewing the licences of such premises with a view to seeking conditions on drinks promotions in order to deal with localised problems. These controls could include restricting the sale of super strength beer, lager and cider, or the requirement to charge a minimum cost per drink as part of a package of measures to deal with problems.
- 24.2 There is strong evidence that setting a minimum unit price will have an impact on reducing alcohol consumption. The Council would therefore like to encourage all licensed premises to apply a minimum unit price of 50p to all alcohol products sold. Where the premises are found to be selling alcohol below this price and there are problems associated with the premises that are negatively impacting on the promotion of the licensing objectives, a responsible authority may initiate a review of the licence with the aim of seeking a condition in relation to the pricing of alcohol in order to uphold the promotion of the licensing objectives.
- 24.3 Rather than having to resort to controls of this kind, the Council would like to encourage a voluntary code of good practice in relation to drinks promotions including pricing, and to encourage licence holders and others working at the premises to familiarise themselves with the mandatory conditions relating to drinks promotions. These conditions prevent drinking games and the provision of unlimited or unspecified quantities of alcohol for free or for a fixed or discounted price.
- 24.4 Further information may be sought from the Northumbria Police or the Council before a specific promotion is arranged.

## **25. Administration, exercise and delegation of functions**

- 25.1 The Council is involved with a wide range of licensing decisions and functions and has established a Licensing Committee for their administration.
- 25.2 We wish to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process. Therefore, the Committee has delegated certain decisions and functions and has authorised the formation of Sub-Committees for this purpose.

25.3 Furthermore, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications will be delegated to Council officers. The table below sets out the method of delegation of decisions and functions to the Sub-Committees and officers.

<b>Matters to be dealt with</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant, frivolous vexatious etc.		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

## Appendix 1

### LICENSING ACT 2003

#### POOL OF MODEL CONDITIONS

Notes: -

- (i) These conditions must be read in conjunction with the Guidance under section 182 of the Licensing Act 2003.
  - (ii) These conditions must not be regarded as “standard conditions” which are to be automatically imposed in all cases. They are designed to provide a range of possible conditions, which may need to be attached to licences depending upon differing situations. The wording of the conditions may need to be modified to suit a particular premises and situations.
  - (iii) This is not an exhaustive or exclusive list of conditions. Additional conditions may be drafted and attached to licences to meet individual circumstances.
  - (iv) Applicants preparing Operating Schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives.
  - (v) When incorporated into a licence, any condition becomes enforceable under the law and a breach of such a condition could give rise to prosecution.
  - (vi) In these conditions the term “Licensee” refers to the holder of a Premises Licence or a club holding a Club Premises Certificate and Operating Schedule refers also to a Club Operating Schedule.
-

**CONDITIONS**  
**RELATING TO THE PREVENTION OF CRIME AND DISORDER**

**Text / Radio Equipment**

1. There must be provided at the premises text and/or radio equipment to be operated in conjunction with the Police.
2. The text and/or radio system must be capable of sending and receiving messages to and from the Police, Sunderland Street Pastors and other licensees, Designated Premises Supervisors, Door Supervisors, managers and club operators, incorporated into any joint and mutually beneficial scheme operating in the area.
3. The text and/or radio system must be maintained in good working order at all times when the premises are being used for a licensable activity.
4. The text and/or radio system must be activated, made available to, and monitored by the Designated Premises Supervisor or a responsible member of staff at all times when the premises are being used for a licensable activity.
5. The Licensee, Designated Premises Supervisor or other person having responsibility for monitoring the text and/or radio system provided must comply with any instructions or directions received through the system from the Police.
6. The Licensee, Designated Premises Supervisor or other relevant person must use the text and/or radio system to notify any incident of crime and disorder or any child safeguarding concerns to the Police as soon as practically possible, in accordance with agreed protocols.
7. At any time that the premises are in operation the names of all personal licensees on duty and all persons in possession of text/radio equipment shall be recorded in an appropriate record book to be kept at the premises. This record book must be available for inspection by the Police staff or Council Officers at all times when the premises are open.

**Door Supervisors**

8. (either)
  - At all times that the premises are open for any licensable activity(or)
  - Between ..... and .....on .....(days) when the premises are open for a licensable activity

There shall be employed at the premises 'X' number of Door Supervisors



9. Door Supervisors must be stationed in such numbers and in such positions as detailed on the attached schedule and approved plan of the premises.
10. Door Supervisors may be male or female, but, where physical searching of a patron is to be undertaken, such searching must be undertaken by staff of the same sex as the patron.
11. Door Supervisors must be provided with 'two-way' radios or similar systems capable of ensuring continuous communication between each other at all times that the premises are open for a licensable activity.
12. Door Supervisors shall wear clothing of the same style, type and colour, which may be appropriate to the nature of the venue, but which will ensure they are clearly distinguishable and identifiable as Door Supervisors having regard to the events and activities taking place at the licensed premises.
13. On each day that Door Supervisors are engaged for duty at the premises, their details (names and licence numbers) shall be recorded in an appropriate book kept at the premises. In conjunction with this record book, an incident book shall also be kept. This record book and incident book must be available for inspection by Police staff or Officers of the Council at all times when the premises are open.

#### **Bottle Bans**

14. Glass bottles containing beverages of any kind must not be left in the possession of any patrons after service and following the discharge of the contents into an appropriate glass or drinking vessel (except glass bottles containing wine which may be sold for consumption with a meal taken at a table, by customers who are seated in an area set aside exclusively for patrons taking table meals).
15. No persons carrying open or sealed glass bottles must be admitted to be premises at any time that the premises are open for any licensable activity.

#### **Plastic Containers and Toughened Glass**

16. Drinks shall be served only in containers made of strengthened glass (tempered glassware) or of a material that, in the event of breakage, will fragment with no sharp edges remaining. Alternatively, drinks may be served in non-glassware drinking vessels (e.g. plastic, polystyrene, waxed paper).

*(Note. Weights and Measures legislation may require the use of "stamped glasses" where "meter-measuring equipment" is not in use.)*

17. Any drinks to be consumed in a beer garden or children's play area must be served only in containers made of strengthened glass (tempered glassware) or of a material that, in the event of breakage, will fragment with no sharp edges remaining. Alternatively, drinks may be served in non-glassware drinking vessels (e.g. plastic, polystyrene, waxed paper).

18. No glass drinking vessels or glass bottles shall be permitted (*in the areas described in the attached schedule and delineated on the approved plan.*)

### **CCTV**

19. A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of the Council and Northumbria Police. Such a system must:
- Ensure coverage of all entrances and exits to the premises internally and externally;
  - Ensure coverage of such other areas as may be required by the Council or Northumbria Police;
  - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings must be retained (on tape or otherwise) for a period of \_\_\_\_\_, and must be supplied to an Officer of the Council or a Police Officer on request; and
  - Be in operation at all times the premises are in use.

### **Open Containers not to be taken from the Premises**

20. No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open bottle, whether empty or containing any beverage.

### **Restrictions on Drinking Areas**

21. No alcoholic drinks may be consumed in the (areas described in the attached schedule).

### **Capacity Limits**

22. The number of persons permitted to assemble on the premises on the same occasion shall at no time exceed the permitted numbers specified on the Premises Licence.

23. The maximum number of persons permitted in each of the following areas at any one time shall not exceed: -

- (a)
- (b)
- (c)
- etc.,

but at no time shall the total number of persons on the premises as a whole exceed (number) persons.

24. There shall be effective management arrangements in place to identify how many persons there are in the premises at all times when the premises are open for a licensable activity.
25. The maximum number of persons permitted to assemble on the licensed premises, or relevant part of the licensed premises, shall be indicated by a fixed notice bearing the words "Maximum Occupancy" with letters and numbers not less than 20 mm high, conspicuously sited at each relevant part of the premises and at the reception point.

### **Proof of Age**

26. A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
27. All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of eighteen years and who is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, Police or Armed Forces ID card, Proof of Age card carrying a "PASS" logo, or any other Government approved identification card or such evidence which the Council have approved as credible.

### **Crime Prevention Notices**

28. Suitably phrased, clear and conspicuous notices shall be displayed near the entrance to the premises and in other appropriate locations such as sanitary conveniences advising patrons:
  - a) of any risk of theft or possibility of other criminal activity  
*and/ or*
  - b) to exercise care with their personal possessions to prevent theft  
*and/or*
  - c) how to report any incidents of theft or other criminal activity.
29. All such signs shall be illuminated or positioned in well-lit locations.

### **Signage**

30. A conspicuous notice must be displayed on or immediately outside the premises adjacent to the entrance to the premises that gives details of times when the premises are permitted to be open for any licensable activity.

31. A conspicuous notice must be displayed on or immediately outside the premises, or which is immediately adjacent to the premises, which gives details of any restrictions relating to the admission of children to the premises.

**Large Capacity Venues used exclusively or primarily for the “Vertical” Consumption of Alcohol (High Volume Vertical Drinking Establishments (HVVDs))**

32. The premises must contain at least (number) tables and (number) chairs.

**Restaurants/Cafés**

33. Seating for no less than (number) persons shall be provided in the premises at all times the premises are in operation.
34. Seating shall be provided for all customers and alcohol shall only be served to those customers who are seated at tables by way of waiter or waitress service.
35. Except in the area identified and delineated (e.g., hatched, coloured green) on the deposited plan, alcohol shall only be sold or supplied to, and consumed by, persons seated at a table, by way of waiter or waitress service, save that:
  - a. No more than (number) persons may stand in the area identified and delineated (e.g. coloured blue) at any one time; and
  - b. A patron may take alcohol from the area marked (e.g. coloured green) and consume it in the area marked (e.g. coloured blue).

**Size of measures of alcohol**

36. The smallest legal measure of any alcoholic beverage must be served as standard unless the customer asks for a larger legal measure.

**CONDITIONS**  
**RELATING TO PUBLIC SAFETY**

**Disabled People**

37. When disabled people are present, adequate arrangements must exist to enable their safe evacuation in the event of an emergency. Staff must be aware of disabilities and react according to a pre-determined plan.

**Escape Routes**

38. All escape routes and exits must be kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and be clearly identified.
39. Where chairs and tables are provided in restaurants and other premises, internal gangways must be kept unobstructed.
40. All exits doors must be easily opened without the use of a key, card, code or similar means.
41. All doors leading from exits into passages or to the outside of the premises shall be without locks, bolts or other fastenings, except that those doors used only for exit shall be fitted with panic bolts and the method of opening shall be clearly indicated on the door to which it is fitted. Panic bolts shall not be secured with chains, padlocks or other locking devices when the premises are being used for the purposes of the licence.
42. All exit doors must be regularly checked to ensure that they function satisfactorily and a record of the check kept on the premises.
43. Any removable security fastenings must be removed whenever the premises are open to the public or occupied by staff. Arrangements must be made to ensure that security-fastening devices are displayed in a prominent position under management control when the premises are open to the public.
44. The edges of steps and stairs shall be conspicuous. Mats, matting, carpets and other floor coverings shall be secured to the surface they cover and shall be so maintained.

**Safety Checks**

45. Safety checks must be carried out before the admission of the public. These must correspond with the risk assessment and the conditions of the licence.
46. A written record of all periodic tests, examinations, inspections, staff training and results referred to herein shall be made in a log book. The log book shall be kept on the premises at all times and shall be available for examination by Officers of the Council, Northumbria Police and Tyne and Wear Fire and Rescue Service.

## **Curtains, Hangings, and Decorations**

47. Curtains and drapes shall be adequately supported and shall not be hung across stairs, stairways or gangways. Curtains and drapes may be hung over doors, but shall be so hung as to draw easily and slide freely. All curtains and drapes shall be hung so that they do not come into contact with the floor, and do not conceal notices.
48. Temporary decorations must not be used without prior notification to the Council.

## **Capacity Limits**

49. The number of persons permitted to assemble on the premises on the same occasion shall at no time exceed the permitted numbers specified on the Premises Licence.
50. There shall be kept a record of the total number of persons present on the premises at all times when the premises are open to the public. Such record shall be kept in written form or by such other means as may be approved in writing by the Council and shall be kept readily available for inspection upon request by any Officer of the Council, Police or Tyne and Wear Fire and Rescue Service.

## **Access for Emergency Vehicles**

51. Access to the premises for emergency vehicles must be kept clear and free from obstruction.

## **First Aid**

52. Access to the premises for emergency vehicles must be kept clear and free from obstruction.
53. At least one suitably trained first aider per 500 people shall be on duty at all times when the public are present up to the first 3,000 and then one per 1,000 for the remainder. If more than one suitably trained first aider is on duty their respective duties must be clearly defined.

## **Lighting**

54. In the absence of adequate daylight all areas including circulation areas and exit routes shall be illuminated whenever the premises are being used for the purpose of this licence. Such lighting shall be maintained in working order.
55. Emergency lighting must not be altered without the prior consent of the Council.
56. The emergency lighting system must be checked to ensure it is operating correctly before the admission of the public, members or guests.

57. In the event of the failure of normal lighting, arrangements shall be in place to ensure that the public, members or guests leave the premises immediately.

### **Temporary Electrical Installations**

58. Temporary electrical wiring and distribution systems must not be installed without notification to the Council at least ten days before commencement of the work and must be inspected and certified by a suitable qualified electrician prior to use.
59. Where it is not possible to give ten days notification to the Council of the installation of temporary electrical wiring and distribution systems, the work must be undertaken by competent, qualified persons.
60. Temporary electrical wiring and distribution systems must comply with the recommendations of the latest versions of BS7671 and, where applicable, BS7909 or successor standards.
61. All temporary electrical wiring and distribution systems must be inspected and certified by a competent person before they are put to use.

### **Indoor Sports Entertainment**

62. An appropriately qualified medical practitioner must be present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
63. Where a ring is constructed for the purposes of boxing, wrestling or similar sports, it must be constructed by a competent person, and inspected, prior to use, by a Building Control Officer of the Council (at the cost of the applicant).
64. At any wrestling or other entertainment of a similar nature, members of the public must not occupy any seat within 2.5 metres of the ring.
65. At water sports entertainments, staff adequately trained in rescue and life safety procedures must be stationed and remain within the vicinity of the water at all material times.

**CONDITIONS**  
**RELATING TO PUBLIC SAFETY IN THEATRES, CINEMAS,**  
**CONCERT HALLS AND SIMILAR PLACES**

**Attendants**

66. The number of attendants on each floor in a closely seated auditorium must be as set out on the table below:

<b>Number of members of the audience present on a floor</b>	<b>Minimum number of attendants required to be present on that floor</b>
1 - 100	One
101 - 250	Two
251 - 500	Three
501 - 750	Four
751 - 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

67. Attendants must not be engaged in any activity that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from the floor or auditorium where they are on duty.
68. All attendants must be readily identifiable to the audience (but this need not entail the wearing of a uniform).
69. The premises must not be used for a closely seated audience except in accordance with (a) seating plan(s), (a) copy/copies of which must be available at the premises and must be shown to an Officer of the Council, Police or the Fire and Rescue Service on request.
70. No article must be attached to the back of any seat, which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
71. A copy of any certificate relating to the design, construction and loading of any temporary seating must be kept available at the premises and must be shown to an Officer of the Council, Police or the Fire and Rescue Service on request.

**Standing or Sitting in Gangways etc.**

72. Sitting on floors must not be permitted except where authorised in the premises licence or club premises certificate.
73. Waiting or standing must not be permitted except in areas designated in the premises licence or club premises certificate.
74. In no circumstances must anyone be permitted to –



- sit in any gangway;
- stand or sit in front of any exit; or
- stand or sit on any staircase including any landings.

### **Drinks**

75. Except as authorised by the premises licence or club premises certificate, no drinks must be sold to or be consumed by a closely seated audience except in plastic and paper containers.

### **Balcony Fronts**

76. Clothing or other objects must not be placed over balcony rails or upon balcony fronts.

### **Special Effects**

77. Any special effects (as defined below) or mechanical installation must be arranged and stored to minimise any risk to the safety of the audience, the performers and staff.
78. Except with the prior written approval of the Council and subject to any conditions that may be attached to such approval no special effects shall be used on the premises.

Special effects include:

- a) dry ice machines and cryogenic fog;
- b) smoke machines and fog generators;
- c) pyrotechnics, including fireworks;
- d) real flame;
- e) firearms;
- f) motor vehicles;
- g) strobe lighting;
- h) lasers; and
- i) explosives and highly flammable substances.

### **Ceilings**

79. All ceilings in those parts of the premises to which the audience is admitted must be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the Council.

### **Seating**

80. Where the potential audience exceeds 250 persons all seats in the auditorium must, except in boxes accommodating not more than eight persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

## PREMISES USED FOR FILM EXHIBITIONS

### Attendants – Premises without a Staff Alerting System

81. Where premises used for film exhibitions are not equipped with a staff alerting system the number of attendants present must be as set out in the table below:

<b>Number of members of the audience present on the premises</b>	<b>Minimum number of attendants required to be on duty</b>
1 – 250	2
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant must be present in any auditorium or on any floor

### Attendants – Premises with a Staff Alerting System

82. (a) Where premises used for film exhibitions are equipped with a staff alerting system the number of attendants present must be as set out in the table below:

<b>Number of members of the audience present on the premises</b>	<b>Minimum number of attendants required to be on duty</b>	<b>Minimum number of other staff on the premises who are available to assist in the event of an emergency</b>
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

(b) Staff shall not be considered as being available to assist in the event of an emergency if they are:

- the holder of the premises licence or the manager on duty at the premises;
- a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
- a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.

(c) Attendants must as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

(d) The staff alerting system must be maintained in working order and be in operation at all times the premises are in use.

### **Minimum Lighting**

83. The level of lighting in the auditorium must be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas) or successor standards.

**CONDITIONS**  
**RELATING TO PUBLIC NUISANCE**

**Noise and Vibration**

- 84. The internal LAeq 15min and the Leq 15 min for the 63Hz frequency centred octave band shall not be increased within nearby residential properties (measured with windows at the dwellings either open or closed) as a result of noise emissions from the licensed premises.
- 85. Noise generated by amplified music must be controlled by a noise-limiting device set at a level determined by the Council, such level being confirmed in writing to the Licensee.
- 86. The lobby doors at the premises must be kept closed except for access and egress. Door staff must supervise to ensure that the doors are maintained closed as far as possible when public entertainment is taking place.
- 87. Windows, doors and fire escapes shall remain closed during entertainment events within the premises
- 88. The use of fireworks and pyrotechnics is restricted to the hours of ..... to .....
- 89. Clear and legible notices must be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents; in particular emphasising the need to refrain from shouting, slamming car doors and the sounding of car horns.

**Light Pollution**

- 90. Internal and external lighting provided for the purpose of customer and staff safety and for the security of the premises must be so positioned to not cause nuisance to neighbouring or adjoining properties.
- 91. Lighting associated with activities of entertainment must be positioned so as not to cause nuisance to neighbouring or adjoining properties.
- 92. Lighting provided externally to promote advertising of the premises or activities associated with the premises must be of an intensity such as not to cause nuisance to neighbouring or adjoining properties.

**Noxious Smells**

- 93. Suitable ventilation and extraction systems must be provided to eliminate noxious odours. Such systems must be maintained on a regular basis.

**CONDITIONS**  
**RELATING TO THE PREVENTION OF HARM TO CHILDREN**

**Access for Children to Licensed Premises – General**

94. Persons aged under eighteen must not be allowed access to the premises.
95. Persons under ...years unaccompanied by an adult aged over eighteen must not be admitted after .....

**Theatres**

96. Persons under the age of eighteen years must not be allowed access to premises during any time when an activity or entertainment of a sexual nature is being provided. For the purposes of this condition entertainment of a sexual nature includes but is not limited to striptease (sometimes referred to as exotic dancing), lap dancing, pole dancing or any other entertainment of a similar nature.
97. Persons under the age of eighteen years shall not have access to the premises (or specified part thereof) during any time when an activity, entertainment or service of an adult and/or sexual nature is provided. For the purposes of this condition entertainment of an adult or sexual nature includes but is not limited to performances involving feigned violence or horrific incidents, entertainment involving strong, foul, offensive or abusive language, nudity, striptease (sometimes referred to as exotic dancing), lap dancing, table dancing, pole dancing, feigned or actual sexual acts or fetishism, or which is likely to offend against good taste or decency or any other entertainment of a similar nature.

**Entertainment especially for Children**

98. Where entertainment is provided wholly or mainly for unaccompanied children:
  - a. an attendant must be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof;
  - b. attendants must wear distinctive clothing or suitable armbands; and
  - c. attendants must be present throughout the entertainment and while the audience is entering and leaving the building.
99. All staff coming into contact with children shall be vetted by means of an Enhanced Disclosure and Barring Service check and have no convictions that would make them unsuitable to interact with children.

### **Children in Performances**

100. The show venue must be large enough to safely accommodate the children backstage.
101. All chaperones and production crew must receive the fire instruction procedures applicable to the venue prior to the arrival of the children.
102. Children must be supervised by an adult at all times.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotions of Alcoholic Drinks**

103. Compliance with the Portman Group's Retailer Alert Bulletins is required.

### **Training**

104. At least one person per XXX patrons and all door supervisors should have received training in relation to child sexual exploitation, safeguarding and vulnerability and be on duty at all times when the public are present.

## Appendix 2

### Mandatory Conditions

#### **Premises licensed for the retail sale of alcohol for consumption on the premises.**

1. No supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. No person shall be employed at the Licensed Premises to carry out a security activity as defined by Schedule 2 of the Private Security Industry Act 2001 unless he/she is authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or is entitled to carry out that activity by virtue of section 4 of that Act.
4. Where any film shown is classified by the British Board of Film Classification in the 12A, 15 or 18 category no person under the age of 12 (and unaccompanied), 15 or 18 as appropriate shall be admitted to the part of the premises in which the film is being shown. Where any film shown is not classified by the British Board of Film Classification, admission of persons under the age of 18 to the part of the premises in which the film is being shown must be restricted in accordance with any recommendation made by the Council.
5. The relevant person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the relevant person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular

characteristic in a manner which carries a significant risk of undermining a licensing objective;

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

6. The relevant person must ensure that free potable water is provided on request to customers where it is reasonably available.

7. The relevant person must ensure that:-

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

8. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of this condition

- (a) duty is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
- (b) permitted price is the price found by applying the formula where



- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) relevant person means, in relation to premises in respect of which there is in force a premises licence
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) relevant person means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) value added tax means value added tax charged in accordance with the Value Added Tax Act 1994(7).

## Community Premises

1. Every supply of alcohol under the premises licence must be made or authorised by the management committee.
2. No person shall be employed at the Licensed Premises to carry out a security activity as defined by Schedule 2 of the Private Security Industry Act 2001 unless he/she is authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or is entitled to carry out that activity by virtue of section 4 of that Act.
3. Where any film shown is classified by the British Board of Film Classification in the 12A, 15 or 18 category no person under the age of 12 (and unaccompanied), 15 or 18 as appropriate shall be admitted to the part of the premises in which the film is being shown. Where any film shown is not classified by the British Board of Film Classification, admission of persons under the age of 18 to the part of the premises in which the film is being shown must be restricted in accordance with any recommendation made by the Council.
4. The relevant person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the relevant person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to

condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The relevant person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. The relevant person must ensure that:-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
7. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of this condition:

- (a) duty is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
- (b) permitted price is the price found by applying the formula where
  - (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) relevant person means, in relation to premises in respect of which there is in force a premises licence
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (f) relevant person means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (g) value added tax means value added tax charged in accordance with the Value Added Tax Act 1994(7).

## Off Licences

1. No supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
3. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried out in accordance with the age verification policy.

The policy must require individuals who appear to the relevant person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark or ultraviolet feature.

4. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of this condition

- (a) duty is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
- (b) permitted price is the price found by applying the formula where
  - (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) relevant person means, in relation to premises in respect of which there is in force a premises licence
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or

- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) relevant person means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) value added tax means value added tax charged in accordance with the Value Added Tax Act 1994(7).

## Club Premises Certificates

1. The relevant person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the relevant person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
2. The relevant person shall ensure that free potable water is provided on request to customers where it is reasonably available.
  3. The relevant person must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The relevant person in relation to the club premises certificate must ensure that the supply of alcohol at the premises is carried out in accordance with the age verification policy.

The policy must require individuals who appear to the relevant person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark or ultraviolet feature.

The relevant person in relation to the club premises certificate shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the relevant person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

4. The relevant person must ensure that:-

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.



# **APPENDIX 2**

██████████ Chair  
Sunderland Health and Wellbeing Board  
Sunderland City Council  
Sunderland Civic Centre  
Sunderland  
SR2 7DN

Tom Terrett  
Assistant Head of Street Scene  
(Public Protection and Regulatory Services)  
Commercial Development Directorate  
Sunderland City Council  
Jack Crawford House  
Commercial Road  
Sunderland  
SR2 8QR

15<sup>th</sup> August 2015

### **Health and Wellbeing Board - Response to Statement of Licensing Policy consultation**

The Sunderland Health and Wellbeing Board (HWBB) received a copy of the consultation at its meeting on 24<sup>th</sup> July. The HWBB has as its overall aim “to achieve the best possible health and wellbeing for the people of Sunderland” and licensing policy plays an important part in achieving this vision. In the last year, the HWBB included alcohol and best start in life amongst its list of immediate priorities and licensing plays a fundamental part of achieving improvement in outcomes in these areas.

The HWBB have signed up to the regional alcohol declaration and included its support to the lobby for minimum unit pricing for alcohol. In this context, the role that licensing has to play is central to achieving these commitments.

For Sunderland to achieve its potential, in spite of reducing public resources, we need to address issues which place a burden on the City. Alcohol related harm impacts upon a range of frontline services across the City including the NHS, Police, Ambulance Service, Licensing teams and Social Services.

It is estimated that the irresponsible use of alcohol costs the city around £92.49 million per year; with the greatest costs being borne by workplaces (£32 million) and local NHS services (£27 million). It should be noted that this does not take account the health and social consequences suffered by individuals, their families, and the wider community.

**The HWBB welcomes the inclusion of the health related impact data from but would strongly recommend that this should be strengthened to reflect the true need of and impact on of population.**

Sunderland residents experience significant health problems as a result of alcohol and have some of the highest rates in the country for alcohol-related hospital admissions, premature deaths and ill health caused by alcohol. The rate of alcohol-related hospital admissions among the Sunderland population is the third highest among 152 upper tier local authority populations. These admissions comprise of those that are wholly attributable to alcohol such as alcoholic poisoning or alcoholic liver disease (1,700 people admitted in Sunderland in

2012/13), and those where a proportion of admissions can be attributed to alcohol e.g. type 2 diabetes or stroke (a further 2,700 people admitted in 2012/13).

Sunderland is in the top (worst) 10% of the 152 upper tier local authority populations for:

- Alcohol-specific mortality (persons & males)
- Alcohol-related hospital admissions (persons)
- Alcohol-specific hospital admissions in young people aged under 18
- Admissions for alcohol related conditions narrow (persons & males)
- Admissions for alcohol related alcoholic liver disease conditions (persons)
- Admissions for alcohol related mental and behavioural disorders due to the use of alcohol conditions narrow (persons and male)

**The HWBB would recommend that a set of measures that be introduced in to Sunderland over the next 12 months, that support our vision for the health of the City and ensure new approaches are investigated to minimise the adverse impact of alcohol on the health of local people.**

At present, health is not a separate licensing objective; under the current Licensing law health considerations are only considered to be relevant where they relate to one of the existing four licensing objectives which are:

- the prevention of crime and disorder,
- public safety,
- the prevention of public nuisance and
- the protection of children from harm,

However, many Local Authorities use these objectives to curtail the irresponsible supply of alcohol, thus reducing alcohol harm.

There is clear international evidence from a number of countries, including France, the USA and Canada that decreased availability of alcohol results in decreased alcohol consumption in the population; this is true when availability is restricted either by physical means or by price. Where changes have been robustly measured and assessed, it can be seen that the effects happen at local, regional and national levels and lead to substantive reductions in alcohol related morbidity and mortality.

The burdens of alcohol related harm on public health, society and the economy within Sunderland are amongst the highest in the UK, and fall disproportionately on the most disadvantaged members of our community. It would therefore be remiss of any responsible authority not to try to intervene and make meaningful reductions to the unacceptable and unfair toll of ill health and premature mortality related to the inappropriate use of alcohol.

#### Potential Policy Options

Minimum unit price (MUP) remains the best evidenced and most cost-effective regulatory intervention for alcohol harm reduction. The HWBB has strongly supported MUP and was disappointed by the reluctance of the previous UK coalition government to follow through on its stated commitment around MUP. As a consequence, local authority licensing panels and their constituent 'responsible authorities' (RAs) are likely to be the major influence on the availability of alcohol in both on-trade and off-trade sectors in a local area.

The HWBB is aware that the licence application process is essentially a "permissive system" whereby unless successful objections are tabled by one of more RAs, all applications are effectively approved, regardless of how seemingly inappropriate they might be seen to be. The difficulties of making successful challenges to new licence applications combined with the already high concentration of outlets in many areas, have prompted local councils to explore a number of innovative new policies which either place local area based 'enhanced

restrictions' on new licence applications or seek to modify existing licences through voluntary arrangements or mediated through expedited licence reviews, where concerns have arisen. The two policies which have received most attention are 'cumulative impact policies' and late night levys.

As many LAs throughout England are beginning to demonstrate, these policy approaches have begun to address the excessive burden of alcohol harms and need not be especially onerous in terms of additional workload for licensing teams. They can even also have positive effects on the profitability of night-time economies (as higher value activity and establishments are encouraged). As an LA with one of the highest burdens attributable to alcohol, it is increasingly indefensible for Sunderland not to actively explore these types of policy options with a view to deciding on what would be most suitable for local introduction.

**The HWBB would therefore encourage the licensing authority to explore options for more proactive approaches to licensing within its policy including late night levys and cumulative impact policies.**

### **Conclusion & Recommendation**

The HWBB welcome the inclusion of a vision statement and the description of the impact of alcohol on health in Sunderland and would further recommend:

- 1) The vision statement reflects the views of all three Leadership Boards for the City – the Health and Wellbeing Board, the Economic and Leadership Board and the Education and Skills Board - and also the Safer Sunderland.
- 2) A Public Health statement embedded into the document which should be strengthened to reflect the true need of and impact on of population.
- 3) A set of measures that will be introduced in to Sunderland over the next 12 months, that support our vision for the health of the City and ensure new approaches are investigated to minimise the adverse impact of alcohol on the health of local people.
- 4) A commitment from the licensing authority to explore options for more proactive approaches to licensing within its policy including late night levys and cumulative impact policies.

  
**Chair of Sunderland Health and Wellbeing Board**

Acting Director of Public Health  
Sunderland City Council  
Sunderland Civic Centre  
Sunderland  
SR2 7DN

Assistant Head of Street Scene  
(Public Protection and Regulatory Services)  
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Submitted via email to [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk)

14<sup>th</sup> August 2015

#### **Director of Public Health - Response to Statement of Licensing Policy consultation**

**I welcome the inclusion of the vision statement set out in sections 1.7 and 1.8 of the document, but would strongly recommend that this should reflect the views of all three Leadership Boards for the City – the Health and Wellbeing Board, the Economic and Leadership Board and the Education and Skills Board - and also the Safer Sunderland. This would be in keeping with the Local authority's statutory responsibility for public health across the City.**

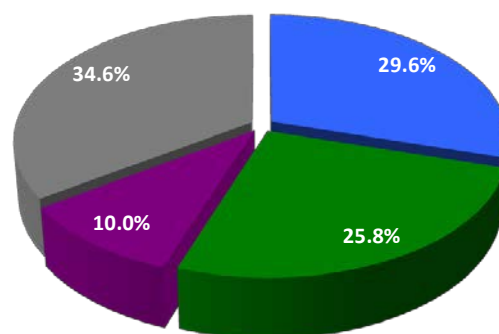
In April 2013, Sunderland City Council assumed its duties in relation to public health, and is therefore responsible for delivering improvements against all of the indicators within the Public Health Outcomes Framework; these include measure in four domains as follows: the wider determinants of health, healthcare public health and preventing premature mortality, health improvement, and health protection. The Sunderland Statement of Licensing Policy should support improvements against the indicators within the Public Health Outcomes Framework, but in particular should seek to drive improvement against indicators of alcohol harm-related hospital admissions and mortality from liver disease.

For Sunderland to achieve its potential, in spite of reducing public resources, we need to address issues which place a burden on the city. Alcohol related harm impacts upon a range of frontline services across the City including the NHS, Police, Ambulance Service, Licensing teams and Social Services.

It is estimated that the irresponsible use of alcohol costs the city around £92.49 million per year; with the greatest costs being borne by workplaces (£32 million) and local NHS services (£27 million). It should be noted that this does not take account the health and social consequences suffered by individuals, their families, and the wider community.

**Figure 1 Sunderland Cost Breakdown for 2013/ 14**

<b>NHS:</b>	<b>£27.34m</b>
<b>CRIME &amp; LICENSING:</b>	<b>£24.21m</b>
<b>SOCIAL SERVICES:</b>	<b>£9.25m</b>
<b>WORKPLACE:</b>	<b>£32.04m</b>
<b>OVERALL COST*:</b>	<b>£92.49m</b>



\*Total cost excludes crime related healthcare costs. The crime cost used for the adjacent pie chart is £23.86m

Recorded crime has been rising slowly for the last couple of years and the proportion of total crime that is related to alcohol continues to rise. As the consumption of alcohol in the home increases, the impact of alcohol becomes less visible and more hidden. For example, in Sunderland in 2014/ 15 there were 6,389 domestic abuse incidents; 1,457 of these incidents were recorded as domestic violence crimes and of these, 50% were alcohol related.

**I welcome the inclusion of the health related impact data from 1.9 to 1.13 but would strongly recommend that this should be strengthened to reflect the true need of and impact on of population.** Sunderland residents experience significant health problems as a result of alcohol and have some of the highest rates in the country for alcohol-related hospital admissions, premature deaths and ill health caused by alcohol. The rate of alcohol-related hospital admissions among the Sunderland population is the third highest among 152 upper tier local authority populations. These admissions comprise of those that are wholly attributable to alcohol such as alcoholic poisoning or alcoholic liver disease (1,700 people admitted in Sunderland in 2012/13), and those where a proportion of admissions can be attributed to alcohol e.g. type 2 diabetes or stroke (a further 2,700 people admitted in 2012/13).

Sunderland is in the top (worst) 10% of the 152 upper tier local authority populations for:

- Alcohol-specific mortality (persons & males)
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- Admissions for alcohol related conditions narrow (persons & males)
- Admissions for alcohol related alcoholic liver disease conditions (persons)
- Admissions for alcohol related mental and behavioural disorders due to the use of alcohol conditions narrow (persons and male)

The map in Appendix 1 shows the rate of alcohol related hospital admissions and alcohol specific admissions by GP Practice overlaid on directly age-standardised alcohol related hospital admissions rate by 100,000. This clearly illustrates that Sunderland has many areas where admission rates are significantly higher or higher than the Sunderland average.

At present, health is not a separate licensing objective; under the current Licensing law health considerations are only considered to be relevant where they relate to one of the existing four licensing objectives which are:

- the prevention of crime and disorder,
- public safety,
- the prevention of public nuisance and
- the protection of children from harm,

However, many Local Authorities use these objectives to curtail the irresponsible supply of alcohol, thus reducing alcohol harm.

**I would recommend the inclusion, over the next 12 months, of a set of measures that support our vision for the City and ensure new developments seek to minimise the adverse impact of alcohol on the health of local people and the resulting demand for health services.**

There is clear international evidence from a number of countries, including France, the USA and Canada that decreased availability of alcohol results in decreased alcohol consumption in the population; this is true when availability is restricted either by physical means or by price. Where changes have been robustly measured and assessed, it can be seen that the effects happen at local, regional and national levels and lead to substantive reductions in alcohol related morbidity and mortality.

The burdens of alcohol related harm on public health, society and the economy within Sunderland are amongst the highest in the UK, and fall disproportionately on the most disadvantaged members of our community. It would therefore be remiss of any responsible authority not to try to intervene and make meaningful reductions to the unacceptable and unfair toll of ill health and premature mortality related to the inappropriate use of alcohol.

#### Potential Policy Options

Minimum unit price (MUP) remains the best evidenced and most cost-effective regulatory intervention for alcohol harm reduction. Sunderland City Council has strongly supported MUP and was disappointed by the reluctance of the previous UK coalition government to follow through on its stated commitment around MUP. As a consequence, local authority licensing panels and their constituent 'responsible authorities'<sup>1</sup> (RAs) are likely to be the major influence on the availability of alcohol in both on-trade and off-trade sectors in a local area.

Regarding availability, it is important to note that the licence application process is essentially a "permissive system" whereby unless successful objections<sup>2</sup> are tabled by one of more RAs, all applications are effectively approved, regardless of how seemingly inappropriate they might be seen to be. As highlighted in the NE Alcohol Behaviour & Perceptions Survey [...], there is negligible public perceived need for more licensed premises. The difficulties of making successful challenges to new licence applications combined with the already high concentration of outlets in many areas, have prompted local councils to explore a number of innovative new policies which either place local area based 'enhanced restrictions' on new licence applications or seek to modify existing licences through voluntary arrangements or mediated through expedited licence reviews, where concerns have arisen. The two policies which have received most attention are 'cumulative impact policies' and late light levys. While the relative novelty of these measures means that evidence of their impact remains at an early stage, there have been promising indications that they are able to make a meaningful impact without detracting from the viability (in some cases enhancing it) of the night-time economy. While the following sections concentrate on these two policies it is important to note, perhaps unsurprisingly that combinations of policy measures are more effective than isolated initiatives.

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<sup>1</sup> Current 'responsible authorities who are statutory consultees for all new licence applications are: Police, Fire service, Health and safety, Environmental health, Child protection services, Trading standards, Planning, The licensing authority Regional health authority

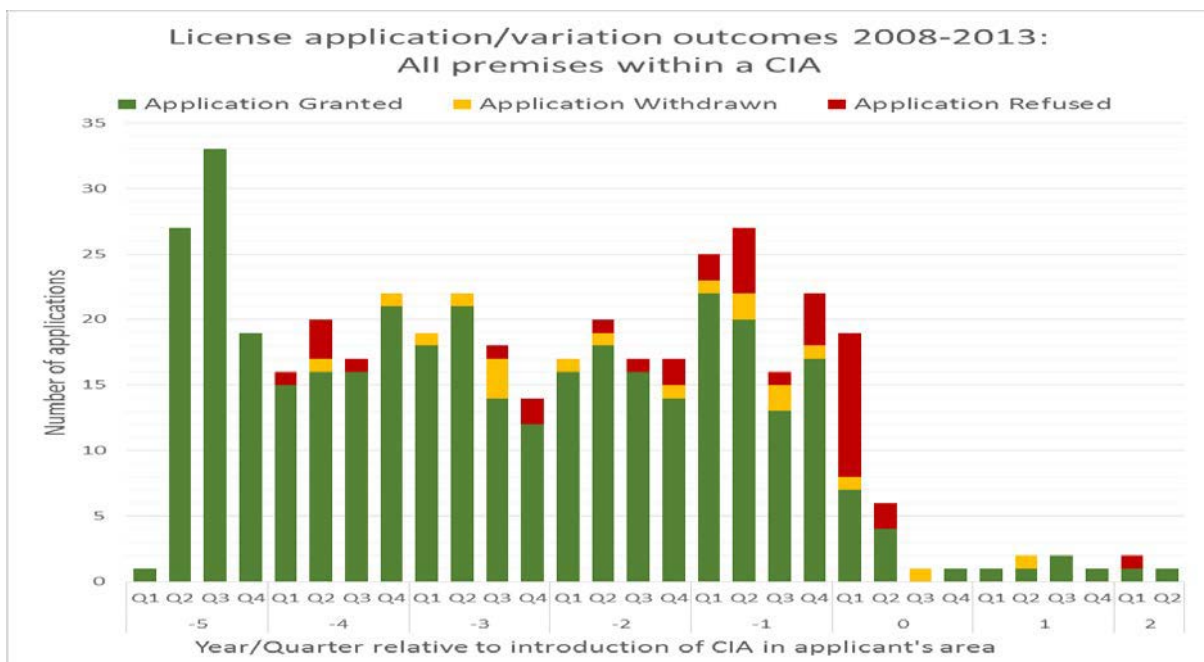
Cumulative Impact Policies:

While cumulative impact policies (or CIPs) are not mentioned specifically in the Licensing Act, the powers to introduce them are set out in statutory guidance issued under section 182 of the 2003 Act. They offer licensing authorities a tool to restrict the number of licensed premises in a specifically defined area if they evidence that a concentration of premises is having a cumulative impact on the promotion of one or more of the current licensing objectives, such as preventing public nuisance or crime and disorder. As such they effectively place the onus of proof on the applicant, who then needs to demonstrate, to the satisfaction of a review panel, that their specific proposal will not compromise licensing objectives. In practice, this has had the effect of discouraging applications where the likelihood of success is low (e.g. city centre areas with an already high concentration of outlets and established ‘trouble hot-spots’). It has also prompted applicants to give serious consideration as to how best to ‘upgrade’ the quality of their application and discourages in particular the pubs known as ‘vertical drinking establishments’, in favour of more upmarket restaurants and wine bars. A major city in the North East of England has attributed much of its success in ‘re-branding’ its city centre to the operation of a CIP<sup>3</sup>.

Of course, the successful introduction and operation of a CIP still requires the pro-active scrutiny of licence applications and the rationale for its introduction needs to be based on the risks of licensing objectives being compromised. In the London borough of Islington, where there has been a long established CIP, the initial increased workload involved in the scrutiny of applications, started to fall away quite sharply (see Figure 2) as the less responsible applications were discouraged and the message got through that in order for an application to succeed, there needed to be substantive consideration of how best to ensure that it was unlikely to compromise licensing objectives. Some of the means through which applicants have sought to do this have included:

- i. Voluntarily undertaking to set a minimum unit price threshold
- ii. Enrolling all staff on quality server training programmes.

**Figure 2: Licence applications in period preceding the introduction of a cumulative impact policy: increases in refusals and withdrawn applications with little chance of success.**



Sample Outputs: Use of CIZs in Islington, London (Courtesy of Martineau F & Lock K *et al* LSHTM, 2013)

<sup>3</sup> Base on in depth interviews with police and licensing personnel about Newcastle’s CIP which has been in place since 2011/12.



### Late Night Levys:

A late night levy enables licensing authorities to raise a surplus fee from establishments which are licensed to sell alcohol late at night in the authority's area (e.g. 12am to 6am), as a means of raising a contribution towards the costs of policing and environmental services. The precise level at which it is set relates to the size and profitability of the premises and can be anything from £300.00 to £3000.00+. As a more recent development even than CIP, the policy has yet to be rigorously evaluated although they current pilots are the subject of a national research programme. Early feedback from pilot areas has been encouraging however for three reasons: firstly, the initial opposition from stakeholders quickly subsided, especially in areas with high levels of night-time disorder (where increased police presence was very welcome). Secondly, the facility to offer reductions in the level at which the levy has set has been an additional vehicle for encouraging voluntary improvements in practice (e.g. undertaking not to offer multiple-purchase discounts). Thirdly, late night levys can also complement other polices well which seek to achieve the same ends.

### The case for pro-active approaches

CIPs and late night levies are only two examples of policy measures which can be employed as part of a more pro-active approach that councils can take towards improving the commercial alcohol environment and reducing associated harms. The current absence of a specific fifth licensing objective around 'the protection of public health' need not be a significant obstacle to introducing improvements which will have the effect of reducing the more irresponsible patterns of hazardous and harmful drinking. Another output of the current national research programme, has been to show that many councils which have traditionally had high rates of alcohol related hospital admissions, have been the most pro-active in their policy approaches and this has already began to impact on their morbidity data (unpublished research in submission, based on a national home office dataset combined with LAPE data).

As a many LAs throughout England are beginning to demonstrate, there are several viable policy approaches to begin to address the excessive burden of alcohol harms, which need not be especially onerous in terms of additional workload for licensing teams and can even have positive effects on the profitability of night-time economies. As an LA with one of the highest burdens attributable to alcohol, it is increasing indefensible for Sunderland not to actively explore the options which would be most suitable for introduction here.

### North East Alcohol Behaviour and Perceptions Survey for Sunderland

In 2013 Balance (North East Office for Alcohol) conducted the North East Alcohol Behaviour and Perceptions Survey for Sunderland. The Survey provides a detailed snapshot of Sunderland residents' behaviour and attitudes in regard to alcohol. The survey included a section on the availability of alcohol, to gather information on how North East residents perceive issues surrounding the acceptability and ease of buying alcohol.

Main findings from the Sunderland residents were that:

- Only 1% of Sunderland residents said that *there are not enough places that sell alcohol*
- 48% said *opening hours should be shortened*, a higher proportion when compared to the North East as a whole at 37%
- 53% felt that the hours that retail outlets are allowed to sell alcohol they are *fine as they are* but 42% of would like to see *restrictions* compared to the North East as a whole at 32%
- When asked to what extent they agreed or disagreed that *the more freely alcohol is available the more people will drink*, 74% said they *agreed*

Respondents were asked, in their view, how acceptable or unacceptable it is to be able to buy alcohol in various different settings across Sunderland:

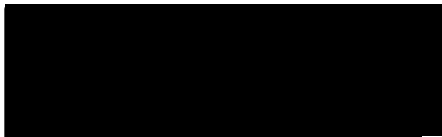
- over two in three residents (68%) feel that it is *unacceptable* to be able to buy alcohol in the foyer of a multiplex cinema
- two in five (39%) of residents feel it is *unacceptable* to be able to buy alcohol at a bed and breakfast
- 88% of residents feel that it is *unacceptable* to be able to buy alcohol at a hairdressing salon
- 95% of residents feel it is *unacceptable* to be able to buy alcohol at a soft play area.
- 85% of residents feel it is *unacceptable* to be able to buy alcohol at a motorway service station
- four in five (79%) feel that it is *unacceptable* to be able to buy alcohol at a garage forecourt

The information in the independent survey is also broken down across Sunderland using Community Forum Area (CFA) to provide data at a local level. Areas highlighted in red are significantly higher than the North East. Further analysis can be found in appendix 2.

### **Conclusion & Recommendations**

I welcome the inclusion of a vision statement and the description of the impact of alcohol on health in Sunderland and would further recommend:

- 1) A vision statement that reflects the views of all three Leadership Boards for the City – the Health and Wellbeing Board, the Economic and Leadership Board and the Education and Skills Board - and also the Safer Sunderland. This would be in keeping with the Local authority's statutory responsibility for public health across the City.
- 2) A Public Health statement embedded into the document, and would strongly recommend that this Public Health statement should be strengthened to reflect the true need of and impact on of population.
- 3) A set of measures that will be introduced in to Sunderland over the next 12 months, that support our vision for the City and ensures new developments seek to minimise the adverse impact of alcohol on the health of local people and the resulting demand for health services.



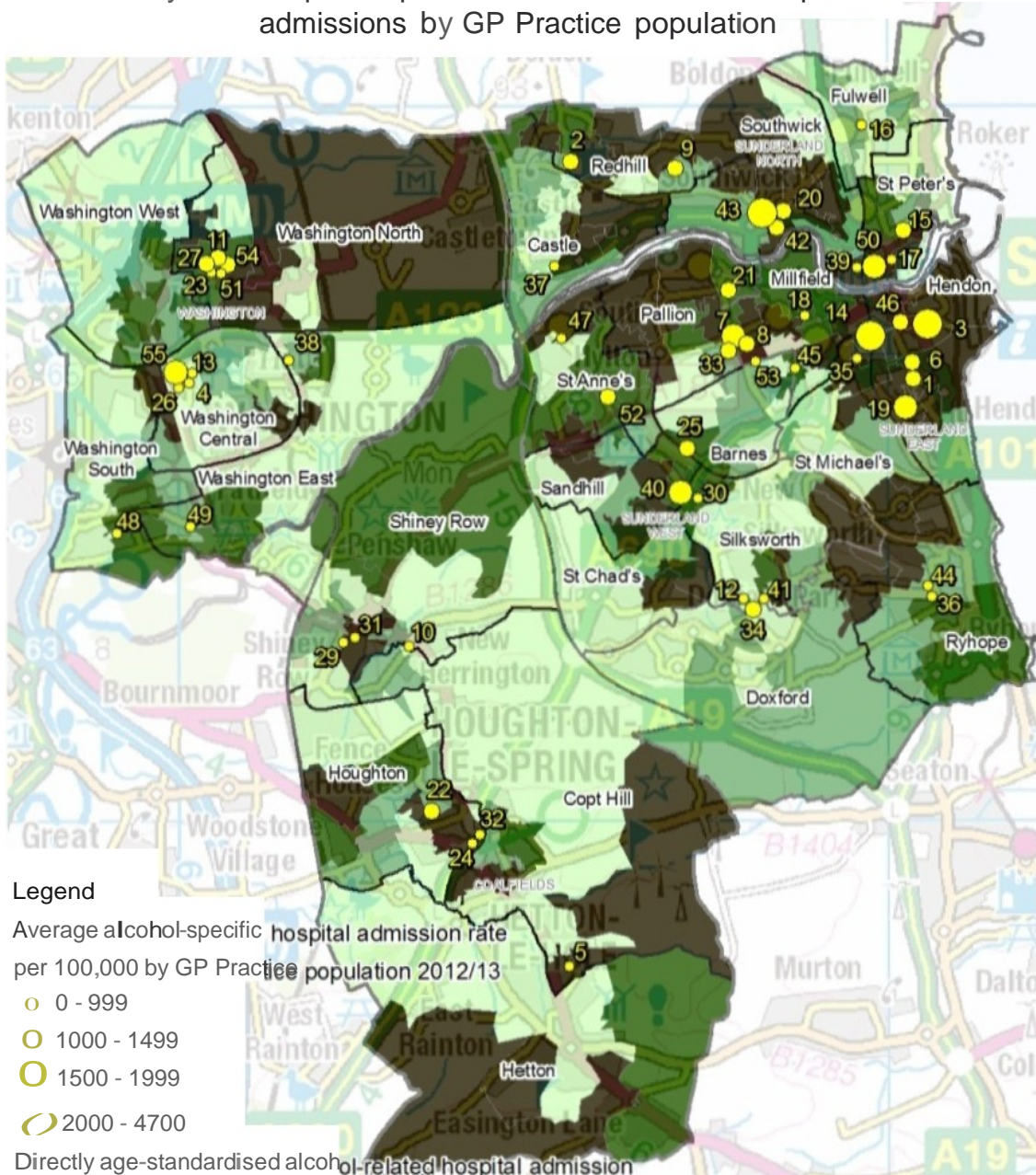
**Acting Director of Public Health**



**Acting Public Health Consultant**

Appendix 1 -Sunderland rate of alcohol-related hospital admissions

Sunderland -rate of alcohol-related hospital admissions by lower super output area and rate of alcohol-specific admissions by GP Practice population



Legend

Average alcohol-specific hospital admission rate per 100,000 by GP Practice population 2012/13

- 0 - 999
- 1000 - 1499
- 1500 - 1999
- 2000 - 4700

Directly age-standardised alcohol-related hospital admission rate per 100,000 by lower super output area 2010/11 to 2012/13

- Significantly higher than Sunderland average
- Higher than Sunderland average
- Lower than Sunderland average
- Significantly lower than Sunderland average

Scale: 0 1000 2000

Haswell Hasw

hotton

Data source: Bill. ANCI: AlcOhol Othce101the Nonh East. based oo ha<lttal ePlsodP statiSiCS Map produced by Sunderland City Council

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## Appendix 2 - North East Alcohol Behaviour and Perceptions Survey for Sunderland

### Methodology

A total of 2,714 face to face interviews were achieved across the North East region, 1058 of which were with Sunderland residents. A minimum of 200 interviews were conducted in each Community Forum Area (CFA) within Sunderland, to provide data at a local level. **Sunderland and CFA** figures highlighted in **red** are significantly higher than the North East total whilst those highlighted in **blue** are significantly lower.

### Q1) Views on the number of places where alcohol can be bought

Respondents were asked for their opinions on the availability of alcohol in their area.

#### Sunderland Overall

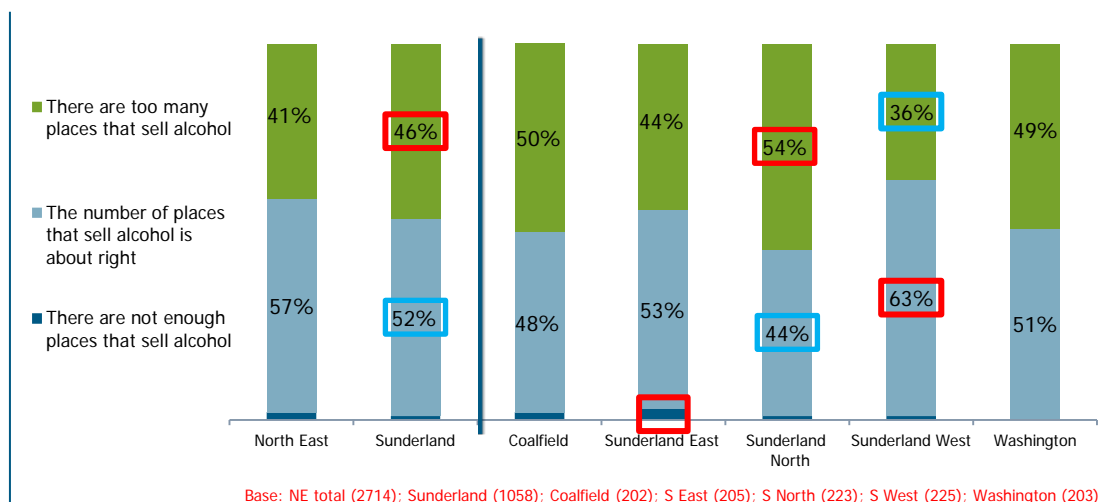
When asked about the availability of alcohol in their area, approximately half (52%) of all **Sunderland** residents said they felt that *the number of places that sell alcohol is about right*. A slightly lower proportion (46%) said *there are too many places that sell alcohol* and only 1% said that *there are not enough places that sell alcohol*.

The findings for the North East overall indicate that the view that *there are too many places that sell alcohol* is more prevalent within **Sunderland**.

**By Community Forum Area** - Data at a CFA level indicates that:

- **Sunderland North** residents, in particular, feel that there are *too many places that sell alcohol*
- On the other hand, this perception is much lower in **Sunderland West**

Figure 1: Which of these statements best describes your views on the availability of alcohol in your area?



### Q2 Opening hours of pubs and clubs

Respondents were asked for their opinions on pub and club opening hours.

#### Sunderland Overall

When asked about opening hours of pubs and clubs, just under half (48%) of all **Sunderland** residents said *opening hours should be shortened*, a higher proportion when compared to the North East as a whole (37%).

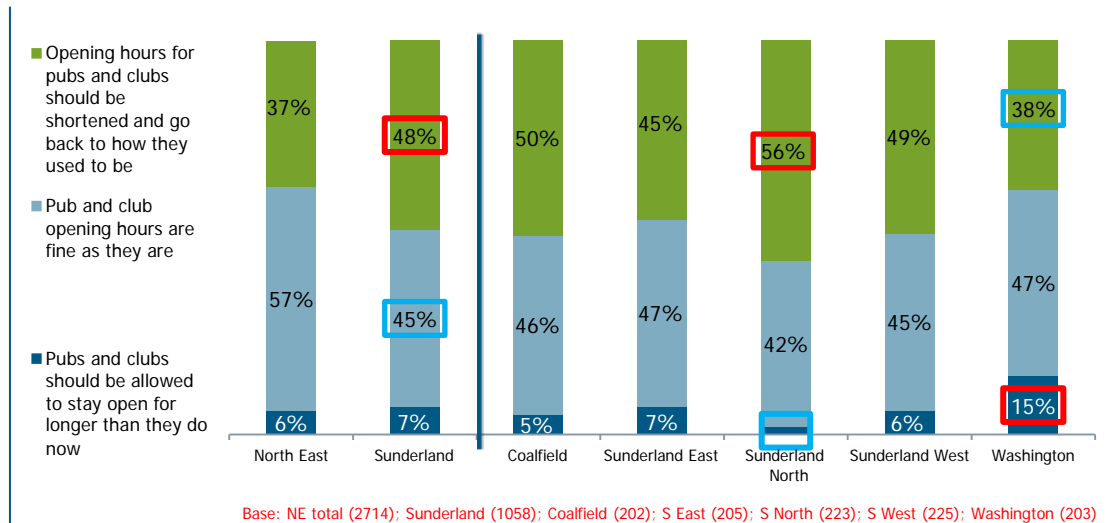
#### By Community Forum Area

Data at a CFA level indicates that:

- **Sunderland North** residents, in particular, feel that *opening hours should be shortened*

- **Washington**, on the other hand, contains a higher proportion of residents who think *pubs and clubs should be able to stay open longer than they do now*

Figure 2: Which of these statements best describes your views on pub and club opening hours?



### Q3 Retail outlets selling alcohol

Respondents were asked for their opinions on the hours that retail outlets are allowed to sell alcohol.

#### **Sunderland Overall**

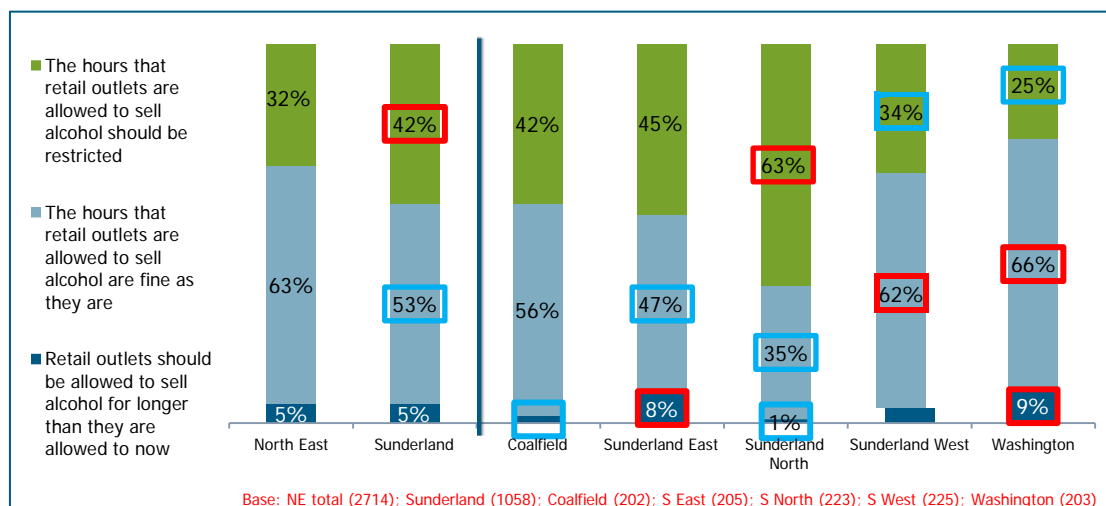
When asked about the hours that retail outlets are allowed to sell alcohol, the majority of **Sunderland** residents (53%) felt that they are *fine as they are*. A sizeable proportion of residents (42%) would, however, like to see *restrictions* and this perception is more prevalent within **Sunderland** than it is in the North East as a whole (32% of NE residents would like to see *restrictions*).

#### **By Community Forum Area**

Data at a CFA level indicates that there is some variation in attitudes in regard to the hours that retail outlets are allowed to sell alcohol:

- Support for *restrictions* is most prevalent within **Sunderland North**
- The view that things are *fine as they are* predominates in **Coalfield, Sunderland West and Washington**

Figure 3: Which of these statements best describes your views on the hours that retail outlets are allowed to sell alcohol?



#### **Q4 Availability of alcohol and drinking habits**

##### **Sunderland Overall**

When asked to what extent they agreed or disagreed that *the more freely alcohol is available the more people will drink*, the majority of **Sunderland** residents surveyed (74%) said they *agreed*; approximately one in five (22%) *disagreed*.

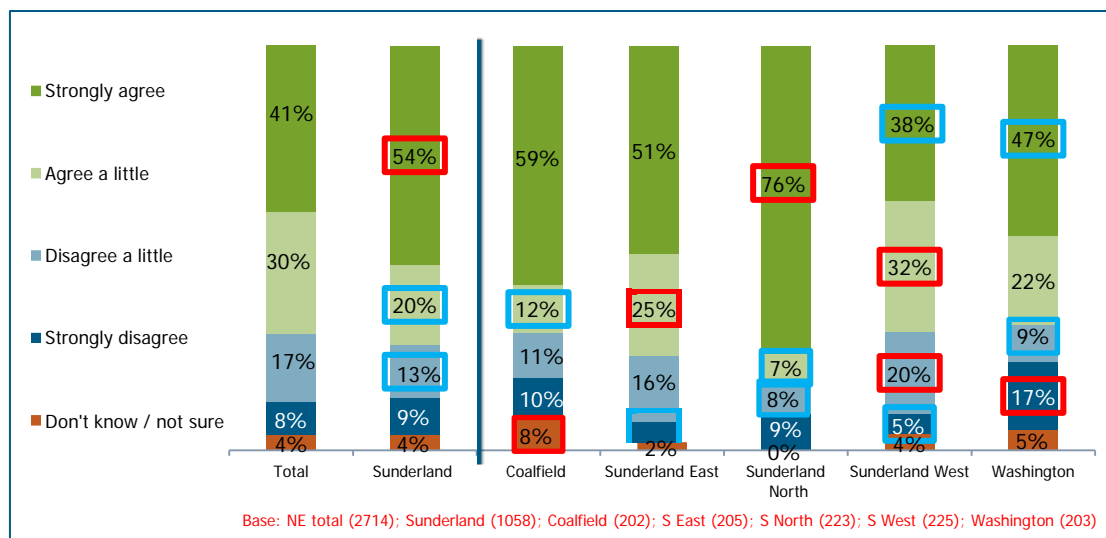
In comparison to the North East picture, *strength* of agreement is greater within **Sunderland**, although the level of *overall agreement* is consistent with that seen in the wider region.

##### **By Community Forum Area**

Data at a CFA level indicates that:

- **Sunderland North** residents feel most strongly that there is a link between the availability of alcohol and consumption patterns
- Whilst *overall levels of agreement* in the other four CFAs are broadly consistent with the **Sunderland** picture, *strength of agreement* is lower in **Sunderland West** and **Washington**

Figure 4: To what extent do you agree or disagree with the following statement? The more freely alcohol is available to buy, the more alcohol people will drink



#### **Q5 Acceptability of buying alcohol... In the foyer of a multiplex cinema**

Respondents were asked, in their view, how acceptable or unacceptable it is to be able to buy alcohol in the foyer of a multiplex cinema.

##### **Sunderland Overall**

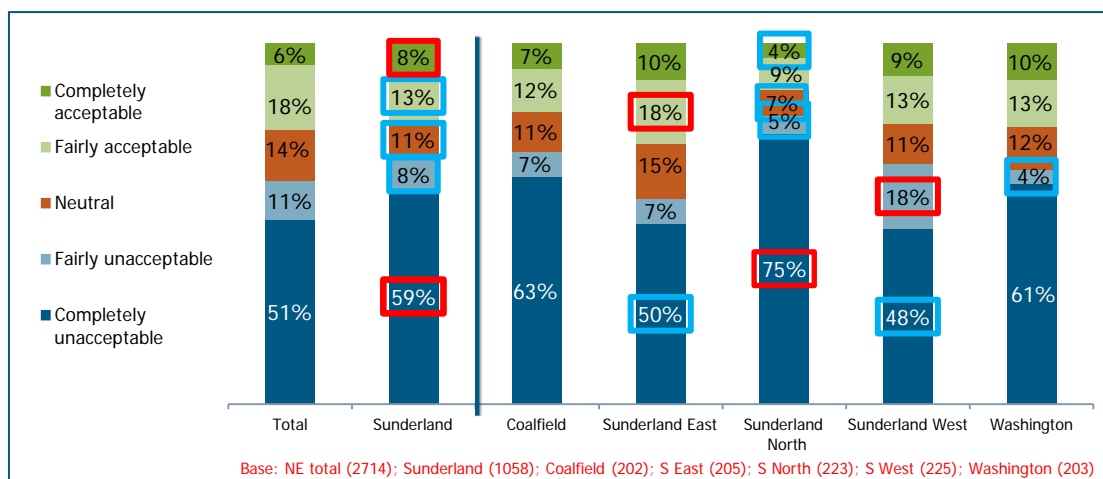
The 2013 findings show that over two in three **Sunderland** residents (68%) feel that it is *unacceptable* to be able to buy alcohol in the foyer of a multiplex cinema - higher than the proportion in the North East as a whole (62% *unacceptable*).

##### **By Community Forum Area**

Data at a CFA level indicates that:

- The overall perceptions of residents in **Coalfield**, **Sunderland West** and **Washington** are generally in line with the overall picture in **Sunderland** (the proportions stating *acceptable* and *unacceptable* are comparable)
- **Sunderland East** residents are more likely than other **Sunderland** residents to regard the availability of alcohol at a multiplex cinema as *acceptable*
- Whilst **Sunderland North** residents are more likely to regard it as *unacceptable*

Figure 5: In your view, how acceptable or unacceptable is it to be able to buy alcohol in the foyer of a multiplex cinema?



### **Q6 Acceptability of buying alcohol... At a bed and breakfast**

Respondents were asked, in their view, how acceptable or unacceptable it is to be able to buy alcohol at a bed and breakfast.

#### **Sunderland Overall**

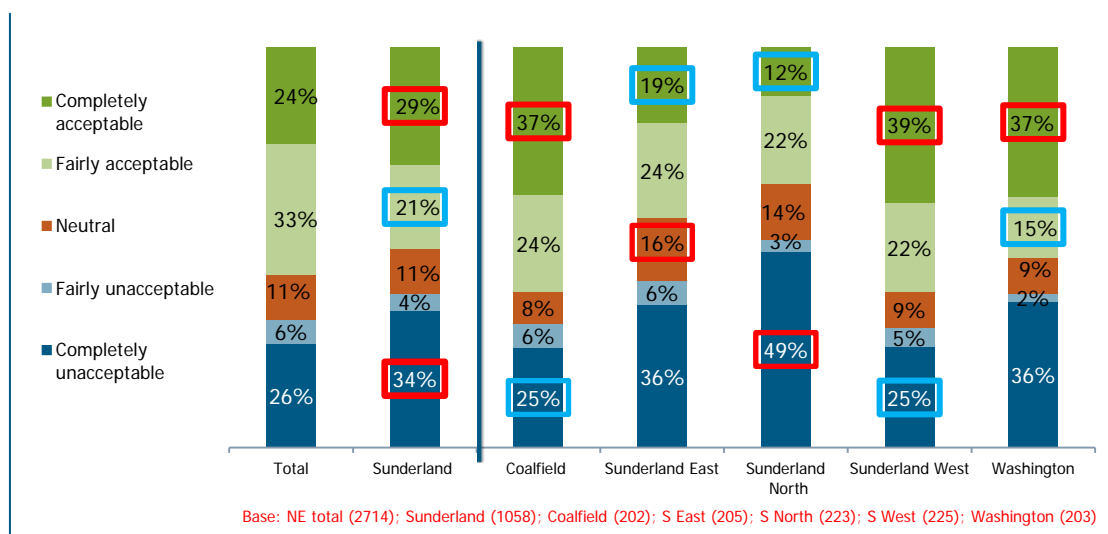
The 2013 findings show that half (50%) of **Sunderland** residents feel that it is *acceptable* to be able to buy alcohol at a bed and breakfast; approximately two in five (39%) feel it is *unacceptable*. In comparison to the North East as a whole, **Sunderland** residents are less likely to regard the availability of alcohol in a bed and breakfast as *acceptable* (NE: 57% *acceptable*).

#### **By Community Forum Area**

Data at a CFA level indicates that perceptions in regard to how acceptable it is to be able to buy alcohol at a bed and breakfast vary across the five areas:

- **Coalfield** and **Sunderland West** residents are more likely to regard the availability of alcohol at a bed and breakfast as *acceptable*
- Support for this is, however, lower in **Sunderland East** and **Sunderland North**
- Overall perceptions in **Washington** are generally in line with the overall **Sunderland** picture (the proportions stating *acceptable* and *unacceptable* are comparable), although *strength of opinion* is greater amongst supporters

Figure 6: In your view, how acceptable or unacceptable is it to be able to buy alcohol at a bed and breakfast?



**Q7 Acceptability of buying alcohol... At a hairdressing salon**

Respondents were asked, in their view, how acceptable or unacceptable it is to be able to buy alcohol at a hairdressing salon.

**Sunderland Overall**

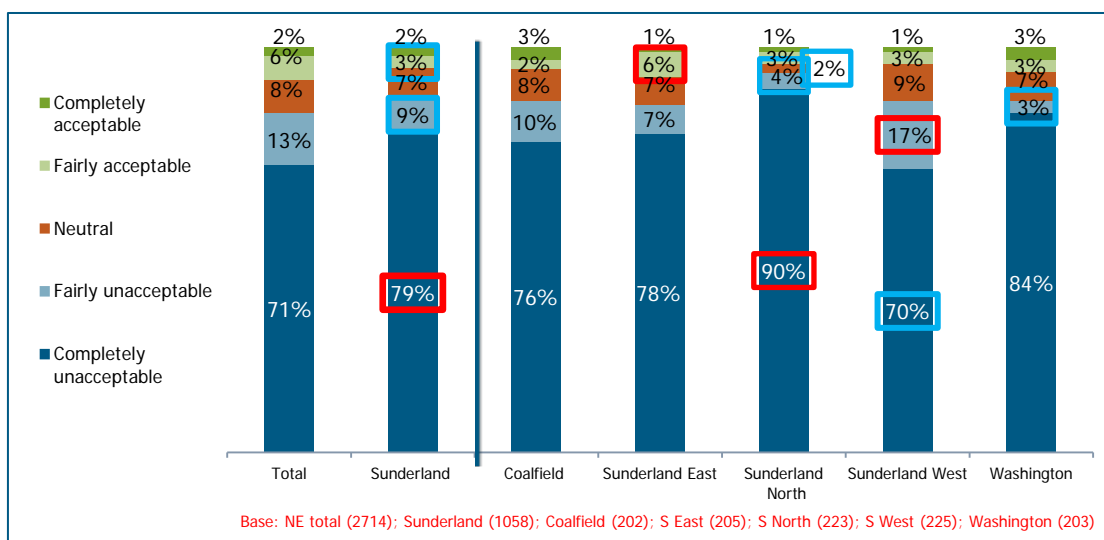
The 2013 findings show that 88% of **Sunderland** residents feel that is *unacceptable* to be able to buy alcohol at a hairdressing salon. This is higher than the North East average of 84%.

**By Community Forum Area**

Data at a CFA level indicates that:

- Residents in **Sunderland North** feel most strongly that it is *unacceptable* to be able to buy alcohol at a hairdressing salon
- Whilst there is some variation in *strength of opinion*, the overall views of residents in the four other CFAs are broadly in line with the overall **Sunderland** picture

Figure 7: In your view, how acceptable or unacceptable is it to be able to buy alcohol at a hairdressing salon



**Q8 Acceptability of buying alcohol... At a soft play area**

Respondents were asked, in their view, how acceptable or unacceptable it is to be able to buy alcohol at a soft play area.

**Sunderland Overall**

The 2013 data indicates that the vast majority of **Sunderland** residents (95%) feel it is *unacceptable* to be able to buy alcohol at a soft play area. This is in keeping with the views of residents in the rest of the region (NE: 95% *unacceptable*). Views in this regard are broadly consistent across the different segments of the **Sunderland** population.

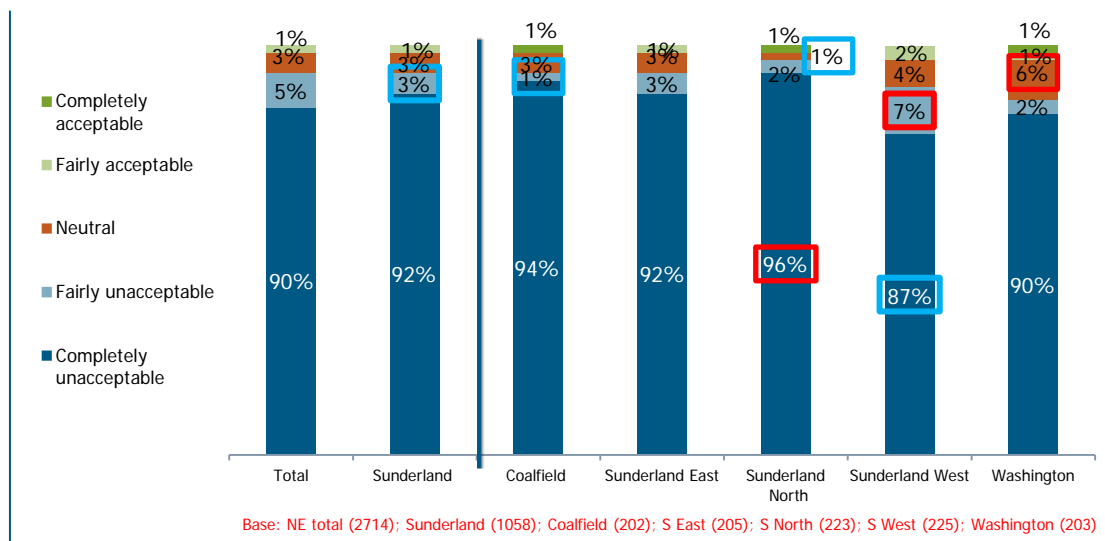
**By Community Forum Area**

Data at a CFA level indicates that:

- The majority view in all five CFAs is that it is *unacceptable* to be able to buy alcohol at a soft play area
- **Sunderland North** residents feel most strongly about this issue



Figure 8: In your view, how acceptable or unacceptable is it to be able to buy alcohol at a soft play?



**Q9 Acceptability of buying alcohol... At a motorway service station**

Respondents were asked, in their view, how acceptable or unacceptable it is to be able to buy alcohol at a motorway service station.

**Sunderland Overall**

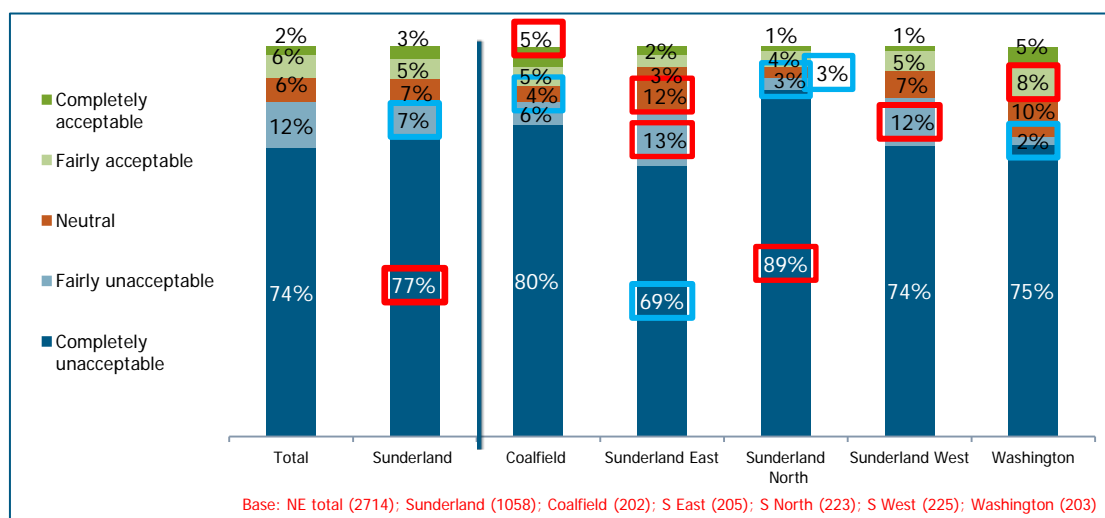
Within **Sunderland** as a whole, 85% of residents feel it is *unacceptable* to be able to buy alcohol at a motorway service station and fewer than one in ten (8%) feel it is *acceptable*. This is in line with perceptions within the North East as a whole (86% *unacceptable*; 8% *acceptable*). Whilst the majority view across the **Sunderland** population is that the availability of alcohol at a motorway service station is *unacceptable*.

**By Community Forum Area**

Data at a CFA level indicates that:

- The majority view in all five CFAs is that it is *unacceptable* to be able to buy alcohol at a motorway service station
- This perception is especially strong within **Sunderland North**, whilst slightly weaker in **Washington**

Figure 9: In your view, how acceptable or unacceptable is it to be able to buy alcohol at a motorway service station?



**Q10 Acceptability of buying alcohol... At a garage forecourt**

Respondents were asked, in their view, how acceptable it is to be able to buy alcohol at a garage forecourt.

**Sunderland Overall**

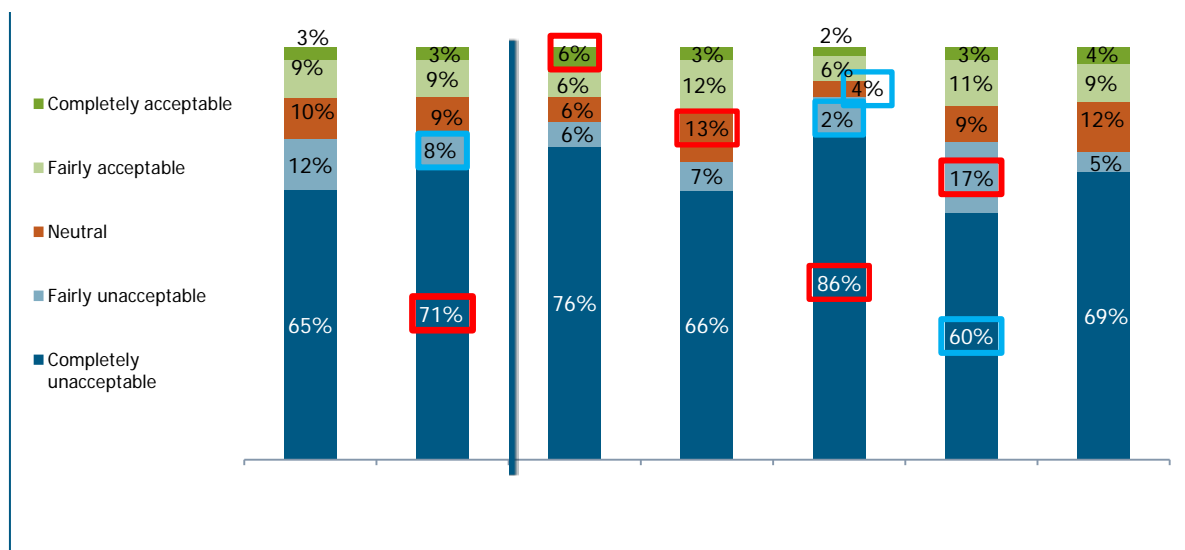
Figures for **Sunderland** overall show that approximately four in five (79%) feel that it is *unacceptable* to be able to buy alcohol at a garage forecourt, which is consistent with feeling in the wider region (NE: 78% *unacceptable*). *Strength of opinion* on the matter is, however, greater within **Sunderland**.

**By Community Forum Area**

Data at a CFA level indicates that:

- The majority view in all five CFAs is that it is *unacceptable* to be able to buy alcohol at a garage forecourt
- This perception is especially strong within **Sunderland North**, whilst weaker in **Sunderland East** and **Sunderland West**

Figure 10: In your view, how acceptable or unacceptable is it to be able to buy alcohol at a garage forecourt?



Total          Sunderland          Coalfield          Sunderland East          Sunderland North          Sunderland West          Washington

Base: NE total (2714); Sunderland (1058); Coalfield (202); S East (205); S North (223); S West (225); Washington (203)

## **Response from the Safer Sunderland Partnership Licensing Act 2003 Statement of Licensing Policy 2016-2021**

**Comments from community safety** with regard to the proposed statement of licensing policy to be emailed to: [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk) by 16<sup>th</sup> August

Overall, we welcome the fact that the policy has been strengthened from previous versions. We have made comments below which we believe will further strengthen the policy, around all 4 of the licensing objectives for: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

Our comments relate to the page numbers and section/para numbers on the version of the policy that is out for consultation as follows:

### **Page 1:**

Section 1.3 – add Sunderland Safeguarding Children’s Board

### **Page 2: Introduction**

We welcome the inclusion of sections 1.9-1.13 on some of the health related impact of alcohol. Despite lobbying, public health isn’t a licensing objective, but there are links with the other licensing objectives and we understand that public health colleagues will be feeding back their views on how they feel the policy can be strengthened from a public health perspective. We also know that Balance North East hold a lot of local data that could be used within the policy to provide more context and highlight areas of particular need or concern where we have pockets of problems such as high rates of alcohol-related hospital admissions or alcohol related disorder. They have super output area data for hospital stats, ambulance data etc. to provide a better indication of issues at a smaller geographical area. Stephen Potts (People Directorate) also has the Cardiff data on alcohol related assaults which will be useful if you contact him. For example, you would consider adding some of the Cardiff data from A&E data on alcohol related assaults that have taken place within Sunderland for the 12 months data (August 2013 to July 2014) which has found:

- The 18-24 age group for males accounts for the majority of alcohol related assault A&E attendances
- Saturday and Friday nights account for the majority of alcohol related assault
- The locations where the majority of alcohol related assaults have occurred are in the street (44%) and Pub/Club (29%)
- The city centre wards have the highest rate of reported alcohol related assaults

This section would also benefit from some reference to the changing trend in people’s drinking habits/patterns towards pre-loading on cheap alcohol before going out (and usually purchased cheaply from off-licenses and supermarkets). How will our revised Licensing Policy recognise this shift in drinking patterns? Again, Balance North East would be able to provide you with information for Sunderland and the region to set the current context.

The introduction section of the policy would also benefit from making links to other relevant plans the council/city has around needing to have a diverse evening economy and how the licensing policy can be used to promote and enhance this vision. For example, we now have Keel Square in the city centre so how can we ensure the policy does not allow this area to be saturated with ‘vertical drinking’-type licensed premises as the city will want to ensure this area of the city remains family-friendly and still achieve a “café society” feel. How could the policy be used to support this? Would

it need a DPPO (with a footnote to say that in 2017 DPPOs will be replaced with public space protection orders under the new ASB tools and powers?). How can the policy be used to attract the right tenants - i.e. café/restaurants rather than pubs and nightclubs?

If you included data in the context to include what % of Sunderland residents don't drink alcohol, or drink monthly or less (available from Balance), then it would link into the need for the city's night time offer to meet a wide range of needs, so you'd be able to say in the policy that we want to encourage a wide and diverse mix of venues, entertainment and events.

### **Page 3: Consultation and Guidance**

The section under consultation and guidance seems to list very few partners and partnerships and we would question why the consultation hasn't been more widely circulated to a number of organisations and groups who would have valid views. For example, we have noted that the following haven't been included in terms of being formally consulted:

- Safer Sunderland Partnership
- Economic Leadership Board
- The Cultural Partnership
- The Health and Wellbeing Board
- The Sunderland Safeguarding Adult Board
- The partnerships listed above are significant partnerships in the city and they would then be able to feed the consultation to their member organisations to respond in their own right. Alcohol will impact on these partnerships in a variety of contexts. For example, for Safer Sunderland, tackling substance misuse is a citywide strategic priority for the partnership. For the Economic Leadership Board, they will want to ensure the policy helps to ensure a diverse evening economy and will want to see how the licensing policy can be used to promote and enhance this for the city
- Balance North East – as the North East Alcohol Office
- Health partners including City Hospital Sunderland; Sunderland CCG; NEAS etc. given the impact that alcohol has on their services
- The University and College are also key institutions with a role and a stake in how the city is managed in this regard, and their students are key users of the night time economy
- Nexus
- The licensing committee and sub-committee
- Elected members in their role as community leaders but also through the place boards, and through the relevant portfolio holders for public health, community safety, safeguarding, children, economy etc.

### **Page 4: Scope of the Policy**

Under section 3.2 the second bullet point says 'supply of hot food or drink'...is 'drink' alcohol or non-alcoholic – we assume the latter? Also, we know that alcohol-related disorder often takes place around take-ways. Can the policy include a provision to help address this e.g. *"the licensing authority will not generally permit the sale of alcohol from 'takeaway' premises that are licensed for late night refreshment, due to the inherent potential for late night alcohol fuelled crime, disorder and ASB. Applicants seeking approval to sell alcohol from 'takeaway' premises will need to clearly ensure that their activities will not lead to such problems."*

## **Page 10**

Should there not be some reference to DPPOs within this policy (and their future replacement under the new ASB tools and powers – to make reference that in 2017 these will become obsolete and will need replacing with public space protection orders )... for example for the policy to state that we, as a city, support their use, state their purpose and where they currently are in the city... and to say that we would expect any licensed premises (on and off) who operate in a DPPO area to have measures in place that support the aims of the DPPO so that their customers don't contribute to alcohol-related disorder / anti-social drinking etc.

Under section 11.1, it would help if a list of the 'relevant' offences were included in an appendix to the policy for ease of reference.

## **Pages 11-13: Policy relating to premises licenses and club premises certificates**

Section 11.4 – replace “known criminal” with “individual with criminal conviction”

We welcome the use of the 'Reason' sections within the policy which helps to clarify why there is a policy statement included and there are areas within the policy where these reasons can be further strengthened – these are picked up in specific comments further on.

Under the section on drugs, and where drugs are referenced throughout the whole of the policy, it should also reference novel psychoactive substances to support the council's and partners views that we take a stance against their use.

Section 12.10 would benefit from having the 'policy' and 'reason' approach the same way you have under sections 12.8 and 12.9. The 'policy' could be “The council will expect licensees to be familiar with the Home Office Drug Strategy Booklet entitled Safer Clubbing (ISBN 1840827807) or subsequent editions”... and the 'Reason' being that the council has duties to prevent crime and disorder under the Crime and Disorder Act 1998 and tackling substance misuse is a key priority for the statutory Safer Sunderland Partnership.

We would ask that the section on street cafes be extended to also reference external areas which premises use for smoking since the change in legislation around smoking in public places?... as we now have a lot more people from licensed premises who stand outside to smoke... so the policy should include something around expecting licensed premises to have measures in place so that their customers don't cause anti-social drinking outside, or glass breakages. For example, the policy could state that the Licensing Authority has a number of concerns with respect to the development of external areas to licensed premises, and will consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.

## **Page 12: Access for the disabled**

Under para 12.8 and 12.9. This section needs to be strengthened. The Equality Act 2010 places a duty to make reasonable adjustments on organisations providing goods, facilities and services (including the hospitality industry). 'Reasonable adjustments' should allow a disabled person to use the service in as close a way as possible to someone without a disability. This would include access / removal of physical barriers. The duty is anticipatory...therefore the businesses should be thinking about the possible barriers to use of their services and proactively making adjustments in advance. What is deemed 'reasonable' however will rely on the nature and size of the organisation.

In the Licensing Act you will need to check what the council's role would be in relation to ensuring licensees are meeting their legal duties, and therefore this will determine whether para 12.8 should be worded more strongly. However, para 12.9 definitely needs strengthening. Kirsty McNally is the equalities expert in our service and she has suggested amending para 12.9 to say the following:

*12.9 Reason*

*The council works within the Equality Act 2010 and recognises the duty to make reasonable adjustments for disabled people. Equality law recognises that bringing about equality for disabled people may mean changing the way in which services are delivered, providing extra equipment and/or the removal of physical barriers.*

(The second sentence is the wording used by the EHRC).

#### **Page 14: Licensing Hours**

In the section under licensing hours, I feel it should include the expectations around opening hours - is there any reason why we shouldn't be suggesting a 03:00am max closing time – or be encouraging a voluntary good practice approach to close at 03:00am? Many other areas licensing policies have frameworks of opening and closing times which apply to applications for new and variations for longer hours or additional licensing activities. In a climate of reduced resources, it would help ensure the streets have sufficient time to be cleaned before the shops open again the next day. It may also assist the police are reducing their additional costs around changes of shifts and policing the city centre into the early hours. That way, for new licensing applications it might help if they were limited to certain hours. Whilst this wouldn't be legally binding, it would provide a guide to potential license holders when they are developing their applications.

#### **Pages 15-17: Children**

The section on children should be significantly strengthened to include information around the council having a legal duty to safeguard children and that the risk of harm to children will be a paramount consideration when determining applications and will have particular regard to the view of the Sunderland Safeguarding Children's Board.

I think this section should also be saying that all applications will be expected to include in their operating schedule, a statement of measures they will take to protect children from harm.

Under 14.2, additional controls that could be included in the list could be:

- To ensure adequate supervision is in place for entertainment specifically aimed at children
- Have in place safe recruitment policies and practices and should obtain enhanced checks with the DBS for all staff working with children

It is vitally important that the licensing policy makes reference to child sexual exploitation given that it is a citywide strategic priority, and licensed premises can play a key role in identifying risks, signs and symptoms. You should include the following information (and you can ensure this is approved by Northumbria Police and the SSCB Business Manager, Lynne Thomas)....

- *Alcohol is also often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.*

- *Under the Licensing Act 2003, a premises licence may be at risk if the premise does not take action to protect children. Under Section 182 of the Licensing Act 2003 license holders and delegated managers have a legal responsibility to make sure those under 18 are protected from 'physical, psychological and moral harm'. Licensed premises will need to demonstrate that reasonable steps have been taken to manage the risk (i.e. that due diligence has been shown) then this could protect a business. Information is contained on the Sunderland Safeguarding Children Board website about what to do if you have concerns about a child or young person <http://sunderlandscb.proceduresonline.com>*
- *Sunderland Safeguarding Children Board (SSCB) has a CSE communications strategy to raise awareness of the warning signs of child sexual exploitation and how to report concerns. The SSCB wants businesses to take responsibility for managing the risk of child sexual exploitation on their premises and report it in accordance with the SSCB Multi-Agency Safeguarding Children Procedures. The CSE communications strategy is aimed at a range of target audiences including businesses.*
- *The SSCB works with other statutory authorities and will engage with the licensing trade to promote risk management in relation to child sexual exploitation. The SSCB and its partner agencies provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly. The SSCB in conjunction with the Licensing Authority encourages license holders and operators of licensed premises: (i) to ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and (ii) to raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.*

In addition, within this section of Children, we know that Balance North East have campaigned to reduce the amount of alcohol advertising near to schools, children's homes or wherever there are vulnerable children and young people etc. We feel the policy should include something around licensed premises helping to address this by not displaying or promoting alcohol advertising near to schools and known sites for vulnerable? (e.g. children's homes for 'looked after children')

Under the section on the Portman group Code of Practice, should the form of words not be a bit stronger, so instead of recommending they comply with the code and alert bulletins, the policy should say *"The Licensing Authority will expect the Code of Practice and retail alert bulletins be fully implemented"*.

Under 14.7 there is a reference to para 1.8. This needs to be amended as the licensing address is in currently para 1.14 on the licensing policy draft

In the 'Under 18 Discos/Events, it is important to recognise that licensed premises should be aware of risks around child sexual exploitation and to be alert to those risks in the vicinity of their venues when they hold under 18 events (as children and young people may be groomed in the vicinity of such events). In this respect, under the bullet point in 14.8, where it lists who should be notified of any under 18 events at least 28 days in advance, it would be advisable to also include the Sunderland Safeguarding Children's Board in addition to the police and council.

There is nothing in the policy that relates to proxy sales of alcohol and the delivery of alcohol to residential properties. We would like to see something added to the policy that states that adequate procedures should be in place to ensure that all members of staff working at the premises are routinely trained and regularly reminded of their responsibilities in relation to the issue of proxy sales of alcohol, and should ensure that all reasonable steps and procedures are in place and



implemented to prevent adults purchasing alcohol for those underage. Steps should also be in place to ensure that any designated premises supervisors and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold to persons underage, proxy sales etc..

For example, around delivery of alcohol, we would advise that the policy could say... *"It is expected that applicants who intend to sell or supply alcohol by delivery will include provision in their operating schedules to set out how they will ensure that they do not:*

- *Serve alcohol to a person who appears to be drunk*
- *Serve alcohol to a person who is aged under 18 years old*
- *Serve alcohol to a person who it is believed will pass it on to a person under 18 years old*
- *Take payment for the alcohol at the place where it is served – sales should be pre-paid only*

#### **Page 16-18: under 18 events**

The second bullet point refers to SIA registered security personnel. Given this section of the policy is around under 18 events we would expect the policy to include;

- The need for SIA staff to be DBS checked. Newcastle's licensing policy has the following included and we would like to see this included in the Sunderland policy, as follows: *"Where entertainment is to be provided specifically for children, and where it is likely that a child will be left in the care of a person employed by or contracted to the management of the premises for that purpose, or left in the care of a person using that premises for the provision of children's entertainment, the Licensing Authority expects that enhanced checks with the Disclosure and Banning Service (DBS) (formerly the Criminal Records Bureau) are carried out for the persons providing the entertainment to, or supervising the children. It may impose this requirement by way of condition, either through the review process, or in the event of the application being subject to representations".*
- We would advise that the door staff are trained in safeguarding awareness either through the Sunderland Safeguarding Children's Board or through the vulnerability training provided to the night time economy staff by Northumbria Police – and so any new personnel are trained.
- The 4<sup>th</sup> bullet point says that alcohol should not be on display – can this be extended to also include cigarettes?
- The 6<sup>th</sup> bullet point references checking around alcohol and other illegal substances being brought into the premises. Again this should also reference novel psychoactive substances (and also at the top of page 18).
- The second bullet point at the top of page 18 talks about toilet checks being carried out – should this include a check of waste bins for evidence of discarded alcohol containers and drug paraphernalia?

#### **Page 18: Mixed Age Events**

Such events can be risk areas for grooming children and so staff working in licensed premises need to be aware of the risks and signs to look out for and what to do if they have a concern around CSE. The comments I have made on CSE above in reference to the under 18 events, also need to be cross-referenced here as they also apply to mixed age events.

Again, we would advise the policy also references the need to ensure that staff are trained in safeguarding and awareness of CSE through the Sunderland Safeguarding Children's Board in addition to any vulnerability training they have already had provided to them by Northumbria Police.

## Page 19: Integrating Strategies

Under 15.2 on the multi-agency events group, is this something that the SSCB should also be involved in?

## Page 19: Crime prevention

For 16.2 where it says that the council 'encourages' on-licences premises to be active members of pubwatch – we would question why this can't be included as a condition of the licence; or alternatively, be made into a condition if the licence is up for review following any issues with them upholding the licensing objectives around crime prevention or public safety? The approach applies to the toughened glass in 16.3 so we would like to see this also applied in the context of pubwatch membership in 16.2.

## Page 20: Promotion of Racial Equality

Section 18.1 – It is important that this section should apply to all equalities issues not just race relations and should refer to the current equalities legislation. Kirsty McNally has advised amendments are needed to this section of the policy from an equalities perspective and states that the Policy should have **an Equality Analysis** associated with it – Kirsty will advise you on how to do this, but all council policies should have an equalities impact assessment/analysis. She would suggest the following text in italics replaces that which is currently there for the equality section:

*The Council, in pursuing its functions under the Licensing Act, will comply with the Equality Act 2010 and Public Sector Equality Duty. The Equality Act 2010 bans unfair treatment and promotes equal opportunities in the workplace and in wider society. It protects everyone from unfair treatment through covering nine key protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*

*The Act also places the Public Sector Equality Duty on Local Authorities and other public bodies. The Duty requires public authorities, in the exercise of their functions, to have 'due regard' to the three aims of the Duty:*

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act.*
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it.*
- Foster good relations between people who share a protected characteristic and those who do not share it.*

Section 20.4 – where it says 'unless information to the contrary is available to the council'... it would be worth referencing here that this could include recorded police data and the 'Cardiff' data on alcohol-related violence, which might provide evidence linking increases in incidents to a specific licenced premise.

## Page 21: Enforcement

Under 21.2 – are all of the responsible authorities well represented on this? And so they should all be listed here.

## Page 21: Reviews

Under 22.4 (second bullet point) we would question why there is no reference to the SSCB here if there are concerns relating to the safety of children?

## Page 22

There is nothing in the licensing policy on irresponsible drinks promotions or mention of Minimum Unit Pricing and we feel that we should be including a strong message on this in terms of our stance as a local authority which we know is supported by the SSP, HWBB, SSCB, SSAB, APB, Police, Public Health etc (following the national consultation on MUP). Sunderland should be encouraging a voluntary code of good practice in relation to drinks promotions including pricing, the same way that Newcastle does. For example, Newcastle includes the following form of words in their licensing policy and we would suggest Sunderland includes the same....

*"We know that low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. The Licensing Authority through this policy would like to encourage the responsible consumption of alcohol and where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the Licensing Authority will consider imposing controls on drinks promotions to deal with localised problems. These controls could include restricting the sale of super strength beer, lager and cider, or the requirement to charge a minimum cost per drink as part of a package of measures to deal with problems.*

*There is strong evidence that setting a minimum unit price will have an impact on reducing alcohol consumption. The Licensing Authority would therefore like to encourage all licensed premises to apply a minimum unit price of 50p to all alcohol products sold under their premises licence. Where the premises are found to be selling alcohol below this price and there are problems associated with the premises that are negatively impacting on the licensing objectives, a responsible authority may bring review proceedings. Following the review, the Licensing Committee may decide to impose a condition in relation to the pricing of alcohol in order to uphold the licensing objectives.*

*Rather than having to resort to controls of this kind, the Licensing Authority would like to encourage a voluntary code of good practice in relation to drinks promotions including pricing, and to encourage licence holders and others working at the premises to familiarise themselves with the mandatory conditions relating to drinks promotions. These conditions prevent drinking games, provision of unlimited or unspecified quantities of alcohol for free or for a fixed or discounted price. Examples of irresponsible drinks promotions are provided in the Good Practice Guide for Licensed Premises.*

*If you are in any doubt please speak with Northumbria Police or the Licensing Authority before you organise a specific promotion."*

## Page 26: Conditions relating to the prevention of crime and disorder

Point 2: Text/radio equipment; Sunderland Street Pastors should also be referenced here as they are linked up to the same radio network in the night time economy.

Point 6: Text/radio equipment; refers to notifying any incident of crime and disorder to the police. This should also include notifying any child safeguarding concerns to the police as well.

We feel there needs to be something included around training. For example the policy should include mandatory training on child sexual exploitation; safeguarding and vulnerability... so they

have at least trained one person per XXX people on duty at all times when the public are present?  
This would also apply to page 39 – for the conditions relating to the prevention of harm to children. This would apply to door staff and staff within the premises.

#### **Page 29 Proof of Age**

Should point 27 also reference proxy sales?

#### **Page 39: conditions relating to the prevention of harm to children**

Again, should this not include training on child sexual exploitation... so they have at least trained one person per XXX people on duty at all times when there is entertainment especially for children?

#### **Page 41-43: mandatory conditions**

We feel this section should include something about not serving to someone who is already intoxicated /appears to be drunk.

Point 7; we should be saying that they should serve the smallest measure as standard unless the customer asks for a larger measure. This applies to pages 45, 47 and 50

Point 9: - again, proxy sales should be specifically mentioned here.

#### **Page 47: off licenses**

Again, we feel this section should include something about not serving to someone who is already intoxicated /appears to be drunk.

Point 3: - again, proxy sales should be specifically mentioned here.

**From** [REDACTED] [@balancenortheast.co.uk](mailto:[REDACTED]@balancenortheast.co.uk)

**Sent:** 21 July 2015 11:37

**To:** Licensing

**Subject:** Comments on draft Statement of Licensing Policy

Dear Sir / Madam,

Overall, the licensing document looks very comprehensive. Balance would make the following comments / suggestions for further strengthening it:

- In the section on Protection of Children (pages 15-16), it would be useful to include a point about the importance of avoiding alcohol advertising near to schools and known sites for vulnerable (e.g. 'looked after children')
- In the section on Licensing Hours (page 14), it might be worthwhile including some kind of expectation around opening hours – so for example, suggesting that it would be preferable if new licensing applications were limited to certain hours. This clearly wouldn't be legally binding, but might guide potential license holders with their applications.
- Local data isn't used to any great extent to highlight areas of particular need (e.g. those neighbourhoods with the highest rates of alcohol-related hospital admissions). Balance could provide SOA level Hospital Episode Statistics data, Ambulance data etc. if required, to illustrate the picture at a sub-locality level.
- Given that Public Health is now a responsible authority in the licensing process, it would be useful to include some kind of 'public health statement' to highlight the detrimental impact that alcohol has from a public health perspective. Although the Licensing Act doesn't include a public health objective, we believe that it's important to frame some of the key issues (e.g. high rates of hospital admissions, alcohol-related mortality etc.) from a public health perspective – it might be appropriate to do this in an appendix to the document, backed up with the type of local data outlined above. In the longer term, this could be of use in negotiating with potential applicants and in raising awareness of some of the public health issues, which often counteract the more positive influences generated by a well- developed night-time economy.

We hope this is helpful – please don't hesitate to contact me if you'd like to discuss these comments in more detail, or if we can assist with any of the suggestions (e.g. additional data) outlined above. Thanks and best wishes,

[REDACTED]



# ***Report of the Audit and Governance Committee***





**THE AUDIT AND GOVERNANCE COMMITTEE** reports and recommends as follows.

**1. Review of the Remit and Effectiveness of the Audit and Governance Committee 2015/16**

The Audit and Governance Committee have reviewed their remit and the effectiveness of their work. As a result, it is considered that the Terms of Reference of the Committee be updated in relation to the arrangements for the Chairing of Committee meetings when both Co-opted members are not available.

Accordingly, the Committee recommends Council to approve the updated Terms of Reference for the Audit and Governance Committee.



## **Proposed Terms of Reference – Audit and Governance Committee**

### **Composition**

#### Membership

The Audit and Governance Committee will be composed of 7 Members as follows:

5 elected Members on a political balance basis;  
2 Co-opted Members.

There will be no more than one Member of the Cabinet on the Committee.

#### Chairing the Committee

The Chairman will be one of the Co-opted Members.

In the absence of both Co-opted members the attending members may agree a Chair for the specific meeting from those attending except the member of Cabinet

### **Statement of Purpose**

The Audit and Governance Committee is a key component in the Council's Corporate Governance Arrangements. Its main objectives are to:

- provide independent assurance of the adequacy of the risk management framework and the associated control environment;
- independent scrutiny of the authority's financial and other performance to the extent that it reflects the authority's exposure to risk and weakens the control environment;
- oversee the financial reporting process.

### **Functions**

To carry out the following delegated functions from Council:

- a) to approve the Authority's Statement of Accounts, income and expenditure, and balance sheet or record of receipts and payments (as the case may be).

In relation to the following functions to undertake the assurance and advisory role to:

- b) consider the effectiveness of the authority's corporate governance arrangements, risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements and seek assurance that action is being taken on risk-related issues identified by auditors and inspectors;

- c) be satisfied that the authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it;
- d) to receive and consider (but not direct) internal audit's strategy, plan and monitor performance;
- e) receive and consider the external audit plan;
- f) review a summary of internal audits, the main issues arising, and seek assurance that action has been taken where necessary;
- g) receive and consider the annual report of internal audit;
- h) consider the reports of external audit and inspection agencies, including the Annual Audit Letter;
- i) ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted;
- j) review the external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit;
- k) review the adequacy of and compliance with, the Councils Treasury Management Policy;

and make recommendations or comments to Cabinet or Council as appropriate.

### **Features of the Committee**

- a) The Committee will exercise delegated powers from Council in relation to item a) above and in relation to the remaining functions act as an advisory committee.
- b) The Committee will treat the auditors, the executive and management equally.
- c) The Committee can call any officer or agency of the Council as required.
- d) The Committee will meet regularly, at least four times per year.
- e) The Director of Finance, Council's head of internal audit and the external auditor will be regular attendees. Other attendees may include the Head of Law and Governance and the Chief Executive. These officers all have access to the Committee, or the Chair, as required.

- f) The Committee members will have the opportunity to meet privately and informally with the head of internal audit and the external auditor, at a meeting following a normal Committee meeting, and otherwise as necessary, throughout the year.
- g) The Committee will assess its effectiveness, including its Terms of Reference, every three years.
- h) An Annual Report will be presented to Council regarding the work of the Committee throughout the year.



# ***Action on Petitions***





**ACTION TAKEN ON PETITIONS**

**Council Members are asked to note the action taken in relation to the under mentioned petition which was presented to Council by Councillor Dorothy Trueman on 26<sup>th</sup> November, 2014.**

- (i) Petition requesting the resolution of the issue of organic matter falling from trees into properties of Blencathra, Albany.**

The above petition was forwarded to the Executive Director of Commercial Development and a range of options to address the issue were considered including: removing all trees; removing additional trees beyond those removed previously; and reducing the height of the trees by a third.

Analysis of the options revealed that these options were either too cost prohibitive to introduce and/or would contribute to an increase in noise pollution for the residents. It was also determined that all options outlined above would not fully eradicate the issue. It was therefore decided that no action will be taken.

Councillor Dorothy Trueman and the Lead Petitioner have been advised of the decision taken in relation to the petition.



# ***Notice of Motion***



**NOTICE OF MOTION**

Council Members are asked to consider the under mentioned Motion:-

- (i) Redistribution of public health funding

This Council calls upon the Government to stop the redistribution of public health funding from the North of England to the South of England, and to cancel their plans to slash Public Health budgets.

Councillor J. Kelly  
Councillor G. Miller  
Councillor H. Trueman  
Councillor M. Speding  
Councillor P. Watson



# ***Reports***





**Report on Special Urgency Decisions****Report of the Leader**

The Council's Constitution requires that a quarterly report be submitted to Council on executive decisions which have been taken as a matter of special urgency. The relevant provisions are now contained in Regulations 11 and 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

These are the special urgency provisions under which key decisions may be taken by the executive, although not contained in the 28 day Notice of Key decisions (whether proposed to be taken in public or private), where compliance with Regulation 10 (the general exception) was also impracticable.

There have been no such instances since the last report.

**Recommendation**

That the Council notes the content of this report.

