

19 June 2018

Dear Councillor,

A meeting of the **SCRUTINY COMMITTEE FOR COMMUNITY, HOUSING AND PLANNING** will be held in the **Council Chamber** at these offices on **Wednesday 27 June 2018 at 7.00 p.m.**, when your attendance is requested.

Yours sincerely,

KATHRYN HALL

Chief Executive

### **A G E N D A**

	<b>Pages</b>
1. To note Substitutes in Accordance with Council Procedure Rule 4 - Substitutes at Meetings of Committees etc.	
2. To receive apologies for absence.	
3. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
4. To confirm the Minutes of the meeting of the Scrutiny Committee for Community, Housing and Planning held on 17 April and 9 May 2018.	<b>3 - 9</b>
5. To consider any items that the Chairman agrees to take as urgent business.	
6. The Provision of Temporary Accommodation for MSDC.	<b>10 - 32</b>
7. Amendment to Licensing Policy.	<b>33 - 74</b>
8. Amendment To The Hackney Carriage And Private Hire Licensing Convictions Policy.	<b>75 - 88</b>
9. Scrutiny Committee for Community, Housing and Planning Work Programme 2018/19.	<b>89 - 90</b>
10. Questions pursuant to Council Procedure Rule 10 due notice of which has been given.	

To: **Members of Scrutiny Committee for Community, Housing and Planning** – Councillors Barrett-Miles, E. Belsey, Cherry, Coote, Ellis, Hatton, Holden, C. Hersey, M. Hersey (Vice-Chairman), A Jones, Matthews, Walker (Chairman), Watts Williams, Wilkinson, Wyan.

**Minutes of the Meeting of the Scrutiny Committee for  
Community, Housing and Planning held on 17 April 2018  
from 7:00 p.m. to 8:49 p.m.**

**Present:** Councillors: Neville Walker (Chairman)  
Margaret Hersey (Vice-Chairman)

Andrew Barrett-Miles\*  
Edward Belsey  
Richard Cherry  
Phillip Coote  
Ruth de Mierre

Bruce Forbes  
Sue Hatton  
Chris Hersey  
Anne Jones  
Edward Matthews

Anthony Watts Williams  
John Wilkinson  
Peter Wyan

\*Absent

**Also Present (Cabinet Members):** Cllr Andrew MacNaughton and Cllr Norman Webster.

**1. SUBSTITUTES AT MEETINGS OF COMMITTEE - COUNCIL PROCEDURE RULE 4**

None.

**2. APOLOGIES**

None.

**3. DECLARATIONS OF INTEREST**

None.

**4. MINUTES**

The Minutes of the Committee held on 21 March 2018 were agreed as a correct record and signed by the Chairman.

**5. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.**

None.

**6. NATIONAL PLANNING POLICY FRAMEWORK: CONSULTATION DOCUMENT.**

Sally Blomfield the Divisional Leader for Planning and Economy, introduced the report which set out the key changes proposed by Government to the consultation draft National Planning Policy Framework (the NPPF) and associated documents (set out in Appendix 1) and the Council's proposed response for consideration and comment by the Committee. She reminded the Members that once the draft NPPF is agreed by government it will be an important document because it will be a material consideration when determining a planning application. The draft NPPF would come into effect on publication and the Government expect to publish it by the summer of 2018. Officers have reviewed the District Plan against the draft NPPF and an initial appraisal identified that the District Plan was in general conformity. The Council will not need to review the housing needs figure as it had only recently been adopted. The Government will undertake an assessment of housing delivery performance for each local authority using the Housing Delivery Test

(which assesses the amount of housing delivered over the last three years against the housing requirement figure over the same period) and will publish the results in November 2018. She reminded Members of the consequences if delivery fell below certain thresholds.

Officers raised their concerns regarding the proposed standardised methodology to measure housing need and that the draft NPPF had limited policies for Local Authorities to impose sanctions on developers who were not building out their planning permissions in a timely manner. The Community Infrastructure Levy (CIL) and S106 policies within the draft NPPF as proposed will be an improvement in Officers' opinion as the proposals would reduce complexity, increase certainty and improve transparency. The flexibility over pooling restrictions had been increased and this was also welcomed.

The Divisional Leader for Planning and Economy confirmed that Officers were also concerned with the new requirement that planning policies and decisions should support opportunities to use the air space above existing residential and commercial premises for new homes unless there was sufficient protection of amenities.

Judy Holmes the Assistant Chief Executive, asked the Committee for any comments on the draft NPPF so that Officers could include them in the response.

Members asked what powers the Council would have to sanction developers when they do not deliver the housing that had been approved. Could the Council fine developers or impose Council Tax on any units that have been approved but not built within two years.

The Assistant Chief Executive confirmed that Officers and the Cabinet Member regularly lobby the Government to provide Local Authorities with powers like those referred to be the Member. However she confirmed that such suggestions will be included in the Council's response to the draft NPPF.

A Member believed that there was justification for an exemption to affordable housing provision for developments which provide specialist accommodation for people with specific needs.

The Assistant Chief Executive clarified that if it is not practicable for such developments to make an on-site contribution to affordable housing, because of the provision of onsite facilities and associated care/support charges, then an off-site commuted sum could be negotiated if appropriate.

A Member asked whether Neighbourhood Plans need to be reviewed, as in the report it stated that this was not required. He also wanted to know whether the definition of a strategic site had always been over 500 homes.

The Divisional Leader for Planning and Economy confirmed that only strategic plans must be regularly reviewed under the provisions of the draft NPPF so this would not apply to Neighbourhood Plans. She informed the Members that there is no general definition of 'strategic sites' and that the threshold of 500 homes for a Strategic Site was one which had been established by as part of the work on the preparation of the District Plan. Going forward the Site Allocations DPD would look to allocate sites which accommodate 5plus units.

The Assistant Chief Executive also reminded Members that there is separate legislation relating to Neighbourhood Plans which outlines the requirements for reviews of Neighbourhood Plans.

A Member asked whether the draft NPPF would include Parish and Town Councils under neighbourhood groups when benefitting from CIL.

Officers confirmed that Parish and Town Councils would still receive CIL monies.

A Member believed that regarding the proposal to use the air space above existing residential and commercial premises for new homes protection of listed buildings and conservation areas should be highlighted in the Council's response. Officers agreed with this.

Members noted their disappointment in the draft NPPF document as it forced Councils to continually review policies instead of giving them the opportunity to actually implement them. They were also concerned that they were being asked to give less weight to local policies that dealt with the matter of design and parking in developments.

A Member queried whether Parishes with a made Neighbourhood Plan would get 25% of any CIL in the area. She believed that it would follow that if a development was within a Parish boundary then that Parish would receive the CIL contributions.

The Divisional Leader for Planning and Economy confirmed that this would be the case when the Council adopts CIL.

Members were pleased to see that the arrangements regarding distribution of a percentage of CIL to neighbourhood groups would stay at 25%.

A Member asked whether MSDC had a plan on how to cope with the extra developments that would arise, under the duty to cooperate. Neighbouring districts will have to approve more developments to meet the increase in their housing need, which would affect MSDC.

The Assistant Chief Executive confirmed that MSDC has an ongoing duty to cooperate with neighbouring authorities.

Members commented on their concern regarding the air space above buildings and extending into them. This would increase the density and exacerbate the traffic issues which already in parts of the District. The sub-division of sites also worried Members as this was a technique used by developers to avoid paying contributions. A Member also highlighted that design is subjective and that the draft NPPF in its current form would limit the Council's control over design in applications.

The Assistant Chief Executive informed Members that the provisions of the draft NPPF would apply across Council's and that there may be instances where intensification could help some authorities better meet their housing need. As such this policy requirement should be supported providing there were sufficient caveats built in to ensure protection of the amenities of existing and proposed development. Officers believe that it is more beneficial to have a mix of large and small sites. She went on to reassure Members that there are provisions within the draft Developer Contributions SPD which seek to ensure that developers could not 'salami-slice' sites in order to avoid paying contributions on developments.

A Member commented on the proposed Action Plan when the housing delivery rate falls below 95% of the number of homes required in the Plan. He believed that there were not sufficient sanctions to force developers to deliver the required units. He asked what

consequences developers would face if this were to happen. He also noted that if sites were subdivided and multiple contractors were contracted to complete them it would result in a lower quality of development. The Member suggested that the viability of sites should be tested at multiple times during the development.

The Divisional Leader for Planning and Economy explained that the reasoning behind the suggestion in the draft NPPF to encourage subdivision of large sites is to increase the delivery of units through multiple outlets. The Chairman noted that the Council did not have a mandate to force developers to subdivide their sites to increase delivery of units. The Assistant Chief Executive informed the Committee that the viability of sites would be reviewed through the Developers Contribution SPD and there would be reviews at multiple stages in the development.

Members requested to see the Council's final response to the draft NPPF. The Cabinet Member for Housing and Planning and Officers agreed this. The Assistant Chief Executive also reminded Members that the formal response would be published on MIS.

A Member highlighted that the Council does still need to be aware of and take into account local policies even though there is no longer a requirement to set out local policies. She went on to ask whether Councils will have some control over the quality of design and to stop developers replacing office space with residential space.

The Divisional Leader for Planning and Economy confirmed that in the Council's response they will ask for caveats to be put in place for more control regarding the protection of residential amenities.

Members asked Officers whether they would ask for the ability to sanction developers if they were not completing developments within the appropriate time. A Member suggested that if developers haven't started building a development within a year of the application being approved then Council Tax would be collected on the approved units. A Member noted that if developers hadn't started on a site they should not be able to introduce another planning application on a different site.

The Cabinet Member for Housing and Planning did raise concern over driving away developers from Mid Sussex as that could prevent Mid Sussex delivering its housing need figures. He also reminded Members of the consequences of the Housing Delivery Test and of the presumption in favour of sustainable development if delivery falls below 75%

The Chairman then noted that no more Members wished to speak so moved to the recommendation, which was agreed unanimously.

## **RESOLVED**

That the Committee;

- i) Consider and comments on the key proposed changes to planning policy set out in the draft NPPF and associated documents, the implications of these for the District Council and proposed responses; and
- ii) Delegates authority to the Cabinet Member for Housing and Planning to agree the Council's formal response on the draft NPPF and associated documents for submission to the Government.

## **7. EQUALITY AND DIVERSITY PROGRESS REPORT 2017.**

Neal Barton, Policy and Performance Manager, introduced the report which updated Members on progress in 2017 against the Council's Equality and Diversity Scheme 2016 – 2020. He went on to outline the progress against the Council's Equality Objectives and the particular areas of progress. Also he noted that it was a new requirement that they publish the Council's gender pay gap.

A Member commented that members of the public felt that the forms associated with the Silver Sunday events were too complicated. However, Members were pleased that the events had been very popular. He also noted that the Licensing Committee would be receiving a report in the near future to introduce disability awareness training under the Equality Act for taxi drivers within the District.

A Member asked that the Council's Bronze Award as part of the Defence Employer Recognition Scheme be highlighted in the report.

The Assistant Chief Executive informed Members that the purpose of this report was to outline how the Council is supporting those with protected characteristics outlined in the Equality Act 2010. In response to a question she told the Members that residents who live in poor conditions which are deemed hazardous or uninhabitable by Environmental Health in some cases could be considered to be homeless and then could qualify for temporary accommodation. She noted that the new Homelessness Reduction Act should make this process easier.

Members expressed their concern over the high levels of domestic violence and dementia in the District.

It was the Cabinet Member for Community's opinion that the country was unprepared for the influx of age related diseases.

A Member queried why the paper didn't include the ability of Officers or meritocratic schemes that the Council employ. He would have liked to see this included to show that we are a progressive Council.

Officers informed Members that the purpose of the report was to show that the Council is meeting its statutory requirements under the Equality Act 2010 and that the Council does use merit and ability to assign roles. The Cabinet Member for Community also commented that the report proved that Officers were employed and promoted according to their ability.

The Cabinet Member for Community informed the Committee that Mid Sussex had a low level of hate crime compared to the rest of Sussex and that the reporting of crime had increased which was a good sign. The police now had more accurate crime figures as a result of this increase in reporting.

A Member noted that they were happy to see a variety of programmes and schemes contained in the report. She asked for the current figure of rough sleepers in Mid Sussex.

The Assistant Chief Executive believed that at the last count there were 6 rough sleepers in Mid Sussex.

A Member informed the Committee that the dementia workshops had been very successful in Burgess Hill and that English language courses had also been successful and had been attracting many women.

The Cabinet Member for Community told the Committee that the Silver Sunday events had been a national initiative to reduce isolation. In the future it would be encouraged for local

communities to organise Silver Sunday events themselves. He noted the level of grants that local communities had been receiving from the Council, some of which were funded through S106 agreements, were an example of new developments benefiting the wider community. He commended the work done, by the Juno group, with young female NEETs (Not in Education, Employment or Training) regarding enterprise and employability, self-esteem and confidence.

The Chairman noted that no more Members wished to speak so moved to the recommendation which was agreed unanimously.

**RESOLVED**

That the Committee:

- (i) Endorses the Council's approach to meeting its duties under the Equality Act, as evidenced by the Equality and Diversity Progress Report 2017 included in Appendix 1.

Chairman



**Minutes of the Annual meeting of the Scrutiny Committee for  
Community, Housing and Planning held on 9 May 2018 from  
7:14 p.m. to 7:15 p.m.**

**Present:**

Andrew Barrett-Miles  
Edward Belsey  
Richard Cherry  
Phillip Coote  
Sandy Ellis  
Christopher Hersey

Margaret Hersey  
Colin Holden  
Anne Jones  
Edward Matthews  
Sue Hatton  
Neville Walker\*

Anthony Watts Williams  
John Wilkinson  
Peter Wyan

\* Absent

**1. ELECTION OF CHAIRMAN**

Councillor Margaret Hersey nominated Councillor Walker as Chairman of the Committee for the 2018/19 Council year. This was seconded by Councillor Matthews and agreed.

**RESOLVED**

That Councillor Walker be elected Chairman of the Committee for the 2018/19 Council year.

**2. APPOINTMENT OF VICE-CHAIRMAN**

In the absence of Councillor Walker, Councillor Forbes (as Chairman of the Council) nominated Councillor Margaret Hersey as Vice-Chairman of the Committee for the 2018/19 Council year, which was agreed.

**RESOLVED**

That Councillor Margaret Hersey be appointed Vice-Chairman of the Committee for the 2018/19 Council year.

**3. URGENT BUSINESS**

None.

Chairman.

## **6. THE PROVISION OF TEMPORARY ACCOMODATION FOR MSDC**

Report of: Judy Holmes, Assistant Chief Executive  
Contact Officer: Emma Shuttleworth Business Unit Leader Housing Services  
Peter Stuart, Head of Corporate Resources

Report to: Scrutiny Committee for **Community, Housing and Planning**  
Report Date: 27th June 2018

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### **Purpose of Report**

1. The report sets out a proposal to purchase and lease properties for direct letting and management and thereby minimise the Council's reliance on bed and breakfast and guest house accommodation.

### **Summary**

2. This report demonstrates that by acquiring a portfolio of owned and leased properties the council can reduce the cost of emergency accommodation significantly. At the same time, it will improve the standards of accommodation and the well-being of the households housed in this way. Providing temporary accommodation in the district will enable homeless families to maintain their support networks and to continue to access current schools and employment.
3. Appendix 1 provides the background context which supports the proposed approach. It provides detailed information about the costs of providing temporary accommodation in guest houses. Presently the Council spends approximately £346k each year on providing temporary accommodation and these costs are set to increase, mainly due to a shortage of accommodation and the additional duties placed on Councils by the Homelessness Reduction Act 2017. MSDC's net spend on temporary accommodation in 2017/2018 was £346,346 compared to £254,070 in 2016/17.
4. A feasibility study and business case has been commissioned from a specialist, who has demonstrated how the options to purchase and lease units to use as temporary accommodation can potentially provide financial savings and benefits to the Council. Appraisals Abound summary report is provided in Appendix 2.
5. The report offers a preferred option and seeks the Committee's support to recommend this option to Cabinet and Council.
6. Members are asked to note the additional staffing implications of managing the acquired and leased temporary accommodation as well as those required to meet the new duties in the Homelessness Reduction Act.

## Recommendations

### 7. The Scrutiny Committee is asked to recommend to:-

**Cabinet that the Council acquires a portfolio of up to 20 units and leases up to 10 units to provide temporary accommodation within Mid Sussex District using the reserves approved by Cabinet on the 8<sup>th</sup> May 2018.**

## Background

8. On the 14<sup>th</sup> of November 2017 this committee received a report that provided an overview on Affordable Housing. This was followed by a workshop, "Every Home Matters", held on the 12<sup>th</sup> of December 2017. This report provides further information about the follow up work that has been carried out since the workshop.
9. At the workshop in December a number of options to provide more temporary accommodation in the District were discussed. This would reduce the amount of spend on temporary accommodation as well as improve the standard of accommodation for homeless households. The options included:
  - The Council purchasing an existing large property to remodel and manage,
  - The Council purchasing a site and or using its own land holdings to develop temporary accommodation and manage it.
  - The Council engaging a housing association to purchase a site to develop a bespoke temporary accommodation scheme or to purchase off the shelf units which they would manage.
10. Appraisals Abound, was commissioned to evaluate further options including a model where the Council bought and managed its own temporary accommodation. A Summary of the report is attached at Appendix 2. The report demonstrates how the option for the Council to purchase and lease its own temporary accommodation would reduce the spend on the temporary accommodation budget significantly, provide a more appropriate solution for homeless households in the district, generate a rental income for the council and provide a potential long term capital investment.

## Appraisals Abound Business Plan

11. The business case looked at 3 options to reduce the costs of temporary accommodation based on the Council's known expenditure, the size and types and numbers of households accommodated, and the locations and the costs involved. The options evaluated were:
  - i. Purchase 20 units to provide a mix of 1, 2 and 3 bedroom units in the 3 main towns as temporary accommodation. The majority of the units would be located in Burgess Hill and Haywards Heath and be 1 or 2 bed to reflect the known needs.
  - ii. Set up a Private Sector Leasing scheme (PSL) to provide an initial 10 units to use as temporary accommodation (PSL is where the Council leases properties over a longer period from other parties).
  - iii. Purchase a large unit such as a hotel or care home for the Council to use and manage as guest house type accommodation.
12. Appraisals Abound developed the model using actual purchase prices, costs and rents based on an analysis of properties that met our criteria, across the district in January/February 2018.

13. The Business Plan is modelled over 15 years and shows the income in rent and housing benefit, and outgoings including management, void periods, refurbishment etc over that time.
14. It shows that the Council could reduce costs by £300k per annum by purchasing 20 units within Mid Sussex. In the model and at the purchase prices at that time, the Council would need to use £6.5m in total from its reserves to purchase the units, to provide an overall reduction in costs of £5.7m over 15 years.
15. If the properties are disposed of at the end of the period a capital receipt of c£7.8m would be generated which would finance, ie repay, the initial acquisition costs and the capitalised investment into the units over the life of the business plan. However, the Council would not then have any temporary accommodation and would be in the same position as today. Presently this could not be recommended (although this may change in time) and Members should not therefore assume that the proposed capital expenditure is repaid.
16. If the Council leases 10 PSL properties within Mid Sussex this would produce cost reductions of c£75k per annum when compared to current costs incurred. This option will not incur any capital costs and could be immediately implemented were suitable properties to be identified and agreed. Over a 15 year period it is forecast that the Council could achieve cost reductions of c£1.4m.

### **Business Case Assumptions**

17. Members should note that the business case makes certain assumptions in order to model future cashflows. The most significant are as below:
  - The business case made an assumption that the temporary accommodation would be managed in house by the Council. Costs have been included for so doing.
  - There were no suitable properties available in Mid Sussex to model option 3 so it is based on the cost of a hotel in Eastbourne which is currently on the market. This assumes an investment of £1.2 million and a total saving over 15 years of £3.5million.
  - The model assumes that each household accommodated in guest house costs the council £13,600 net per annum (i.e. if we had 30 units this would equate to 408k). Thus for each unit of temporary accommodation that the Council provides, it saves this amount per household per annum, less any management and maintenance costs.
  - In option 2, PSL, the saving is the differential between costs of rent paid to landlords and the income from rent received by the Council. It assumes 10 PSL units would result in savings based on reduced guesthouse costs of £1.4m over 15 years.
  - In option 1 (purchase 20 units), the plan analyses the costs of purchase/capital investment required, staff resources, running costs, maintenance as well as the rental income and the potential disposal receipt over 15 years. It assumes that the

properties will be purchased using capital reserves so no borrowing costs would be incurred.

- The capital outlay envisaged by the model assumes £6.6 million from capital reserves with a saving/costs reduction over the 15 year period of £6.5 million based on the assumption that there would be a reduced use of guest house by the same number of units purchased.

## **Other Options**

18. Alternative options not included in the business model include the potential to use MSDC owned land to build a temporary accommodation scheme which could be undertaken as joint venture with a housing association.
19. Alternatively a suitable site could be purchased for this purpose or an existing property remodelled. The advantage of purpose built accommodation or specifically remodelled accommodation is that this would provide a cluster of units concentrated in one location which would provide economy of scale for management purposes. If the Council were to hold such property in its ownership this could provide the same advantages as Option 1 provided acquisition and development costs provided equivalent value.
20. This is a longer term option which officers will continue to explore and report further to members in due course.
21. Officers will also continue to explore the longer term option of working with a housing association partner to acquire and develop a purpose built scheme but this is likely to take much longer and will not provide a quick solution.

## **Options in the Appraisals Abound business plan**

### **Option 3 to purchase a hotel/guest house.**

22. It is not recommended that we pursue this option. There were no suitable properties available in Mid Sussex. This option also presents additional risks as the long term value and management and maintenance costs of such a property are financially uncertain.
23. The location of such a property, within another local authority's area, would present challenges. This is an option that can be explored further as a potential joint venture with WSCC and other West Sussex authorities where the capital investment, management and maintenance challenges would be a shared risk. However, initial discussions at the West Sussex Strategic Housing Group have not favoured developing the model.

### **Option 2 to lease up to 10 properties**

24. It is recommended that the Council pursues this option. This would bring temporary accommodation forward in the timeliest manner.
25. It is recommended that up to 10 Private Sector Leased units are taken on if they represent good value and are suitably located. Potentially this option could be used to bring empty properties back into use.

## **Option 1 to purchase up to 20 properties**

26. It is recommended that the Council pursues this option. The advantage of Option 1 is that subject to approval officers can immediately proceed with the purchase of units for temporary accommodation. This will have a positive impact on the temporary accommodation budget. This option also provides a long term investment opportunity for the Council.

## **Making the Business Plan a reality.**

### **Funding**

27. At the Cabinet meeting of 8<sup>th</sup> May 2018, an initial budget of £4 million for 2018/19 has been identified from reserves to be used for the purpose of acquiring temporary accommodation.
28. Whilst the business plan made assumptions on the cost of purchasing units, the current property market may provide opportunities to purchase these under the assumed price. The contraction in the buy to let market may have had a bearing on this. Obviously this would be a beneficial factor when reviewing the business plan performance in the future and should mean that the full capital funding set out in the plan would not be needed.

### **Management**

29. Members will appreciate that it is absolutely crucial for the efficient and effective implementation of these proposals that the correct staffing resources are in place.
30. The Housing Enabling Team Manager has consulted with neighbouring authorities and Housing Association Partners in order to evaluate out sourcing the management of the temporary accommodation. The conclusion of this consultation is that Local Authorities prefer to retain the management in-house to maintain control over the units. In addition there is little appetite from Housing Associations currently to take on the management of temporary accommodation units.
31. An internal Temporary Accommodation Project Group has been set up to deliver the project. The business plan allows for the associated expenditure involved in the acquisition, management and maintenance costs of acquiring the portfolio of properties to be absorbed and funded through the overall savings on temporary accommodation spend.
32. The business plan demonstrates that two new posts within Housing Services can be funded over the course of the plan period though the savings achieved. These are the new post of Temporary Accommodation Management Officer who will manage both the council owned and Private Sector Leased properties and the Temporary Accommodation Homelessness Prevention Officer who is already employed on a temporary contract. This role supports those in temporary accommodation to ensure that vulnerable households receive the support that they need to manage their housing. They also ensure that Housing Benefit is in payment and contributions are collected where applicable to facilitate the move from temporary accommodation into more permanent suitable accommodation as soon as possible.

33. Given there is a time lag between the plan being fully implemented (ie properties purchased and let), the costs of these two posts can initially be funded on an interim basis from Flexible Homelessness Support Grant (FHSG).
34. The Government has provided 'New Burdens' funding to mitigate the impact of the implementation of the Homelessness Reduction Act. In addition Flexible Homelessness Support Grant has been provided to Local Authorities partly to alleviate the financial pressures on temporary accommodation. The funding is provided to assist with the implementation of the new legislation and to enable the council to have additional financial resources available to prevent and relieve homelessness. The funding is ring fenced for this purpose.
35. These posts would then be added to the establishment in the usual way.

### **Financial Implications**

36. Once fully implemented, it is expected that the direct provision of TA will reduce the net cost to the Council to £35k from £408k. This represents a saving of £373k on an annual basis in year 1. This is based on the assumption that all 30 units are utilised. If the demand is less than the savings will reduce accordingly. If 20 units are utilised, than the first year saving would be in the region of £250k.
37. Members will appreciate that this is not guaranteed, and that there are a variety of factors that may affect the actual saving. This will be closely monitored both as part of the implementation and at the annual review

### **Other Material considerations**

38. There are risks associated with the provision and management of temporary accommodation include rent arrears, anti-social behaviour, neighbour complaints, damage to property and unoccupied/void periods when there is a loss of rental income and also reputational risks. There are also risks involved in the legal process to gain possession of the properties when the duty to the household under the homelessness legislation has come to an end.
39. These risks will be mitigated by the effective and robust housing management and effective legal processes which will be put in place. It is considered that these are risks that can be managed and mitigated and they are considered to be outweighed by the benefits set out in the report.

Appendix 1 – Background context

Appendix 2 – Summarised report – Appraisals Abound

### **Background Papers**

- Appraisals Abound Homelessness Business Plan Full Report – June 2018

## Appendix 1

### Contextual Background Paper on Temporary Accommodation

#### Summary

1. This paper provides contextual information to enable members to make an informed decision about investing an initial £4 m from reserves in acquiring and leasing accommodation to provide temporary accommodation. This investment will enable a significant reduction in the placement of homeless families and vulnerable individuals in guest houses (Bed and Breakfast type accommodation) outside of the district and will also over time significantly reduce the costs to the guest house budget.
2. Information is provided on the Council's current spend on temporary accommodation for those to whom we have duties under the Homelessness Legislation. It sets out the national and local pressures on temporary accommodation budgets as well as the additional pressures that arise from the implementation of the Homelessness Reduction Act 2017 and the impact of welfare reform.
3. If the Council owns and leases its own temporary accommodation in the district then the negative impact of homelessness on families and individuals can be reduced.

#### Current provision of Temporary Accommodation in Mid Sussex

4. Guest houses used by the Council for placing homeless households are out of the area, commonly in Brighton and Hove, Worthing, Crawley, Horley and Eastbourne as there is no guest house provision within Mid Sussex. This adds to the stress and difficulty experienced by households who have already undergone the traumatic experience of losing their homes.

Providing temporary accommodation in the district will enable homeless families to maintain their support networks and to continue to access their current schools and places of work. This should mean that the well-being of these households is not unduly impacted by the location and standard of their temporary accommodation.

Many single person households to whom the Council has a duty are vulnerable because they have mental health needs or other disabilities and placing them away from their GP and other health care and support services can undermine their treatment and recovery. The Council will be better able to address the needs of households, particularly larger families and people with significant physical disabilities who require adapted accommodation.

5. The Council currently has access to 19 units of temporary accommodation within the District provided by Clarion and up to 14 units with other supported housing providers but this is not sufficient to meet the need. In addition the Council is usually unable to place households who are "pending enquiries" into their homelessness application because providers are not willing to incur the costs involved in taking possession action in the event that the duty to provide temporary accommodation ends. This is a



risk that the council will also take on when such a situation arises in MSDC owned temporary accommodation. This risk will be appropriately managed and is considered to not outweigh the advantages of providing in house temporary accommodation.

### **National Temporary Accommodation Pressures**

6. Local housing authorities in England have a duty to secure accommodation for unintentionally homeless households in priority need under Part 7 of the *Housing Act 1996* (as amended) and now under the Homelessness Reduction Act 2017. Households may be placed in temporary accommodation pending the completion of inquiries into an application, or they may spend time waiting in temporary accommodation after an application is accepted until suitable secure accommodation becomes available.
7. The most recent national official statistics, published on 22 March 2018, recorded 78,930 households nationally in temporary accommodation at the end of December 2017. The households include 120,510 children, representing a 75% increase since 2010. Of these households, 54,370 (69%) were placed in temporary accommodation in London. The number of families with dependent children placed in bed and breakfast (B&B) style accommodation increased from 740 at the end of June 2010 to 2,030 at the end of December 2017.
8. There was a 201% increase in the number of households placed in temporary accommodation outside their local authority area between December 2011 and December 2017.
9. Three-quarters of this spending – £638 million – was funded by housing benefit, of which £585 million was recovered from the Department for Work & Pensions.
10. Spending on temporary accommodation has increased by 39% in real terms since 2010/11.
11. The National Audit Office (NAO) published a report on Homelessness in September 2017 in which it observed that of the £1.1bn spent by English local authorities in 2015/16, £845 million was spent on temporary accommodation.
12. The Public Accounts Committee's (PAC) December 2017 report, Homeless Households, observed that temporary accommodation is "often of a poor standard and does not offer value for money". The Committee recommended: The Department should take steps to eliminate the use of non-decent temporary accommodation and to enable local authorities to replace this supply with local alternatives that offer better value for money.

**Source: [researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02110](https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02110)**

### **Temporary accommodation pressures in Mid Sussex**

13. The information above illustrates that the pressures on temporary accommodation spend in Mid Sussex are a reflection of national trends. At the 1<sup>st</sup> June 2018 there

were 46 households in temporary accommodation 21 of whom were in guest houses located outside of Mid Sussex. There were 19 children in the families that were accommodated in guest houses.

14. The pressure on the Council's temporary accommodation budget continues to increase. This is a demand led budget and is subject to the number of people applying for assistance.
15. Table A shows the number of households and average number of days in guest house accommodation for the past three financial years. It illustrates the increase in placements and the increase in the length of time that households have been accommodated. It also reflects the fact that over the three year period guest house nightly costs have increased.
16. Self-contained accommodation is usually secured for households with children. The Homelessness (Suitability of Accommodation) (England) Order 2003 requires that households with family commitments should not be placed in 'B&B accommodation' for longer than 6 weeks, B&B accommodation means accommodation which is not separate and self-contained premises, such as accommodation which requires amenities to be shared.
17. The Council seeks to ensure that such households are placed in self-contained accommodation. Typical gross costs for a shared accommodation unit are £40.00 to £50.00 per night whilst self-contained units are typically £55.00 to £70.00 per night. The gross costs are reduced by the households own contributions towards their accommodation and by any Housing Benefits entitlement paid to the Council. These costs are not within our control as there is competition between authorities for the available accommodation and the providers can charge accordingly.

Table A

Year	Type of accommodation	Total Households placed in guest house	Net spend on Temporary Accommodation
2015/2016	Shared	49	£130,769
	Self-Contained	32	
2016/17	Shared	65	£254,069
	Self-Contained	39	
2017/18	Shared	55	£346,346
	Self-Contained	45	

18. Table B below shows, where provided, Councils spend on temporary accommodation across West Sussex over the last three years. Spending in Crawley and Horsham has reduced due partly due to the expansion of their temporary accommodation portfolios in their own stock and also new housing association temporary accommodation supply in Crawley's case. In Horsham they took ownership of 17

new temporary accommodation units in 2017/2018 and attribute the reduction in spend this year almost entirely to the provision of these units.

Table B

	Adur	Arun	Chichester	Crawley	Horsham	Mid Sussex	Worthing
Net spend							
2015/2016		£223,409		£695,922	£133,762	£130,769	
2016/2017	Not available	£343,622	Not Available	£777,050	£253,125	£254,070	Not available
2017/2018	Not available	£481,459	Not available	£262,696	£176,762	£346,346	Not available

### Financial Pressures

19. The cost of placements is increasing year on year and this has been exacerbated by the removal of Temporary Accommodation Management Fee (TAMF), which came into effect on 1 April 2017. This subsidy was paid to assist local authorities with the costs of temporary accommodation. The TAMF subsidy provided £60.00 per household in temporary accommodation per week. A further pressure is caused by the fact that the amount of overall Housing Benefit payable for households in temporary accommodation has been frozen since January 2011 whereas guest house charges have increased.

20. To replace TAMF the government has provided specific funding, Flexible Homelessness Support Grant (FHSG). In addition the Government has provided 'New Burdens' funding to mitigate the impact of the implementation of the Homelessness Reduction Act. The funding is provided to assist with the implementation of the new legislation and to enable the Council to have additional financial resources available to prevent and relieve homelessness. The funding is ring fenced for this purpose. Table C below sets out the total amount of funding to be provided to this Council.

Table C

Year	<i>Amount FHSG</i>	<i>Amount HRA New Burdens</i>
2017/2018	£192,927	£28,675
2018/2019	£221,981	£26,266
2019/2020	£280,925	£27,765
Total over 3 years.	£695,833	£82,707

21. This funding has been utilised to date as follows:-

- To provide two temporary posts in the Housing Needs Team on 2 year contracts the Temporary Accommodation and Homelessness Prevention Officer and the Housing Services Assistant, to compensate our temporary accommodation providers in the district for the loss of the Housing Benefit subsidy

- For individual one off intervention payments/loans to families to prevent homelessness.
- In future this funding will be utilised for these purposes as well as other new initiatives to prevent homelessness such as to fund additional support services provided by external agencies to prevent homelessness and support those who are homeless.

22. The Flexible Homelessness Support Grant and New Burdens funding does not provide sufficient resources to offset the ongoing costs of providing temporary accommodation. The TAMF was paid per household accommodated per week and thus reflected actual costs. The FHSG is one off grant funding made available for three financial years and there is no certainty that it will be made available thereafter.

### **Future Pressures**

23. Officers anticipate that if the Council continues to rely on guest house accommodation to meet the Council's temporary accommodation needs then spending on temporary accommodation will continue to increase. The reasons for this are:

- A lack of secure affordable housing to meet the needs of households in the district means that individuals and families will continue to seek assistance from the Council when they have no alternative means of securing housing
- Buying a property in the district is out of reach for most households. Average mean annual earnings in 2017 in Mid Sussex were £32,812. The ratio of house prices to income in Mid Sussex according to Home Truths (National Housing Federation) 2017/2018 is 12.4 and the average income required for an 80% mortgage is £92,854.
- Last year there was a shortfall in our new build affordable housing delivery and our overall delivery of new homes in the district. We delivered 97 new affordable units in 2017/18 and have a target of 90 new units for 2018/19. There are 1116 affordable homes with outline planning permission in the pipeline however these are largely on section 106 sites where delivery is dependent on developers and the housing market and consequently beyond officers' control. On the positive side there are 386 affordable units on site which have yet to be delivered.
- Private rents have increased substantially since 2011 and are expected to continue rising. This means that the majority of private rented housing in the district is not affordable to households on low incomes who are reliant on assistance from the benefits system to pay their rents.

### **Welfare Reform**

24. The Local Housing Allowance rates which apply to the amount of assistance households can receive to assist in paying their rent have been frozen for 4 years from 2016. In April 2018 there was a modest 3% increase on the LHA cap for properties in the Mid Sussex area but this is not generally sufficient to bridge the gap

between actual private rents and the amount of assistance that households can receive.

25. Universal Credit (UC) is being fully rolled out in Mid Sussex from June 2018. In areas where UC is already in place there has been an increase in rent arrears in both the private and public sectors leading more households to apply for assistance because they are threatened with homelessness. Universal Credit makes claimants fully responsible for managing their finances and the housing costs element of their universal credit can no longer in most instances be paid direct to the landlord. The transition to this new system can prove very challenging for those managing on low incomes.

### **The Homelessness Reduction Act 2017 (HRA)**

26. The HRA is a major legislative change that significantly expands the duties and responsibilities of the Council to households who are or are potentially homeless. The key implications are as follows:

- New duties imposed by the Homelessness Reduction Act 2017 (HRA) which came into force on 1 April 2018 are expected to increase expenditure on temporary accommodation
  - There is a new Duty to Prevent Homelessness owed to all households who are threatened with homelessness within 56 days (an extension from the previous 28 days) provided they are eligible, regardless of whether they have a priority need, local connection or are intentionally homeless. This means that there is a duty for the Housing Needs Team to actively work with people for a longer period and to take homelessness applications at an earlier stage.
  - There is also a new Duty to Relieve Homelessness for all eligible households who are homeless. This duty is also owed for 56 days. In such cases there may be a requirement to provide temporary accommodation for the 56 days that the Relief Duty is owed, if the household is in priority need, regardless of whether they are intentionally homeless. It is only once this duty has come to an end on day 57 that the Council can make a decision on whether the applicant is intentionally homeless. Thereafter there will still be a need to provide temporary accommodation for a reasonable period, usually considered to be at least 28 days. This means that such households will have to be provided with temporary accommodation for longer than was previously the case.
  - An additional new Duty to Refer is placed on various public bodies. This comes into effect in October 2018 and requires them to notify the Council if they believe a person is homeless or threatened with homelessness.
27. It is anticipated that the numbers approaching the Council will increase as the new duties are met. Housing Consultants, have evaluated the data and concluded that in Wales (where similar legislation came into force on 27 April 2015) has seen a 26% increase in homeless applications since April 2015. It is projected that applications could rise by up to 50% in England. The London Borough of Southwark is a prominent trail-blazer authority that enacted the majority of the Act during 2017. They have experienced a 29% increase in applications.
28. It is difficult to predict with accuracy what the impact of the HRA and the other aspects of welfare reform will have on the temporary accommodation budget.

29. Despite the fact that the number of applications for the past financial year (2017/18) was slightly lower than for the previous year, net spend on temporary accommodation increased by £92,277. See Table A above. This is due to households spending longer in temporary accommodation for the reasons outlined above as well as the removal of Temporary Accommodation Management Fee. Therefore, even without the impact of the Homelessness Reduction Act, it is anticipated that net spend for the coming year is likely to increase.
30. Table D below provides an indication of these increases. The calculations below projects the potential increase in spend if the number of applications increased based on the temporary accommodation spend for 2017/18 which was £346,346 (net).

Table D

Assumed spend for 2018-2019 Homelessness applications increase by	Resulting anticipated net temporary accommodation spend
An increase of 5%	£363,663
An increase of 10%	££380,980
An increase of 26%	£436,396

31. The Housing Needs Team is already experiencing an increase in their work as a result of meeting the new HRA duties.
32. The HRA has also brought in additional rights for applicants to have decisions made in respect of their homelessness applications reviewed. This will necessitate additional work and during these review periods, officers may have to extend the provision of temporary accommodation for the household challenging the decision.

### **Other temporary accommodation considerations**

33. The Committee needs to be aware that it will not be possible to completely eradicate the use of guest houses. The Housing Needs Service will still need to resort to guest house placements in emergencies whilst initial inquiries into a homelessness application are made and when the council's temporary accommodation is fully occupied. However these placements should be of significantly shorter duration and costs will be minimised as households will be moved on into Mid Sussex's temporary accommodation provision as quickly as possible.

## Appendix 2

### Appraisals Abound: Temporary Accommodation Options Business Plan

#### Mid Sussex District Council – Summarised Results June 2018

The summarised Business Plan shows that the Council could make substantial cost reductions by purchasing and leasing properties over the projected 15 year period in comparison to current and assumed future costs incurred in housing homeless households in guest house accommodation.

The Business Plan is based on the Council using c£6.5m of its reserves to acquire 20 units which would produce an overall reduction in running costs of c £5.7m over 15 years. The disposal receipts from the units would generate a capital receipt of c7.8 m which would finance the initial acquisition costs and the capitalised investment into the units over the life of the business plan. The Council could decide to retain the units depending on the demand for temporary accommodation at that point or if it chooses to dispose it could dispose to one of the Housing Associations who provide affordable housing in the district and thus use the units to continue to meet housing need in the district going forward.

By leasing 10 units the Council would achieve cost reductions of c75k per annum when compared with current costs incurred. Over the 15 years of the plan it is forecast that the Council could achieve cost reductions of c£1.4m through the leasing scheme.

### 1. Acquiring Properties

The summarised Business Plan shows that the Council could make substantial cost reductions in comparison to current costs incurred in housing homeless households in guest house accommodation.

#### Assumptions

The 15-year Business Plan provides for the acquisition of 20 units which would replace the current use of guest houses as temporary accommodation.

#### Summary Results

- Initial Investment of £6.6m required to purchase 20 properties, including on-costs associated with purchase
  - Purchase price - £5.7m
  - On costs - £0.9m - Stamp Duty Land Tax at enhanced rates, refurb and fitout, associated fees
- Purchase financed from existing funds and therefore no borrowing costs modelled
- Rental levels modelled at 90% of 2011 Local Housing Allowance rates, running costs at c84% of income in year 1
- Total saving/cost reduction of £5.7m over 15 years identified from reduced running costs

## Overall BP Results

<b>15 Year Business Plan</b>			
	<b>Cash</b>	<b>NPV</b>	
	<b>£'000</b>	<b>£'000</b>	
Acquisition costs	(6,553)	(6,553)	
Revenue	2,341	1,797	
Running Costs	(2,281)	(1,732)	
Capitalised Investment	(1,086)	(760)	
Income from Disposal	7,829	4,673	
	<b>249</b>	<b>(2,575)</b>	
Minimum Revenue Provision			
Interest			
<b>Net performance of Business Plan</b>	<b>249</b>	<b>(2,575)</b>	
<b>Reduction in Current Costs</b>	<b>5,446</b>	<b>4,078</b>	
<b>NPV with cost savings</b>	<b>5,696</b>	<b>1,503</b>	
<b>Please note a positive figures indicates a viable business plan</b>			
Discount rate used		3.50%	



## Average Cost of Unit including On-costs

We have undertaken a review of the demand for properties of our homeless clients which has identified the need for a mixture of 1, 2 and 3 bed properties. We have undertaken a desktop market research exercise of the value of properties available in the 3 main towns of Mid Sussex to arrive at a maximum value that properties can be purchased at. These values will allow the business plan to make a small surplus during the operational stage of it.

Total Acquisition Costs		
Description	Total	Average per unit
Number of units purchased	20	
	£'000	£
Value of units	5,690	284,500
Stamp Duty Rates	266	13,300
Refurbishment / Fit out costs	427	21,338
Acquisition Fees	171	8,535
Irrecoverable VAT	-	-
HCA/GLA Grant Monies	-	-
	6,553	327,673
Average cost per unit	£327,673	
Average grant per unit		
On costs as a %age of value	15.17%	

Analysis of Units				
House Type	Number	Average Weekly Rent £	Average Acquisition Cost £	Gorss Yield %age
1 bed flat	9	125	240,050	2.70%
2 bed flat	-	-	-	-
3 bed flat	-	-	-	-
4 bed flat	-	-	-	-
2 bed house	8	161	375,125	2.23%
3 bed house	3	197	464,000	2.21%
4 bed house	-	-	-	-
	20	150	327,673	2.38%

## Business Plan Assumptions Used

Running Costs/Capitalised Investment Assumptions								
Description	Notes	1 bed flat	2 bed flat	3 bed flat	4 bed flat	2 bed house	3 bed house	4 bed house
Voids in year 1	Enter percentage	8.33%	8.33%	8.33%		8.33%	8.33%	8.33%
Voids thereafter	Enter percentage	11.00%	11.00%	11.00%		11.00%	11.00%	11.00%
Ground rents/service charges	Enter amount per annum for flats only	£1,500.00	£1,500.00	£1,500.00				
Day to day management	Enter amount per annum per unit	£3,350.00	£3,350.00	£3,350.00		£3,350.00	£3,350.00	£3,350.00
Day to day maintenance	Enter amount per annum per unit	£1,500.00	£1,500.00	£1,500.00		£1,500.00	£1,500.00	£1,500.00
Bad debt provision	Enter percentage	5.00%	5.00%	5.00%		5.00%	5.00%	5.00%
Capitalised Investment	£15k every 5 years from year 6	£15,000.00	£15,000.00	£15,000.00		£15,000.00	£15,000.00	£15,000.00
Spare	Enter amount per annum per unit	£0.00	£0.00	£0.00		£0.00	£0.00	£0.00
Spare	Enter amount per annum per unit	£0.00	£0.00	£0.00		£0.00	£0.00	£0.00
Spare	Enter amount per annum per unit	£0.00	£0.00	£0.00		£0.00	£0.00	£0.00

Generic Business Plan Assumptions								
Description	Notes	1 bed flat	2 bed flat	3 bed flat	4 bed flat	2 bed house	3 bed house	4 bed house
Business Plan years	Enter number	15	15	15		15	15	15
Discount rate to be used	Government Green Book	3.50%	3.50%	3.50%		3.50%	3.50%	3.50%
Interest rate to be charged on debt	15 year PWLB monies - 0.2% discount	0.00%	0.00%	0.00%		0.00%	0.00%	0.00%
Type of Loan	Select from Drop Down Box	Maturity	Maturity	Maturity		Maturity	Maturity	Maturity
Rent increase	Enter percentage	0.00%	0.00%	0.00%		0.00%	0.00%	0.00%
Cost inflation	Enter percentage	2.00%	2.00%	2.00%		2.00%	2.00%	2.00%
House price inflation	Enter percentage	2.50%	2.50%	2.50%		2.50%	2.50%	2.50%
Disposal percentage	Enter percentage	95.00%	95.00%	95.00%		95.00%	95.00%	95.00%
Minimum Revenue Provision Required	See separate sheet	See separate sheet						
Forecast Annum Increase in HB Loss	Enter percentage	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
Not used								
Not used								

## Summarised Results over 15 Years

Mid Sussex District Council - Property Acquisition Model - Effect on General Fund							
Year	From Properties Acquired				Total £'000	Reduction in Current Costs £'000	Total Cost reductions £'000
	Income from Activities £'000	Running Costs £'000	Interest on Loan £'000	MRP Allowance £'000			
0							-
1	156	(131)	-		25	272	297
2	156	(138)	-		18	283	301
3	156	(140)	-		16	294	310
4	156	(142)	-		14	306	320
5	156	(145)	-		11	318	330
6	156	(147)	-		9	331	340
7	156	(149)	-		7	344	351
8	156	(152)	-		4	358	362
9	156	(154)	-		2	372	374
10	156	(157)	-		(1)	387	386
11	156	(160)	-		(4)	403	399
12	156	(162)	-		(6)	419	412
13	156	(165)	-		(9)	435	426
14	156	(168)	-		(12)	453	441
15	156	(171)	-		(15)	471	456
Total	2,341	(2,281)	-	-	60	5,446	5,506

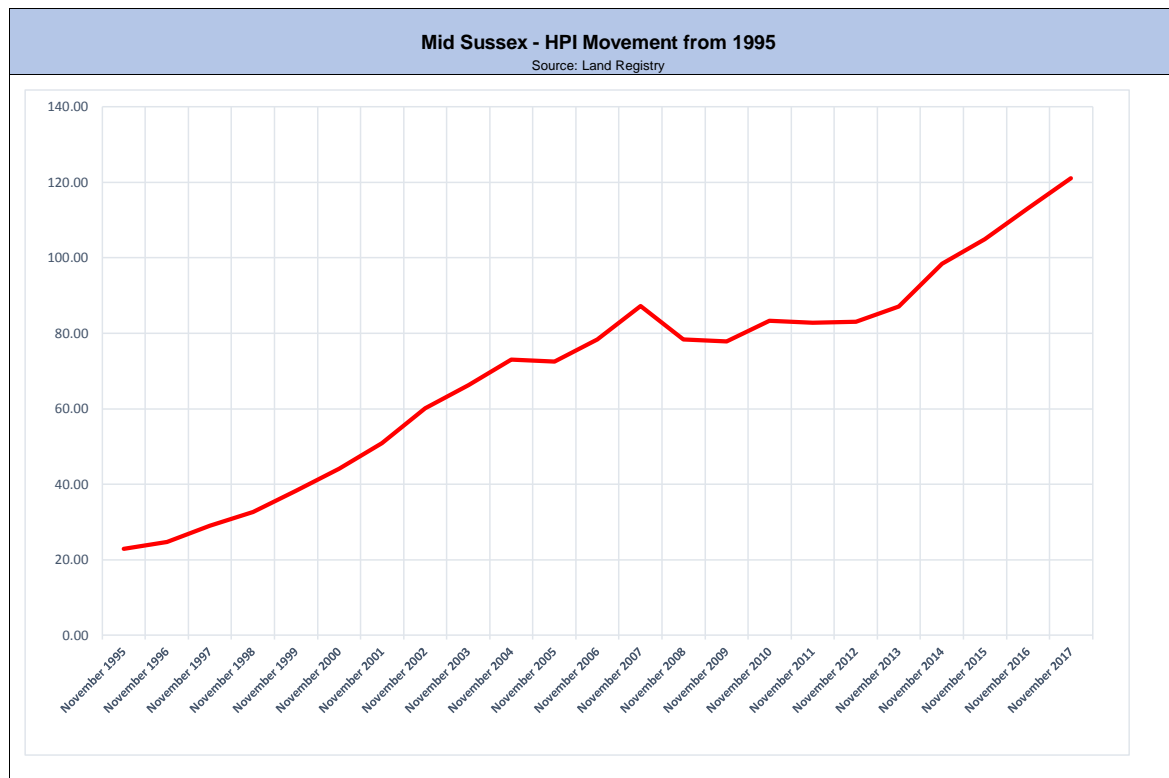
## Split of Running Costs

Breakdown of Running Costs					
Year	Voids	Management	Maintenance	Service Charges	Total
	£	£	£	£	£
1	(20,803)	(67,000)	(30,000)	(13,500)	(131,303)
2	(24,970)	(68,340)	(30,600)	(13,770)	(137,680)
3	(24,970)	(69,707)	(31,212)	(14,045)	(139,934)
4	(24,970)	(71,101)	(31,836)	(14,326)	(142,233)
5	(24,970)	(72,523)	(32,473)	(14,613)	(144,579)
6	(24,970)	(73,973)	(33,122)	(14,905)	(146,971)
7	(24,970)	(75,453)	(33,785)	(15,203)	(149,411)
8	(24,970)	(76,962)	(34,461)	(15,507)	(151,900)
9	(24,970)	(78,501)	(35,150)	(15,817)	(154,438)
10	(24,970)	(80,071)	(35,853)	(16,134)	(157,028)
11	(24,970)	(81,673)	(36,570)	(16,456)	(159,669)
12	(24,970)	(83,306)	(37,301)	(16,786)	(162,363)
13	(24,970)	(84,972)	(38,047)	(17,121)	(165,111)
14	(24,970)	(86,672)	(38,808)	(17,464)	(167,914)
15	(24,970)	(88,405)	(39,584)	(17,813)	(170,772)
	(370,383)	(1,158,659)	(518,803)	(233,461)	(2,281,306)

## House Price Inflation in Mid Sussex

The table below shows the average house price inflation since 1995 (source: Land Registry)

Mid Sussex - HPI Movement from 1995			
Source: Land Registry			
Year	Index	Annual Movement %age	Cumulative Movement %age
November 1995	22.90		
November 1996	24.67	7.73%	7.73%
November 1997	28.99	17.51%	26.59%
November 1998	32.70	12.80%	42.79%
November 1999	38.27	17.03%	67.12%
November 2000	44.10	15.23%	92.58%
November 2001	50.85	15.31%	122.05%
November 2002	60.10	18.19%	162.45%
November 2003	66.26	10.25%	189.34%
November 2004	73.07	10.28%	219.08%
November 2005	72.48	-0.81%	216.51%
November 2006	78.38	8.14%	242.27%
November 2007	87.21	11.27%	280.83%
November 2008	78.36	-10.15%	242.18%
November 2009	77.79	-0.73%	239.69%
November 2010	83.26	7.03%	263.58%
November 2011	82.74	-0.62%	261.31%
November 2012	83.07	0.40%	262.75%
November 2013	87.12	4.88%	280.44%
November 2014	98.35	12.89%	329.48%
November 2015	104.92	6.68%	358.17%
November 2016	113.11	7.81%	393.93%
November 2017	121.10	7.06%	428.82%
Net change over past year			7.06%
Net change over 5 years			45.78%
Net change over 10 years			38.86%
Average annual HPI compounded from 1995			7.86%



Mid Sussex HPI and Ranking to Sussex Councils		
Source: Land Registry		
Description	%age	Position
Average annual HPI over 22 years	7.86%	7
Average annual HPI over 10 years	3.34%	3
Average annual HPI over 5 years	7.83%	7
HPI over last 12 months	7.06%	6
HPI over last 6 months	7.52%	4

### **Other Considerations**

The following paragraphs highlight other considerations that the Council may wish to consider if it wishes to implement the business plan.

### **Specification of Properties**

It is imperative that the Council decides upon the specification and quality of unit it wishes to purchase before embarking upon the purchase of them. This will avoid unnecessary work and potential abortive costs in relation to investigating properties. It will also provide direction to the acquisition team to ensure that the correct units are purchased.

Particular attention should be paid when looking at purchasing flats, especially in relation to the lease terms and future major repairs that are planned for the block that they are in.

### **Acquisition of Properties**

Whilst the Council needs to ensure that it adheres to its procurement rules it needs to create a streamlined approach in order for properties to be purchased as quickly as possible. It may possibly need to appoint the following consultants to carry out the acquisition due diligence

- A project manager to manage the process (this could be an internal resource)
- Solicitors for conveyancing purposes
- Valuation advice and property surveys
- Incentivise local Estate Agents to ensure that the Council receives forward notification of available properties

### **Management Arrangements**

The Council need to consider the management arrangements in relation to the option(s) it decides to pursue. It is possible to split the management arrangements between housing management and property management.

The Council may consider to carry out the housing management internally whilst externalising the property management and utilise its arrangements with its existing property management provider.

The business plan that has been created assumes that the Council will carry out the management of the units purchased internally and the Council has provided the costs of employing two members of staff to provide this service.

It is possible that if the Council combines the use of PSL properties together with the acquisition of units that there will be some management costs savings as these members of staff may be able to carry out both areas of activity and therefore savings will accrue as the initial costs are contained within the acquisition of units business plan.

## 2. Private Sector Leasing Results

### Assumptions

10 properties leased/rented from private sector at 85% of market rent  
 Business Plan run for 15 years  
 Replace use of current guest house

### Results

£1.4m of savings/cost reductions identified over 15 years

### Table of Assumptions

Mid Sussex District Council - PSL Leasing Model						
Description	1 bed flat	2 bed flat	2 bed house	3 bed house	4 bed house	Total
<b>Unit Numbers and Rents Paid to Landlord</b>						
Number of Units	4	0	4	1	1	10
Full Market Rent (Monthly)	£800	£900	£1,100	£1,300	£1,500	£10,400
Discount Received	15%	15%	15%	15%	15%	
<b>Net Rent to be paid</b>	<b>£680</b>	<b>£765</b>	<b>£935</b>	<b>£1,105</b>	<b>£1,275</b>	<b>£8,840</b>
<b>Other Annual Costs to MSDC</b>						
Management Costs	£2,000	£2,000	£2,000	£2,000	£2,000	£20,000
Maintenance Allowance	£500	£500	£500	£500	£500	£5,000
Council Tax						£0
Utility Bills						£0
Service Charges & Ground Rent						£0
Spare						£0
Spare						£0
Spare						£0
Spare						£0
Spare						£0
<b>Totals</b>	<b>£2,500</b>	<b>£2,500</b>	<b>£2,500</b>	<b>£2,500</b>	<b>£2,500</b>	<b>£25,000</b>
<b>Initial Furnishing Cost of Units</b>						
Do you want to model this?	No	No	No	No	No	
Initial budget for furnishing unit	£5,000	£6,000	£6,000	£7,000	£8,000	
Replacement Every XX years	3	3	3	3	3	
<b>MANUAL ADJUSTMENT REQUIRED IN COLUMN AT ONCE REPLACEMENT PERIOD HAS BEEN SET</b>						
<b>Income to MSDC</b>						
Rental Income - Based on 2011 LHA Rates	£540	£697	£697	£855	£1,305	7,110
Income from Resident						0
Other Income						0
Other Income						0
Other Income						0
<b>Totals</b>	<b>£540</b>	<b>£697</b>	<b>£697</b>	<b>£855</b>	<b>£1,305</b>	<b>£7,110</b>
<b>Other Business Plan Assumptions</b>						
Description	Amount					
Length of Business Plan in Years	15					
Discount Rate to model	3.50%					
Average Current HB Loss (Annual figure)	£13,600					
Annual Void and Bad Debt Allowance	16.00%					
Annual Rent Cost Inflation	3.00%					
Annual Inflation - Other Costs	2.00%					
Annual Rent Income Inflation	0.00%					
Forecast Annual Income in HB Loss	4.00%					
Spare						
Spare						
Spare						
Spare						
Spare						

## Summarised Results

Mid Sussex District Council - PSL Business Plan Results											
Income and Expenditure within General Fund											
Year	Rent Income	Other Income	Voids	Rent Payments	Mgmt	Mtnce	Other	Furnishing	Annual Surplus / (Deficit)	Reduced Costs from Current Position	Net Savings / (Costs)
	£	£	£	£	£	£	£	£	£	£	£
1	85,315	0	(13,650)	(106,080)	(20,000)	(5,000)	0	0	(59,416)	136,000	76,584
2	85,315	0	(13,650)	(109,262)	(20,400)	(5,100)	0	0	(63,098)	141,440	78,342
3	85,315	0	(13,650)	(112,540)	(20,808)	(5,202)	0	0	(66,886)	147,098	80,212
4	85,315	0	(13,650)	(115,916)	(21,224)	(5,306)	0	0	(70,782)	152,982	82,199
5	85,315	0	(13,650)	(119,394)	(21,649)	(5,412)	0	0	(74,791)	159,101	84,310
6	85,315	0	(13,650)	(122,976)	(22,082)	(5,520)	0	0	(78,914)	165,465	86,551
7	85,315	0	(13,650)	(126,665)	(22,523)	(5,631)	0	0	(83,155)	172,083	88,928
8	85,315	0	(13,650)	(130,465)	(22,974)	(5,743)	0	0	(87,518)	178,967	91,449
9	85,315	0	(13,650)	(134,379)	(23,433)	(5,858)	0	0	(92,006)	186,125	94,119
10	85,315	0	(13,650)	(138,410)	(23,902)	(5,975)	0	0	(96,623)	193,570	96,947
11	85,315	0	(13,650)	(142,563)	(24,380)	(6,095)	0	0	(101,373)	201,313	99,940
12	85,315	0	(13,650)	(146,840)	(24,867)	(6,217)	0	0	(106,260)	209,366	103,106
13	85,315	0	(13,650)	(151,245)	(25,365)	(6,341)	0	0	(111,287)	217,740	106,454
14	85,315	0	(13,650)	(155,782)	(25,872)	(6,468)	0	0	(116,458)	226,450	109,992
15	85,315	0	(13,650)	(160,456)	(26,390)	(6,597)	0	0	(121,778)	235,508	113,730
16	0	0	0	0	0	0	0	0	0	0	0
17	0	0	0	0	0	0	0	0	0	0	0
18	0	0	0	0	0	0	0	0	0	0	0
19	0	0	0	0	0	0	0	0	0	0	0
20	0	0	0	0	0	0	0	0	0	0	0
21	0	0	0	0	0	0	0	0	0	0	0
22	0	0	0	0	0	0	0	0	0	0	0
23	0	0	0	0	0	0	0	0	0	0	0
24	0	0	0	0	0	0	0	0	0	0	0
25	0	0	0	0	0	0	0	0	0	0	0
26	0	0	0	0	0	0	0	0	0	0	0
27	0	0	0	0	0	0	0	0	0	0	0
28	0	0	0	0	0	0	0	0	0	0	0
29	0	0	0	0	0	0	0	0	0	0	0
30	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1,279,718</b>	<b>0</b>	<b>(204,755)</b>	<b>(1,972,973)</b>	<b>(345,868)</b>	<b>(86,467)</b>	<b>0</b>	<b>0</b>	<b>(1,330,345)</b>	<b>2,723,208</b>	<b>1,392,863</b>
<b>NPV</b>	<b>982,602</b>	<b>0</b>	<b>(157,216)</b>	<b>(1,486,475)</b>	<b>(262,218)</b>	<b>(65,555)</b>	<b>0</b>	<b>0</b>	<b>(988,862)</b>	<b>2,039,083</b>	<b>1,050,221</b>

## Overall savings

The table demonstrates the possible reduction in costs to the Council if it acquires 20 units and leases 10 private sector leased properties (PSL). These figures will change throughout the life of the business plan and will be driven

by the demand for properties. The reduction in guest house costs will be driven by reduction in the number of households that we have to place in guest houses. The surplus from disposal is a projected figure taking into account the money that has been spent on the maintenance and management of the properties over the 15 year period of the business plan.

<b>Comparison of Performance to Current Costs</b>					
<b>Year</b>	<b>Annual Surplus / Loss i.e. Income less Running Costs</b>		<b>Cost reduction in NOT using B&amp;B accommodation</b>		<b>Annual Reduction in Costs</b>
	<b>20 Acquired Units</b>	<b>10 PSL Units</b>	<b>20 Acquired Units</b>	<b>10 PSL Units</b>	
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Year 1	25	(59)	272	136	373
Year 2	18	(63)	283	141	380
Year 3	16	(67)	294	147	391
Year 4	14	(71)	306	153	402
Year 5	11	(75)	318	159	414
Year 6	9	(79)	331	165	427
Year 7	7	(83)	344	172	440
Year 8	4	(88)	358	179	454
Year 9	2	(92)	372	186	468
Year 10	(1)	(97)	387	194	483
Year 11	(4)	(101)	403	201	499
Year 12	(6)	(106)	419	209	516
Year 13	(9)	(111)	435	218	533
Year 14	(12)	(116)	453	226	551
Year 15	(15)	(122)	471	236	570
<b>Total after Year 15</b>	<b>60</b>	<b>(1,330)</b>	<b>5,446</b>	<b>2,723</b>	<b>6,899</b>
Surplus from Disposal of Units at end of Year 15					190
Total reduction in costs					<b>7,089</b>

## Other Options

This section of the report considers other options that the Council may wish to investigate.

### Purchasing void units from other Councils/RPs

This option is a variant on purchasing individual properties on the market, however the Council may be able to purchase the units in bulk and receive a discount on the original purchase price.

The success of this proposal will be driven by the number, location and state of repair of the units within Mid Sussex.

### Purchasing Blocks of Existing Flats

Whilst this option is likely to be financially viable, these blocks are normally occupied and therefore the Council is likely to receive negative publicity as in effect they are making people homeless to house the homeless.

### Purchasing off plan units in a new build development

This option maybe viable, however it is likely that the original purchase price will be greater than buying existing properties. There is also likely to be a lead in time of c18 to 24 months before the properties become available.

This option may work financially if the Council purchased a block of flats from the development.

### Purpose Built Accommodation

The Council could consider purchasing an existing piece of land or utilise some of its land holding to create a purpose-built hostel. Whilst this may work financially, the lead in time is likely to be between 2 and 4 years and therefore is more of a long-term solution.



## 7. AMENDMENT TO LICENSING POLICY

REPORT OF: Tom Clark, Head of Regulatory Services.  
Contact Officer: Yvonne Leddy Business Unit Leader Environmental Health and Building Control  
Email: [yvonne.leddy@midsussex.gov.uk](mailto:yvonne.leddy@midsussex.gov.uk)  
Tel: 01444 477300  
Wards Affected: ALL  
Key Decision: No  
Report to: Scrutiny Committee for Community, Housing and Planning  
27<sup>TH</sup> June 2018

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### Purpose of Report

1. To seek the Committee's support on amendments to the Alcohol Licensing Policy regarding powers for Licensing Authorities to suspend or revoke Personal Alcohol Licences.

### Recommendations

**The Committee is recommended to endorse amendments to the Licensing Policy attached in Appendix 1 for adoption by Council on the 25<sup>th</sup> July 2018.**

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### Background

2. The Licensing Act 2003 requires premises that are licensed to sell alcohol to nominate a Designated Premises Supervisor (DPS). This person is responsible for authorising all sales of alcohol at the site. There is no requirement for them to be at the site during all opening times. Due diligence and good governance will cover this responsibility by staff training.
3. In order to qualify as a DPS a Personal Alcohol Licence must be obtained from the local authority where they reside. Proof of training by an accredited provider must be supplied, together with an up to date Criminal Records check. The Council is then obliged to issue a Personal Alcohol licence which has no expiry date.
4. Until recently only a Magistrates or Crown Court could revoke the licence after conviction. The Licensing Act 2003 has now been amended by Section 138 Policing and Crime Act 2017. It inserts Section 132A that gives power to a Licensing Authority to suspend and revoke Personal Alcohol Licences. The triggers for these actions are ;
  - (a) A conviction for a relevant offence (as defined in Schedule 2 to the Act or a foreign offence.
  - (b) A requirement to pay an immigration penalty.
5. Our Licensing Policy must be updated to take account of this change in two areas;
  - a) The first should be who decides what matters are submitted to Committee for a determination. The fact a conviction has come to light or a civil penalty is incurred doesn't automatically mean the matter has to proceed for suspension or revocation. This is an officer decision taken on its merits. It is proposed that this decision is taken

in accordance with other enforcement matters, by following the Environmental Health and Building Control's Enforcement Policy.

- b) The table of delegation at Section 14 of the Policy should be updated to take account of the final determination process. The Licensing Committee must finally determine such cases.

6. It is proposed that the Licensing Policy is amended as follows ;

- a) ADD at Section 12 after paragraph 12.6

#### **Personal Licence – Suspension or Revocation**

12.7 Section 132A Licensing Act 2003 gives the Licensing Authority power to suspend or revoke Personal Alcohol Licences.

A decision to ask the Licensing Committee to determine such a matter will be undertaken in accordance with the Environmental Health Enforcement Policy.

- b) ADD at Section 14 paragraph 14.13

#### **Table of Delegation of Licensing Functions**

- In the first column headed 'Matters to be dealt with' Insert new section – 'Decision to suspend or revoke a personal licence'
- In the third column headed Sub Committee Insert "All cases'.

#### **Policy Context**

7. The Licensing Act 2003 requires Licensing Authorities to produce a Statement of Licensing Policy. It guides operators and applicants and assists Licensing Committees when determining applications and other matters. It should be regularly reviewed and updated to take account of legislative changes.

#### **Financial Implications**

8. None

#### **Risk Management Implications**

9. The Council is required to review its Statement every five years or sooner if appropriate. Our policy is due for renewal 1 January 2019. Failure of a Council to review or update their Policy could leave it open to a legal challenge.

#### **Background Papers**

10. Current Mid Sussex District Council Licensing Policy <https://www.midsussex.gov.uk/media/1915/mid-sussex-licensing-policy.pdf>

Environmental Health and Building Control's Enforcement Policy <https://www.midsussex.gov.uk/media/2188/eh-building-control-enforcement-policy.pdf>



**MID SUSSEX DISTRICT COUNCIL**

**STATEMENT OF LICENSING POLICY**

**LICENSING ACT 2003**

*COMMENCES 5<sup>TH</sup> JANUARY 2015*

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## **1 Introduction**

1.1 This document is the policy for the Licensing Act 2003 for Mid Sussex District Council. The policy will take effect on 5<sup>th</sup> January 2015.

1.2 Mid Sussex District Council's (the Council) statement of main purpose is: -

### **'Working together for a Better Mid Sussex'**

1.3 Mid Sussex District Council is located within the County of West Sussex. More than half the area is designated as an Area of Outstanding Natural Beauty. It lies on the eastern edge of the county and shares boundaries with East Sussex to the east, Surrey to the north and Brighton and Hove and the South Downs National Park to the south.

1.4 Mid Sussex covers an area of 128 square miles and includes the three main towns of East Grinstead, Burgess Hill and Haywards Heath. There are some 25 villages and many small hamlets in a predominantly rural area outside of the main towns.

1.5 The District has a population of approximately 139,000. Sixty percent of the population live in the three main towns with the remaining 40% living in the smaller villages and rural areas.

## **2 Purpose and Scope of the Licensing Policy**

2.1 This policy is published in accordance with the provisions of Section 5 of the Licensing Act 2003 and the Guidance issued under Section 182 of the Act and will be reviewed and republished, following consultation, at least every five years. It was last updated in January 2010. During each five year period the Policy will be kept under review and such revisions will be made as considered appropriate to ensure the statutory objectives of the Act are being met against any changes to the licensing legislation or amendments to the section 182 statutory guidance. Attached to the policy, but not forming part of it, are 'Supplementary Guidance Documents'. These documents are provided to assist licence applicants and may be amended at any time without revision of the Licensing Policy.

2.2 The policy has been produced having due regard to the guidance on the Act issued by the Home Office. Whilst the Council will have full regard for both the Guidance and its own Statement of Licensing Policy, in determining individual licensing applications, it may depart from either if reason exists for doing so. Written statements of Licensing Panel decisions will be supplied to all parties to hearings.

2.3 The Licensing Act 2003 defines the following objectives that must be promoted by the Council as Licensing Authority and by licensees under the Act: -

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

2.4 These objectives will be achieved by regulation of the following activities, where the principal aim is to provide entertainment in the presence of an audience or alcohol is sold for consumption either on or off the premises: -

- Retail sale of alcohol.
- Supply of alcohol to club members.
- Provision of regulated entertainment to the public, club members or with a view to making a profit.
- The performance of a play.
- Exhibition of a film.
- All indoor sporting events.
- Boxing and wrestling.
- A performance of live music.
- Any playing of recorded music.
- A performance of dance.
- Entertainment similar to the performance of live music, recorded music or dance.

The following activities will also be regulated irrespective of audience participation: -

- The supply of hot food & / or drink from any premises, except where exempted, (including stationary vehicles) between 11p.m. and 5 a.m.

As a result of deregulatory changes that have amended the Licensing Act 2003, no licence is required for some entertainment activities. Details can be found in the Home Office document; Revised Guidance issued under Section 182 Licensing Act 2003. This can be found on the Home Office web site at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

2.6 Licensing decisions taken by the Council (The Licensing Authority) will be focused on matters within the control or influence of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Therefore we will focus on the impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

2.7 In making its decisions we will take into account the fact that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the control or influence of the individual club or business holding the licence, certificate or permission concerned. Each licence application will be considered on its merits in the context of the four Licensing Objectives.

2.8 There is no provision for us to impose conditions on a licence otherwise than in accordance with those proposed within an application, or when relevant representations are received from Responsible Authorities and Interested Parties.

2.9 Applicants for all licensed premises should read this policy and base their applications on the principles contained therein.

### **3 Duplication**

- 3.1 The Licensing Authority will avoid placing conditions on licences which involves duplication of regulations imposed by other regulatory authorities such as the Fire Authority and Health and Safety Agencies or where primary legislation exists. Conditions will only be placed upon licences in order to promote the Licensing Objectives if relevant representations are made or in accordance with the applicants operating schedule.

### **4 Cultural Strategies**

- 4.1 The Licensing Authority will support the aims of the Council's Leisure and Culture Strategy 2009-20 by providing information, advice and support to community premises about regulated entertainment and the general organisation of events.

### **5 Live Music, Dancing and Theatre**

- 5.1 The Authority recognises, in line with our Leisure and Cultural Strategy, the need to encourage and promote live music, dancing and theatre for the wider cultural benefit.
- 5.2 Only conditions that are necessary for the promotion of the Licensing Objectives will be attached to licences for activities of this nature. The Authority is aware of the need to avoid unnecessary or disproportionate measures that could deter live music, dancing and theatre by imposing indirect costs of a substantial nature.
- 5.3 There is a need to balance the support for live music and entertainment in licensed premises with the real concerns of local residents who may be affected by noise breakout from premises and subsequent increase in footfall to the venue.
- 5.4 The Live Music Bill 2012 deregulated the playing of amplified live music in alcohol licensed premises and workplaces between 0800-2300 hours before an audience of less than 200 people. For premises not licensed for alcohol, the deregulation extends only to unamplified music during the same times and before the same audience number.
- 5.5 Notwithstanding the deregulation, licensed premises that become the subject of review proceedings as a result of live music complaints can have conditions imposed upon them as if they were so licensed.
- 5.6 We strongly advise organisers of this type of entertainment to contact the Environmental Protection and Licensing Teams to discuss options and methods for mitigating noise disturbance.
- 5.7 The Council holds a number of Premises Licences for parks and open spaces. The Licensing Authority will continue to give advice about future events and the licensing of other publicly owned open spaces.

### **6 Planning**

- 6.1 Planning and Licensing processes are different and run separately from each other. It should be noted that the Planning Authority are a Statutory Consultee for applications and variations of current licences. They are entitled to make representations and seek reviews in their own right.

- 6.2 It is possible for licensing activities to be granted timings that conflict with planning permissions for premises. This does not imply that the grant of Licensing Act 2003 permission overrides any Planning Authority restriction. Mid Sussex District Council expects proprietors to comply with all legislation relevant to their premises.

## **7 Temporary Event Notices**

- 7.1 A Temporary Event Notice (TENs) is a simple way to stage regulated entertainment and sell alcohol at events such as fund raising and celebratory functions in otherwise unlicensed functions. It is a temporary licence. Applicants should note that they are bound to observe the Licensing Objectives.

There are two ways of notifying the Licensing Authority.

- a) Two copies of the notice plus the fee must be served on the Licensing Authority and one copy at the same time on Sussex Police.
- b) Using an online form and card payment at [www.midsussex.gov.uk](http://www.midsussex.gov.uk). Notifications submitted this way do NOT require the applicant to inform police. The Licensing Authority will do this.

- 7.2 Minimum Notice - In accordance with the Licensing Act 2003, the minimum notice that may be given to the Licensing Authority of the intention to stage any event under the Temporary Event Notice provisions is 10 working days. This is called a Standard Notice TENs. There is provision for two 'late' TENS per premises per annum to be accepted by the Authority. A 'late' TENS is one that is served on the licensing authority between 5-9 working days. These periods do not include the day of the event or the day of notification. The Licensing Authority has no discretion on either time scale and will not consider notices sent in breach of them.

- 7.3 To facilitate necessary consultation and liaison, wherever possible, a period of at least 28 days notice should be given in respect of all applications to the Licensing Authority and to the Police. The 28 day period is an expectation and is not stipulated in the legislation.

- 7.4 Maximum notice – Similarly applications should not be made in excess of twelve calendar months prior to the event, (in order that appropriate consideration may be given to circumstances likely to prevail at the time of the event).

- 7.5 Multiple applications may be made at any one time, subject to the foregoing constraints.

- 7.6 All TENs notifications are considered by Sussex Police and Mid Sussex District Council Environmental Protection Team who can object to the notice if they consider the TENs would undermine any of the licensing objectives.

- 7.7 Standard Notice TENs notifications where there is a Premises Licence in existence may, at the request of Police or Environmental Protection Team, have relevant conditions from their Premises Licence attached to the TENs. An objection to 'late' TENs will result in it not being acknowledged and the event cannot therefore be licensed.

- 7.8 The address for service to Sussex Police of Temporary Event Notices is:



Sussex Police  
Northdowns Licensing Team  
Horsham Police Station  
Hurst Road  
Horsham  
West Sussex  
RH12 2DJ

## **8 Cumulative Impact and Special Policies**

- 8.1 Where the Licensing Authority considers that an area has become saturated with a certain type of licensed premises it may adopt a “Cumulative Impact Policy” for a particular area and thus refuse new licences in that area. However, all new licence applications will be considered on their individual merit and additional licences may be approved if it is considered that such an application is unlikely to add significantly to such saturation.
- 8.2 In determining whether to adopt a ‘Cumulative Impact Policy’ for an area the Licensing Authority will undertake to: -
- Identify concern about crime and disorder or public nuisance (within an area).
  - Consider whether there is good evidence that crime and disorder are happening and are caused by the customers of licensed premises or that the risk of cumulative impact is imminent.
  - Identify the boundaries of the area where problems are occurring.
  - Consult those specified in Section 5(3) of the Licensing Act 2003 and subject of the outcome of such consultation – Include and publish details of the Cumulative Impact Policy within the Licensing Policy Statement.
- 8.3 There are currently no Cumulative Impact Areas within the Mid Sussex District Council area.
- 8.4 The Late Night Levy and Early Morning Restriction Orders

The Council do not intend to introduce The Late Night Levy or Early Morning Restriction Orders at this time. The authority retains the right to review these decisions at a later date if it considers it to be necessary. Should the authority consider it necessary to revisit either, they will be subject to a consultation process in accordance with Government guidelines.

## **9 Licensing Hours**

- 9.1 All applications will be considered on their individual merits. It is recognised that flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. The Authority needs to create a balance between the aspirations of the businesses and the concerns of the local community.
- 9.2 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises throughout the period they are open for general trading, unless there are good reasons, based on the licensing objectives, for restricting those hours. We do not anticipate granting permission to sell alcohol to such establishments outside the hours of 0600hrs to 2300hrs save in exceptional circumstances.

- 9.3 We recognise that businesses may wish to open later and diversify the range of entertainment they offer. The Authority and other Responsible bodies will consider applications for late night regulated entertainment on their merits, but will seek safeguards through licence conditions to ensure the licensing objectives are upheld.
- 9.4 The town centre areas in Haywards Heath, East Grinstead and Burgess Hill have thriving night time economies. Problems in the town centres consist of noise breakout (music) from bars, particularly when patrons are entering and exiting, and noise disturbance generally from patrons on garden and outside patio areas. This is particularly so when the background ambient noise levels have dropped during the late evening.
- 9.5 Future applicants for licensable activities beyond 23:00 hours will be expected to specifically demonstrate how they intend to address the licensing objectives of Crime and Disorder and Public Nuisance.
- 9.6 The Licensing Authority is not prepared to grant permission for outside patio/garden areas to be used by the public beyond 2300 hours throughout the district other than in exceptional circumstances. We do not consider a record of good management or financial considerations to constitute exceptional circumstances.
- 9.7 The Licensing Authority believes that this measure is necessary to address the licensing objective of Public Nuisance.

## **10 Children and Young Persons**

Children - as defined by Licensing Act 2003 – means individuals under 16 years of age and also introduces additional restrictions on those under 18 years of age. (See also Guidance to the Act).

- 10.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools.
- 10.2 To prevent illegal purchases of alcohol by under age persons, there is a Mandatory Condition requiring a 'proof of age' scheme for their premises.
- 10.3 This condition requires appropriate identification to be produced before a sale of alcohol can take place. 'Appropriate identification' is identification bearing a photograph of the holder, date of birth and a holographic mark. The most common forms fulfilling these criteria are a passport, photo card driving licence or PASS card.
- 10.4 The Proof of Age Standards Scheme (PASS) is the UK's national proof of age accreditation scheme, endorsed by the Home Office, the Association of Chief Police Officers (ACPO), the Security Industry Authority (SIA) and the Trading Standards Institute (TSI).
- 10.5 PASS sets and maintains minimum criteria for proof of age card issuers to meet. All cards schemes are required to submit to periodic audits carried out by an independent audit team appointed by the Trading Standards Institute (TSI) to ensure that they meet and keep the standards required for PASS accreditation.

### **The aim of PASS is to provide:**

- Reliability
- Assurance
- Confidence for retailers, enforcers and young people.

The PASS hologram on a card is the hallmark indicating that the card issuer has passed a stringent audit carried out by Trading Standards Officers and that the card may be relied upon.

- 10.6 Mid Sussex District Council recommends that licensees familiarise themselves and their staff with PASS and use it to verify identity in their premises.

## **11 Licensing Conditions**

- 11.1 When attaching conditions to licences and certificates issued under the Act, the Council will have due regard to the fact that conditions are tailored to the individual style and characteristics of the venue and event for which a licence is sought.
- 11.2 The Authority cannot impose blanket standard conditions.
- 11.3 When attaching conditions the Licensing Authority will also be aware of the need to avoid measures which might unreasonably impose indirect costs of a substantial nature.
- 11.4 To assist licensees, we have published guidance as to how noise may be controlled in places of public entertainment and other venues. The guidance is available from the Council's Licensing Team on request and on the Council's website. It is also attached as Supplementary Guidance Document 7 to this Policy. Applicants are expected to address this guidance in their Operating Schedule when applying for Regulated entertainment.
- 11.5 The Authority will follow The Home Office Licensing Act Guidance, Chapter 10 to select appropriate conditions to suit each operation.
- 11.6 Mandatory Conditions  
There are a number of mandatory conditions that apply to all premises licences and club premises certificates. Full details can be found using the link at Document 4 in the Supplementary Guidance at the end of this Policy.
- 11.7 Community Premises  
Section 19 Licensing Act 2003 requires all premises licensed for the sale of alcohol to have a Designated Premises Supervisor (DPS) nominated and named on the licence. All sales of alcohol must be authorised by a personal licence holder.
- 11.8 Section 41D Licensing Act 2003 allows Community Premises to apply to have this standard mandatory condition removed from their premises licence. This will allow Community premises to operate without a DPS and for sales of alcohol to be made or authorised by the management committee.  
  
Further information about the definition of Community Premises can be found in the Guidance to the Act at Section 4.37 et seq.
- 11.9 The Authority cannot impose blanket conditions upon Community Premises at apply to dis apply the Mandatory Condition. All applications to this Licensing

Authority to dis apply the mandatory condition (Section 19) must address the following matters;

- a. How the premises is managed
- b. Committee Structure
- c. Arrangements for the supervision of alcohol sales
- d. How is responsibility determined and reviewed within the Committee procedure in the event of any issues arising.
- e. Applicants should consider their hiring agreements in order to satisfy themselves that the hirer is aware of their responsibilities under the Licensing Act 2003.
- f. The Applicant will be expected to show that the hirer will be spoken to by representatives of the Committee and minutes of the meeting recorded.
- g. Hirer agreements will be expected to show signatures of the hirers to demonstrate their awareness of their responsibilities and their attendance throughout the event in question.

It is suggested that Community Premises considering this course of action should consult with the Licensing Team for advice and guidance before making an application.

#### 11.10 Adult entertainment

Sex Entertainment Venues.

The Council has adopted the Local Government Miscellaneous Provisions Act 1984 Schedule 3 (as amended by Section 27 Crime and Police Bill 2009) which regulates the licensing of Sexual Entertainment Venues.

New or current licensees wishing to have such entertainment in their premises should refer to the Mid Sussex District Council Statement of Principles for the Licensing of Sex Entertainment Venues.

Applications for new Premises Licences will be expected to indicate in the Operating Schedule whether they intend to have adult entertainment. If they do not indicate as such a condition will be placed on the licence preventing it from taking place.

Those who do intend to provide Adult Entertainment on the limited basis of exemptions available must demonstrate in the operating schedule how they intend to address the licensing objectives when this entertainment is taking place. The Council will seek to ensure that conditions are placed on the licence specifically addressing these events.

## 12 Licence Reviews

12.1 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority or any other person may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

12.2 The Licensing Authority, as a Responsible Authority can initiate their own reviews of Premises Licences and Club Premises Certificates. It does not, however, expect to call for a review on behalf of other Responsible Authorities, all of whom have

sufficient legislative power to ask for a review of a licence in their own right. It expects them to engage with premises that are viewed as problematic and to seek a review in their own right. It does not regard the review process as a first resort to solve a problem. It does expect some intervention and discussion by an enforcement agency in an effort to resolve and prevent problems escalating. It is accepted that the circumstances leading to some reviews may make this course of action impracticable.

- 12.3 The Licensing Authorities role in review proceedings will be to administer the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.
- 12.4 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right.
- 12.5 In the event of the Licensing Authority considering asking for a review, the final decision whether to proceed will be made by a manager at the level of at least a Business Unit Leader.
- 12.6 At review proceedings the Licensing Authority has the following powers:
  - a. To modify the conditions of the licence which includes adding new conditions or altering existing ones.
  - b. To exclude a licensable activity from the scope of the licence e.g. exclude the performance of live music or recorded music.
  - c. To remove the designated premises supervisor
  - d. To suspend the licence for the period not exceeding three months.
  - e. To revoke the licence.

### **13 Enforcement**

- 13.1 Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Council's Enforcement Policy for Environmental Health. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 13.2 To promote the statutory licensing objectives the Licensing Authority will share information with other enforcement agencies such as Police, Fire, Trading Standards, Customs and Excise and The Health and Safety Executive. Information will also be shared with internal departments within the Council, such as Environmental Health and Planning.
- 13.3 Inspection of Licensed Premises will be undertaken at the discretion of the Licensing Authority in a targeted and risk-assessed basis, or as necessary e.g. following a complaint.
- 13.4 Link to enforcement concordat can be found by following the link at document 4 in the Supplementary Guidance at the end of this Policy.
- 13.5 Suspension of Premises Licence and Club Premises Certificates

By Section 55a Licensing Act 2003, a Licensing Authority must suspend a premises licence if the holder of the licence has failed to pay the annual fee.

The Licensing Authority will invoice all premises that are due to pay an annual fee at least 21 days before the fee is due. In the event of the fee not being paid, the Licensing Authority will remind the holder about the overdue fee and will suspend the licence if the fee is not settled within 5 working days of the reminder letter.

13.6 Designated Premises Supervisor and Personal Licence Holders.

The Designed Premises Supervisor is responsible for all sales of alcohol and should therefore ensure that his /her staff are appropriately trained and or qualified. Whilst the Licensing Act 2003 does not require a Personal Licence Holder or Designed Premises Supervisor to be present at all times, the Licensing Authority will expect operating schedules to outline exactly how appropriate supervision and authority will be exercised in the absence of such persons. We do expect the DPS to have an active interest in the premises and to be involved in its day to day business.

## 14 Administration, Exercise and Delegations of Functions

- 14.1 If an application is not accompanied by the specified accompanying documents and fees, it will be the Council's policy to return it to the applicant as an incomplete application. Such applications will not be considered until all necessary support documentation is received. Fees received in respect of unsuccessful applications or in respect of applications withdrawn by the applicant will not generally be refunded.
- 14.2 When determining applications the Licensing Authority will have regard to any guidance issued by the Home Office, legislation, case law and this Policy.
- 14.3 The powers of the Council under the Act may be carried out by its Licensing Committee, a Sub-Committee, or by one or more properly authorised Officers acting in accordance with the Council's Constitution and Scheme of Delegation. A decision properly made by an Officer, in accordance with the Council's scheme of delegation, is a decision made by the Council.
- 14.4 The Council will ensure that Members and Officers having responsibility under the Licensing Act 2003 will receive appropriate training to administer and enforce the Act.
- 14.5 All Licensing records are computerised. The Council's website carries clear information about how to apply for Licences or Certificates under the Act.
- 14.6 In addition to this Policy Statement, the staff of the Environmental Health Section and in particular those of the Licensing Team, will provide clear information and guidance on all licensing matters, on request, to members of the public, applicants for licences, councillors and other interested parties.
- 14.7 It is considered that many licensing applications will not be contentious and in the interests of efficiency and effectiveness, will be determined under delegated authority by properly authorised Officers. Applications where there are relevant representations which cannot be mediated will be determined by the Licensing Committee or a sub-Committee, as will any applications for the review of a licence (as outlined previously).

14.8 Appeals in respect of a decision made by a Licensing Committee or Sub Committee about an application to grant or vary a licence will be heard by the Magistrates Court.

14.9 Personal Alcohol Licences

In addition to the statutory application requirements for Personal Alcohol Licences (see appendix 3), applicants will provide two photographs with their application. One must be suitably endorsed regarding identity. The endorser is additionally required to complete a photograph endorsement form.

14.10 Application for a Minor Variation to a premises licence/club premises certificate

The minor variation procedure provides a straightforward method by which conditions to a premises licence or club premises certificate may be added, amended or removed. Unlike a full variation it does not require a newspaper advert and the consultation period is shorter, at 10 working days.

14.11 The licensing authority, when determining the application, is able to consult any of the responsible authorities as it considers appropriate and take into account relevant representations from those responsible authorities and other persons. Its decision will be based upon whether the application could have an adverse effect on the licensing objectives.

14.12 We will always consult Sussex Police. Consultation with other bodies will depend upon the nature of the application.

14.12 This system cannot be used to increase the hours for sale of alcohol or to prolong a licence. Applicants should seek advice from the Licensing Team before submitting a Minor Variation

14.13 Licensing Committee

The Licensing Committee or a Sub Committee (known as a Liquor Licensing Panel) will determine matters in accordance with the table on page 48 of this policy. We will not appoint Councillors to determine applications for premises within their own constituency wards. This is subject to exceptional circumstances which may result in unforeseen changes to a panel.

## Table of Delegation of Licensing Functions

<b>Matters to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no 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
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of a police or Environmental Health objection to a temporary event notice		All cases	
Application made under Minor Variation Order			All cases



## 15 Contact Details / Advice and Guidance

15.1 All application forms , including guidance for advertising for the Licensing Act 2003 are available to download from the Mid Sussex DC Web site:  
[www.midsussex.gov.uk](http://www.midsussex.gov.uk) -(Click on Environment and Planning - Licensing)

### 15.2 Applications

Applications can be made in two ways

- Electronically via the Mid Sussex District Council Web site.  
Note: Applications Submitted electronically should be submitted only to the Licensing Authority.
- Submitting a paper copy to the Licensing Authority and the Responsible Authorities (details below)

### 15.3 Contact details:

Licensing Team  
Mid Sussex District Council  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

Telephone: 01444 477419

E Mail: [licensing@midsussex.gov.uk](mailto:licensing@midsussex.gov.uk)

## 16 Equal Opportunities

Promotion of Racial Equality and Elimination of other forms of Discrimination

- 16.1 The equalities Act 2010, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons based on race, gender, disability, age, sexuality (lesbian, gay, bisexual), transgender, pregnancy, religion or belief
- 16.2 The Council is committed to ensuring that it is delivering services in a non-discriminating way and that equality is at the heart of service provision throughout the Authority. The Council recognises that discrimination and exclusion can occur for many reasons including but not confined to race, language, age, gender, disability and poverty and is fully committed to overcoming such exclusion and discrimination.
- 16.3 In carrying out its duties the Council will have due regard for the need: -
- To eliminate unlawful discrimination
  - To promote equality of opportunity and good relations between people, including those in the groups protected by the Equality Act 2010 and listed in 17.1.

## 17 Review of this Policy

This licensing policy must be reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy must be subject to the consultation process again. In addition section 5(4) of the Act provides that we must keep the policy under review during each five-year period and make appropriate revision, particularly in respect of legislative changes.

The following organisations have been consulted during preparation of this policy: -

- The Chief Constable, Sussex Police.
- The Chief Officer of Police for the area.
- The West Sussex Fire and Rescue Service.
- Bodies representing premises licence holders ie The Licensed Victuallers Association and local Pubwatch.
- Bodies representing local holders of club premises certificates
- Bodies representing business and residents in the area (business organizations, Town Chambers of Trade and Commerce, all Parish and Town Councils, local Members of Parliament and Mid Sussex Councilors).
- Western Sussex Hospitals NHS Foundation Trust (for accident and emergency – Princess Royal Hospital Haywards Heath, and the Queen Victoria Hospital East Grinstead).
- British Transport Police.
- The Mid Sussex District Hackney Plate Holders Association and Private Hire Operators within Mid Sussex.
- West Sussex County Council.

To encourage other interested parties to comment upon the policy, it was highlighted within the Mid Sussex Council newsletter – Mid Sussex Matters, and on the Council's web site - [www.midsussex.gov.uk](http://www.midsussex.gov.uk). Press releases were also placed in the Mid Sussex Newspapers encouraging the general public to either access the draft policy on the Council's website or at Council Help Points. Copies of the Policy were also placed in Public Libraries.

**MID SUSSEX DISTRICT COUNCIL**

**SUPPLEMENTARY GUIDANCE PACK**

**(To be read in conjunction with the Licensing Policy)**

Appendix 1	Document 1: Glossary
Appendix 2	Document 2: Contact Details – Responsible Authorities
Appendix 3	Document 3: General Advice and Guidance
Appendix 4	Document 4: Internet Sources of Information
Appendix 5	Document 5: Advertising Applications
Appendix 6	Document 6: Prevention of crime and disorder and provision of public safety
Appendix 7	Document 7: Prevention of public nuisance
Appendix 8	Document 8: Protection of children from harm
Appendix 9	Document 9: Controlling noise from premises

## Document 1

## GLOSSARY

In this Policy the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms.

For a full definition of the terms used the reader must refer to the Licensing Act 2003.

**The Act**

The Licensing Act 2003

**Appeals**

Appeals against the decision of the Licensing Authority are to the Magistrates Courts for the area in which the licensed premises are situated. The appeal must be lodged within a period of 21 days of notification of the Licensing Authority's decision. On appeal a Magistrates Court may dismiss the appeal or substitute its own decision; remit the case to the Licensing Authority with directions; and make an order for costs.

**Authorised Persons**

Are specified people who have statutory duties in relation to the inspection of premises e.g. Licensing, Police, Fire, Health & Safety and Environmental Health Officers.

**Closure Order**

New powers are provided for the Police and the Magistrates Courts to close premises for up to 24 hours. The 2003 Act significantly extends the existing powers of the Police to obtain a Court Order for a geographical location that is experiencing or likely to experience disorder. In addition, the Police may close down instantly, individual licensed premises that are disorderly or likely to become disorderly, in the interest of public safety or to prevent a public nuisance owing to noise emanating from the premises.

**Club Premises Certificates**

A Club Premises Certificate is granted by the Licensing Authority in respect of premises occupied by a club and used for the purposes of a club. It certifies that the club may use the premises for at least one of the qualifying club activities specified in the Certificate and that the club is a qualifying club for that purpose. It is the equivalent of a Premises Licence, however where the supply of alcohol is a qualifying club activity, there is no requirement for a member of the Club or an employee to hold a Personal Licence and therefore no requirement to specify a Designated Premises Supervisor accordingly.

**Conditions**

A Premises Licence or Club Premises Certificate may be granted subject to a number of conditions, and these may be in respect of different parts of the premises and different licensable/qualifying club activities. There is no power to impose conditions on a Personal Licence. The Secretary of State Guidance provides that "the licence or certificate must be granted subject only to conditions as are consistent with the schedule accompanying the application and any mandatory conditions required by the Act itself".

**Designated Premises Supervisor (DPS)**

A person specified in a Premises Licence application as the proposed premises supervisor. A Designated Premises Supervisor must hold a Personal Licence.

- 20 -

**Guidance**

This refers to the statutory guidance issued to Licensing Authorities under Section 182 of the Licensing Act 2003 by the Department for Culture, Media and Sport (DCMS). The Guidance is provided for Licensing Authorities carrying out their functions, Magistrates hearing appeals against licensing decisions and for the benefit of operators of licensed premises, their legal advisors and the general public.

**Late Night Refreshment**

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 5.00am.

### **Licensable Activities**

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

### **Licensing Authority**

In the Act 'Licensing Authority' means, the Council of a district in England, in this case Mid Sussex District Council

### **Licensing Objectives**

The objectives of licensing set out in the Act:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- Protection of children from harm.

The Licensing Authority must carry out its functions under the Act, with the view to promoting the licensing objectives.

### **Mandatory Conditions**

Conditions that the Act requires are imposed on a Premises Licence or Club Premises Certificate in certain situations

### **Minor Variation**

Small variations that are considered not to impact adversely on the licensing objectives. The minor variation process can not be used in certain situations e.g. add the sale by retail/supply of alcohol to a licence/certificate, extend licensing hours for the sale or supply of alcohol at anytime between 23:00 and 07:00, increase the amount of time on any day during which alcohol may be sold or supplied.

### **Objection Notice**

A procedure whereby the Police can lodge objections with the Licensing Authority on an application for the grant of a Personal Licence.

### **Operating Schedule**

A document containing a statement of the following matters (and others that may be prescribed)

- Steps to be taken by the licence holder to promote the four licensing objectives;
- The licensable activities to be conducted on the premises;
- The times during which the licensable activities are to take place and any other times when premises are open to the public;
- Where the licence is required only for a limited period, that period; and
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor.

### **Personal Licence**

A licence granted to an individual that authorises that person to undertake the sale by retail of alcohol or to authorise the sale by retail of alcohol in accordance with an appropriate Premises Licence. The licence is valid for 10 years and can be renewed, although ceases to have effect when revoked, forfeited, surrendered or suspended. A Personal Licence Holder is not required where alcohol is not permitted to be sold at the premises concerned. A Personal Licence Holder is also not required for the supply of alcohol in a club that holds a Club Premises Certificate. The Police can object to the granting of a Personal Licence, but only where the applicant has a relevant offence as defined by the Licensing Act 2003.

### **Premises**

Premises means any place and includes a vehicle, vessel or moveable structure.

### **Premises Licence**

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on death, insolvency etc. of the holder. Applications are dealt with by the Local Authority Licensing and

Enforcement Committee or Sub-Committee or Officers in the area where the premises are situated. There may be more than one Premises Licence for each premises.

### **Provisional Statement**

A procedure by which a Licensing Authority can give an approval in respect of licensable activities intended to be carried on at a premises which are being or are about to be constructed.

### **Qualifying Club**

Club Premises Certificates will be issued to qualifying clubs. Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in "good faith" (this involves consideration of details such as club finances),

### **Regulated Entertainment**

This is divided into two types, 'entertainment' and 'entertainment facilities', both of which are explained below:

Entertainment:

- 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 the performance of live music, playing of recorded music or a performance of dance.

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for the purposes which include the purpose, of entertaining that audience.

#### *Entertainment Facilities*

- Provision of facilities for making music;
- Provision of facilities for dancing; and
- Entertainment of a similar description to the provision of facilities for making music or dancing.

where the entertainment facilities enable persons to take part in entertainment for the purpose, or for purposes which include the purpose, of being entertained.

### **Relevant Representations**

The Licensing Act 2003 does not use the term "objections". Instead Interested Parties and Responsible Authorities may be able to make relevant representations about an application for a Premises Licence or a Club Premises Certificate on the effect of the grant on the promotion of the licensing objectives. Where made by an Interested Party they must not be frivolous or vexatious.

The making of relevant representations engages the Licensing Authorities discretion to attach conditions as necessary to promote the licensing objectives, to exclude any of the licensable activities, to refuse to designate a DPS, or to refuse an application outright as it thinks fit to promote the licensing objectives.

### **Responsible Authorities**

Include the Police, Fire, enforcing authority for health and safety, Planning Authority, Environmental Health, bodies responsible for child protection and other specified authorities.

### **Review of Licence/Certificate**

Where a Premises Licence/Club Premises Certificate is in force, an Interested Party or Responsible Authority may apply, subject to Regulations, to the Licensing Authority for it to be Reviewed. The Licensing Authority must hold a hearing to review the licence/certificate and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the Designated

Premises Supervisor (only in the case of a Premises Licence), suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

#### **Sale by Retail of Alcohol**

Sale by retail means a sale of alcohol to any person but does not include a sale to a trader for the purposes of his trade, to a club holding a Club Premises Certificate for the purposes of the club, to a holder of a Personal Licence or Premises Licence for the purposes of making sales authorised by a Premises Licence, or to a premises user with a Temporary Event Notice for the purpose of making sales under that notice. Sales to members of the public in wholesale quantities are licensable and require a Premises Licence.

#### **Temporary Event Notice**

A Notice in a prescribed form must be served on the Licensing Authority by the individual who proposes carrying out the licensable activities and is referred to as the premises user. All sales of alcohol will be made by or under the authority of a premises user. Certain prescribed information must be supplied. The Police must consider the Notice, if they object a hearing must be arranged.

- Duration – they are limited to events lasting for up to 168 hours;
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to an overall aggregate of 21 days use; and
- The number of notices given by one individual within a given period of time – a Personal Licence Holder is limited to 50 notices in a calendar year, and any other person to 5 notices in a similar period. (If these conditions are not fulfilled, the temporary event would require a Premises Licence if it were currently unlicensed for the activity involved).

#### **Transfer**

A procedure where an application can be made to transfer a Premises Licence into a new name, e.g. if a Premises Licence Holder sells his premises an application may be made to transfer the Premises Licence to the new owner.

## Appendix 2

### Document 2

### THE RESPONSIBLE AUTHORITIES

RESPONSIBLE AUTHORITY	ADDRESS	CONTACT DETAILS
1. The Licensing Authority – Business Unit Leader Environmental Health	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:licensing@midsussex.gov.uk">licensing@midsussex.gov.uk</a>
2. Chief Officer of Police – Sussex Police	F.A.O. Licensing Officer Police Station Hurst Road Horsham RH12 2DJ	Tel: 101 x North Downs Licensing Team – Horsham Email: <a href="mailto:ws_licensing_hor@sussex.pnn.police.uk">ws_licensing_hor@sussex.pnn.police.uk</a>
3. West Sussex Fire & Rescue Service	Northern (Fire Safety) Protection Office Fire Station Hurst Road Horsham RH12 2DN	Tel: 01403 213280 Email: <a href="mailto:Protection.NorthernTeam@westsussex.gov.uk">Protection.NorthernTeam@westsussex.gov.uk</a>
4. Team Leader – Food & Safety Team	Mid Sussex District Council Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:healthandsafetyenforcement@midsussex.gov.uk">healthandsafetyenforcement@midsussex.gov.uk</a>
OR The Health & Safety Executive	OR The Council Offices Station Road East Oxted Surrey RH8 0BT	OR
5. <b>District Planner</b>	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:planninginfo@midsussex.gov.uk">planninginfo@midsussex.gov.uk</a>
6. Team Leader - Environmental Protection Team	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:envhealth@midsussex.gov.uk">envhealth@midsussex.gov.uk</a>
7. Trading Standards	WSCC Trading Standards Service 4th Floor, County Hall North Chart Way Horsham RH12 1XH	Tel: 01243 642124 Email: <a href="mailto:trading_standards@westsussex.gov.uk">trading_standards@westsussex.gov.uk</a>
8. The Director of Social & Caring Services	Child Protection ~ WSCC Children’s Access Point 4th Floor, County Hall North Chart Way Horsham RH12 1XH	Tel : 01403 229900 Email: <a href="mailto:socialcare@westsussex.gov.uk">socialcare@westsussex.gov.uk</a>
9. West Sussex Public Health	The Director of Public Health Public Health Licensing West Sussex County Council 1 <sup>st</sup> Floor The Grange County Hall Campus Chichester PO19 1QT	Tel: 0330 22 28683 Email: <a href="mailto:PublicHealth.Licensing@westsussex.gov.uk">PublicHealth.Licensing@westsussex.gov.uk</a>



### Document 3

#### GENERAL ADVICE

1. The following is general advice for applicants. It is not comprehensive. In cases of doubt please contact the Licensing Team or seek independent legal advice.
2. Applications for Premises Licences and Club Premises Certificates  
Applications must be accompanied by various documents and fees. For example, an application for a Premises Licence or Club premises certificate must be accompanied by: -
  1. The required fee;
  2. An operating schedule;
  3. A plan of the premises;
  4. And if the application involves the supply of alcohol, consent form in relation to the designated premises supervisor.

If any application is not accompanied by the specified accompanying documents and fees, it will be the Council's policy to return it to the applicant as an incomplete application. Such applications will not be considered until all necessary support documentation is received.

Copies of an application for the grant or variation of a Premises Licence or Club Premises Certificate (other than a Minor variation) must be forwarded to the Responsible Authorities at the same time as service on the Licensing Authority. The exception to this is an application submitted by way of an online form. In these cases the Licensing Authority will forward copies to the Responsible Authorities.

### 3 The Operating Schedule

This forms part of the completed application for a premises licence. An operating schedule should include information that is necessary to enable any responsible authority or other person to assess whether the steps to be taken to promote licensing objectives are satisfactory. For example, it should include a description of the style and character of the business to be conducted on the premises (e.g. a supermarket, or a cinema with six screens and a bar, or a restaurant, or a public house with two bars, a dining area and a garden open to customers).

It should also indicate the type of activities available on the premises, whether licensable under the 2003 Act or not.

If music is to be provided, it is important that clear indication is given of the type of music to be provided.

Information in this section is essential so that responsible authorities and other persons can form a proper view as to what measures may be necessary to ensure public safety and prevent public nuisance. An operating schedule must also set out the following details: -

- a. The relevant licensable activities to be conducted on the premises;
- b. The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular

seasons, if it is likely that the times would be different during different parts of the year);

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

#### 4 Capacities in premises.

The Licensing Authority will not, as a matter of course specify capacity numbers on premises licences or club premises certificates. The exception to this will only be after relevant representations from the Fire Authority or other Authority qualified to give advice on this subject.

It is the legal responsibility of the nominated person at the premises to assess safe capacities in accordance with the Regulatory Reform (Fire Safety Order) 2005.

#### 5 Fire safety

Venue operators will be expected to comply with any existing Fire Safety requirement relevant to the building and to seek the advice of the Fire Authority where such fire safety advice does not extend to all/any licensable activity. Licensing Conditions, that duplicate requirements, under the Regulatory Reform (Fire Safety Order) 2005 will not be attached to premises Licences or Club Premises Certificates.

#### 6 Copyright and Royalties

Venue proprietors are reminded of the necessity to obtain appropriate Performing Right Society Licences and Phonographic Performances Ltd. Licences and to observe other copyright arrangements.

#### 7 Door Supervisors

Where a condition is included in a premises licence requiring the provision of Door Supervisors, or Door Supervisors are provided, such persons must be licensed by the Security Industry Authority.

#### 8 Personal Licences (see also LA2003 Section 111 onwards)

In the case of new applicants for Personal Licences under Part 6 of the Licensing Act 2003, the applicant must:

- Be aged 18 years or older.

- Possess a licensing qualification accredited by the Secretary of State.
- Not have had forfeited a personal licence within 5 years of his or her application and
- The police have not given notice of objection following notification of any unspent relevant offence or foreign offence or
- The police have given an objection notice because of a conviction for an unspent relevant offence or a foreign offence but the Licensing Authority has not considered it necessary to reject the application on crime prevention grounds and
- The applicant has paid the appropriate fee to the Licensing Authority.

In addition, such applicants will be required to produce a Disclosure and Barring Service Certificate to the Licensing Authority to substantiate whether or not the applicant has a conviction for an unspent relevant offence. This Certificate must be dated within 30 days of the date of the licence application.

Applicants will also be expected to make a clear, written statement declaring whether or not they have been convicted of a foreign offence. This applies to both applicants originally resident in England and Wales as it does to any person from a foreign jurisdiction. 'Relevant Offence' for the purpose of the foregoing requirements is as defined in the Licensing Act 2003.

Applicants will provide two photographs with their application. One must be suitably endorsed regarding identity. The endorser is required to complete a photograph endorsement form.

## 9 Variation of Existing Premises Licence and Club Premises Certificate

There are two ways in which a Premises Licence or a Club Premises Certificate can be varied.

1. The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 allows on application the variation of a licence described above through a shorter process than a full variation.

The process involves an application form and fee to the Licensing Authority. The Licensing Authority decide which of the Responsible Authorities they will forward copies of the application to. This Authority will always send a copy to Sussex Police

There is a 10 working day consultation period during which the application must be advertised at the premises. The matter must be determined within 5 working days of the end of the consultation period by the Licensing Officer. If no decision is made the application is NOT granted. There is no Licensing Committee Hearing and no right of appeal against the decision.

This procedure cannot be used as follows:

- a. Extend the period for which the licence has effect
- b. Vary substantially the premises to which it relates

- c. Specify an individual as Designated Premises Supervisor
- d. Add the supply of alcohol as an activity authorised by the licence
- e. Authorise – 1. the supply of alcohol at any time between 2300 and 0700 or an increase in the amount of time on any day during which alcohol may be sold by retail or supplied or
- f. Include the alternative licence condition in Section 41D (3) Licensing Act 2003 (disapply Mandatory Condition for DPS)

2. All other applications for variation must be via the full variation system, which involves a 28 day consultation period, advertising in a local newspaper and copies of the application to all Responsible Authorities.

## 10 Major Events

Attracting thousands rather than hundreds of people may pose a risk to public safety and crime and disorder as well as public nuisance.

Organisers of such large scale events must give early notification to the Licensing Authority in order that responsible authorities and statutory agencies may discuss 'operating schedules' with the organisers well before a formal application is submitted.

Many large scale events will give rise to special consideration in respect of public safety. 'Operating schedules' should, therefore, reflect an awareness of these matters.

11 Applicants are encouraged to seek advice from the Licensing Team before submitting an application. Potential problems may be resolved before embarking upon a course of action that could prove to be expensive and time consuming for want of an informal discussion.

12 Where the Licensing Authority considers that action is necessary under its statutory powers it may take any of the following steps:

- f. To modify the conditions of the licence ... which includes adding new conditions or altering existing ones.
- g. To exclude a licensable activity from the scope of the licence eg exclude the performance of live music or recorded music.
- h. To remove the designated premises supervisor
- i. To suspend the licence for the period not exceeding three months.
- j. To revoke the licence.

Further details about reviews including the relevant forms can be found at DCMS website, [details in Appendix.](#)

**DOCUMENT 4**

**INTERNET SOURCES OF INFORMATION ON THE LICENSING ACT 2003**

- (a) The Licensing Act 2003 and associated Guidance may be viewed at [www.gov.uk/alcohol-licensing](http://www.gov.uk/alcohol-licensing)
- (b) Regulations made under the Licensing Act 2003 may be viewed at [www.gov.uk/alcohol-licensing](http://www.gov.uk/alcohol-licensing)
- (c) Mid Sussex Council's Licensing Policy may be viewed at [www.midsussex.gov.uk](http://www.midsussex.gov.uk) -(Click on Environment and Planning - Licensing)
- (d) Mid Sussex Council Licensing Pages including Application Forms , Guidance for Advertising applications and addresses for the Responsible Authorities may be viewed at [www.midsussex.gov.uk](http://www.midsussex.gov.uk) -(Click on Environment and Planning - Licensing)
- (e) Information about representations and seeking a review can be found at [www.gov.uk/alcohol-licensing](http://www.gov.uk/alcohol-licensing) (click on Alcohol and Entertainment)
- (f) Information about Mandatory conditions, Minor Variation orders, Community Premises with no DPS can be found at [www.gov.uk/alcohol-licensing](http://www.gov.uk/alcohol-licensing)
- (g) Mid Sussex Council's Sex Entertainment Venue Policy may be viewed at [www.midsussex.gov.uk](http://www.midsussex.gov.uk) -(Click on Environment and Planning - Licensing)
- (h) Mid Sussex Council's Environmental Health Enforcement Concordat can be viewed at [www.midsussex.gov.uk](http://www.midsussex.gov.uk) (Click on Environment and Planning – Environmental Health).

### **Advertising Applications**

If you are applying for a new Premises Licence, a new Club Premises Certificate or to vary an existing Premises Licence/Club Premises Certificate the application must be advertised.

If a Premises is proposed to be built, is under construction, or being extended/altered for use for licensable activities then you will need to apply for a Provisional Statement, this type of application must also be advertised.

The application has to be advertised in the following ways:-

1. A Notice shall be displayed prominently at or on the premises to which the application relates where it can be conveniently read from the **exterior** of the premises for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant authority.
2. The notice must be placed so that it can be read without having to enter your property ie, without having to cross car parks, patio areas or other such areas between the public footway and your building. In these cases a notice should be displayed on the building AND on a perimeter fence, post, wall abutting the street/highway.
3. The notice shall be of a size equal or larger than A4 on a pale blue colour and printed legibly in black ink in a font size equal or larger than 16.
4. A Notice should be advertised in a local newspaper within 10 working days of the day after the day the application is given to the relevant authority.
5. Please contact the Licensing Team (01444 477419) before completing your advert to ensure the correct date is inserted or if you have any other query about the advertising process.
6. If the advert is incorrectly worded or sited you will have to re advertise. This will cost you extra money and the consultation time will have to restart.

7. You may want to consider sending a copy of the notice you intend to display, with your application.

To help you advertise your application the template below can be used.

**THIS NOTICE MUST BE IN FONT 16 OR LARGER  
AND PRINTED ON PALE BLUE PAPER**

**PUBLIC NOTICE**

**Licensing Application  
Licensing Act 2003**

An application has been made by (*insert name person(s), club or brewery*) to the Licensing Authority for the Mid Sussex District for the grant of a new/variation (*delete as applicable*) of a Premises Licence/Club Premises Certificate (*delete as applicable*) for (*insert name and full address of premises*).

The application includes proposals for the following licensable activities (***include relevant hours***) (*delete and amend as applicable*)

- i) sell alcohol by retail;
- ii) provide regulated entertainment (*specify the licensable activities*)
- iii) provide late night refreshment

The application may be viewed at the Main Reception, Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS. from 8:45am until 5:15pm Monday to Thursday and 8:45am to 4:15pm on Friday. Or alternatively on [www. midsussex.gov.uk](http://www.midsussex.gov.uk) search fro Licensing Applications received.

Responsible Authorities or any other persons may make representation on or before (*insert expiry date for representation(s)*).

All representations shall be made in writing to The Licensing Officer at Mid Sussex District Council.

**It is an offence knowingly or recklessly to make a false statement in connection with an application, the maximum fine for which a person is liable is £5,000, on summary conviction for the offence.**



DOCUMENT 6

**GUIDANCE ON THE PREVENTION OF CRIME AND DISORDER  
AND THE PROVISION OF PUBLIC SAFETY**

The below list will be seen as appropriate measures in support of the statutory crime prevention and public safety objectives as defined within the Act. The list should not be considered complete or exclusive and is only provided as guidance

**Public Safety Measures / Crime Prevention**

- Use of CCTV.
- Use of door supervisors who are properly trained and licensed by the Security Industry Authority.
- Search facilities and existence of a prevention of drugs policy.
- Provision of free and accessible drinking water.
- Use of non-breakable glasses.
- Measures to ensure frequent collection of used drinking vessels from public areas.
- Measures to prevent bottles and glasses being removed from the venue.
- Measures to prevent 'spiking' of drinks.
- Measures to ensure discounted drink prices or 'happy hours' are either not featured or abused.
- Membership of 'pub watch' or similar scheme.
- Membership of 'pass' age accreditation scheme or similar.
- Provision of appropriate staffing within venue.
- Staff training measures.
- Working with public transport providers to ensure efficient dispersal of customers from the venue.
- Appropriate customer dispersal policy.

## **DOCUMENT 7**

### **GUIDANCE ON THE PREVENTION OF PUBLIC NUISANCE**

The below list will be seen as appropriate measures in support of the public nuisance objective as defined within the Act. The list should not be considered complete or exclusive and is only provided as guidance.

- Statement within operating schedules as to terminal licensing hour during which time alcohol may be purchased and a further statement outlining until what time patrons will be allowed to remain on premises.
- Provision of CCTV inside and immediately outside of the venue.
- Provision of lighting and litterbins in and around venue (after consultation with Planning Authorities.)
- Provision of licensed door supervisors.
- Notices inside venue, clearly visible and adjacent to exits, advising that patrons are in a residential area (if appropriate) and requesting that noise be kept down.
- Fitment of a sound limitation device in respect of amplified entertainment and set, where appropriate, in accord with a professionally qualified sound consultant's recommendation.
- Fitment of an air conditioning system.
- Policy to require all windows and doors to be kept closed during periods of public entertainment.
- Policy of selling only soft drinks in the half hour preceding terminal hour.
- Provision of 'calming' or less energetic music in the period prior to the terminal hour.
- Policy to avoid 'binge drinking'.
- Measures to ensure discounted drink prices or 'happy hours' are either not featured or abused.
- Provision of private public transport for patrons at times when public transport is either not available or has ceased to operate.
- Membership of pub watch or similar scheme.
- Appropriate customer dispersal policy.



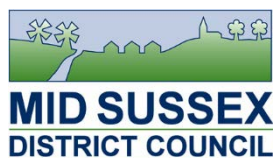
**DOCUMENT 8**

GUIDANCE ON THE PROTECTION OF CHILDREN FROM HARM

The below list will be seen as appropriate measures in support of the protection of children from harm objective as defined within the Act. This list should not be considered complete or exclusive and is only provided as guidance.

- Adoption of any measures recommended by West Sussex Social and Caring Services.
- Existence of age exclusion policy when 'adult entertainment' is taking place.
- Membership of 'pass' or other age accreditation scheme.
- Membership of 'pub watch' or similar scheme.
- Appropriate provision of trained staff.
- Provision of CCTV.
- In premises where the consumption of alcohol is the exclusive or primary activity – the provision of facilities for accompanied children under 16 years set aside from the area where alcohol consumption is the primary activity.
- Situation of gaming machines or like devices in such a position to prevent abuse by children.

**DOCUMENT 9**



**Mid Sussex District Council  
Environmental Health Section  
Oaklands, Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS**

**GUIDANCE ON CONTROLLING NOISE FROM PREMISES SUCH AS PUBS, CLUBS,  
VILLAGE HALLS AND OTHER COMMUNITY BUILDINGS, AND OUTDOOR EVENT  
VENUES.**

**Introduction**

The Mid Sussex Council frequently receives complaints from residents about noise from premises, especially during the warmer weather. The Council has a statutory duty to investigate such complaints and to take action if the noise is considered to be a statutory noise nuisance. Such investigations can be very lengthy and may result in unwelcome restrictions on activities and entertainments, requirements for works to reduce noise and ultimately large fines being imposed upon the persons responsible. Therefore we believe that there are advantages to all concerned for noise problems to be resolved informally, or preferably avoided altogether.

The purpose of this leaflet is to give practical guidance to the people in control of premises on how to control noise from a wide range of potential sources and thus help them to avoid causing noise disturbance to their neighbours.

The leaflet covers matters such as: -

- Legal responsibilities of people in control of premises, such as managers and licensees.
- Common sources of noise and practical tips for controlling them (including amplified music, dispersal of patrons, deliveries of stock, beer gardens and children's play areas, cleaning and bottling out, fireworks, ventilation plant).
- Finding specialist consultants.
- How to contact the Council for further advice.

**Legal Responsibilities**

In addition to licensing controls, the Council has a duty under the Environmental Protection Act 1990 to investigate noise complaints concerning all types of premises and if a noise nuisance is found to exist the Council must require the person responsible, by Notice, to take

steps to ensure that the nuisance is abated. Failure to comply with the Notice is an offence punishable by a fine of up to £20,000 in the Magistrates Court.

Legally persons responsible for any noise nuisance or breach of entertainment licence conditions are most likely to be breweries, owners, tenants, managers, licensees, disc jockeys, club officials and performers.

A licensee convicted of breaches of the above mentioned legislation also risks revocation of their licence.

Where a complaint of noise is received regarding a premises, the matter will be brought to the attention of those responsible for the management of the premises and discussions will take place. At this stage, if the problem is resolved, there will be no need for further investigations. However, if the complaint continues and evidence is gathered which substantiates the complaint, formal action will be taken.

## **Noise Sources At Licensed Premises and Practical Tips For Controlling Them**

### Amplified music and entertainment

Even relatively modern purpose built premises have often not been designed and constructed so as to prevent problems arising due to the “breakout” of noise caused by the use of amplified music, public address systems and video juke-boxes etc.

Very often the noise from entertainment gives rise to disturbance due to low frequency bass notes that can easily pass through structures. Control of noise by simply reducing the volume can be effective, however if the noise is structure-borne this can be complex and expensive.

Many complaints about this type of noise occur in the summer months when windows & doors are left open for ventilation and people use their gardens more. To try & predict whether a particular type of entertainment noise is likely to give rise to noise nuisance, the noise levels are best judged at the boundary of neighbouring houses, or other noise sensitive positions, as opposed to within the entertainment venue itself. Another factor to bear in mind is that the more often noisy events occur and the later they finish, the more likely they are to give rise to complaints.

Tips to control entertainment noise:

1. Contact a specialist consultancy (see acoustic engineers/acoustic consultants/noise and vibration consultants in Yellow Pages/Thompson Local/Internet and arrange for a survey and the installation of a sound insulation scheme for the premises, to insulate the premises against the transmission of impact/airborne noise. Measures may include acoustic double/secondary glazed windows, with an air gap of at least 100 mm between glazed panels; sound insulation within ceiling voids to eliminate noise breakout through ceiling and roofs.
2. Install an acoustic lobby to the entrance of the entertainment room and ensure doors are closed at all times to ensure effective insulation.
3. Whenever possible avoid holding musical entertainment in rooms with windows and/or doors facing out onto nearby residential property.
4. Acoustic door seals should be fitted to doors to minimise sound escape from premises.

5. Windows should be kept closed at all times. If the windows are openable, they should be closed whilst music is played. Doors should be kept closed as much as possible. They should be close fitting and constructed from dense, heavy materials.
6. Mechanical ventilation systems should be fitted to ensure that sufficient ventilation exists without opening windows and doors. All ventilation outlets should be fitted with acoustic baffles.
7. Control of entertainment sound levels should be under the direct control of the person responsible for the management of the premises and should never be left to the entertainers or disc jockey.
8. Later in the evening the background noise level in most areas reduces. Consequently, noise from premises that remain open at night becomes far more obvious and potentially annoying to residents.
9. A sound limiting/cut out device should be installed and the maximum sound level agreed and approved by the Council's Environmental Protection Team.
10. Exit doors/fire doors can be connected to a sound limiting/cut out device, so that if a door is opened during a performance, the device is activated and the music will instantly either stop or be reduced in volume. Obviously, doors must still be available for use as fire exits and must not be locked.
11. Structures such as conservatories, which offer very little resistance to noise, should never be used for the playing of music if the premises are located in a residential area.
12. A very effective way of controlling noise from premises providing entertainment, whether it be public or private (such as a wedding or birthday party at a village hall), is for there to be a responsible person present, who can ensure that DJs and/or musicians do not play music at an unreasonable volume. Generally this responsibility will fall to the licensee however, in the case of village halls and other community premises, which are often managed by a committee made up of volunteers, it may be necessary for the committee to arrange for such a person to be present. It is also good practice for another responsible person to "patrol" the boundary of the site from time to time, to ensure that noise escaping from the premises is not excessive. However, this person should not come from within the premises, as loud music will have caused a "temporary threshold shift" and dulled their hearing, making it difficult for them to make a realistic assessment of the impact of the noise. In some cases it can also be helpful if the occupiers of adjacent potentially noise sensitive properties are given the contact name and telephone number of this person, in order that they can report any problems as they occur and hopefully have them resolved immediately.

### Patrons

The responsibility for the behaviour of noisy patrons must rest with the person responsible for the management of the premises, who should take all reasonable steps to ensure that they do not cause noise nuisance whilst on the premises or disturbance whilst dispersing from the premises. Another common cause of disturbance is taxis picking up people after the event has finished and cars screeching, sounding horns etc.

### **Tips to control noise from patrons:**

1. Provide notices in conspicuous positions requesting the co-operation of patrons particularly when leaving the premises.
2. Employ experienced and trained door stewards to restrict entry at certain times and to control noisy patrons.
3. A reliable transport provider should be used for collecting customers, ensuring that the operators are aware that there should be no sounding of horns etc. that may disturb nearby residents.
4. For some types of event and venue it may be worth considering selling tickets that include the price of patrons being conveyed to and from the venue by private coach. If managed well this can result in patrons leaving the premises much more promptly and quietly.

### Deliveries

Noise disturbance can occur if stock deliveries are made at unsociable hours i.e. late at night or early in the morning.

#### Tips to control noise from deliveries:

1. Ensure deliveries are not made late at night or early in the morning.
2. When loading or unloading takes place consideration should be given to working methods, which minimise noise.

### Beer Gardens and Children's Play Areas

Premises that have beer gardens and children's play areas may cause noise nuisance if residential premises are nearby. This problem will be exacerbated in the summer months.

#### **Tips to control noise from beer gardens and children's play areas:**

1. Music should not be played in these areas. Doors leading onto the beer garden/play area should be kept closed, in order to contain the noise.
2. Management should control customers behaviour in order to ensure it does not give rise to noise nuisance.
3. Access to these areas should be restricted, particularly at night, to ensure noise is controlled.
4. Place play equipment and plant such as air blowers for bouncy castles, away from any residential boundaries.

### Cleaning and Bottling Out

Cleaning and bottling out especially, after the premises has closed, has the potential for causing noise nuisance. Staff emptying bottles into bins or moving bins to collection points can create considerable noise. If this is occurring after closing time or in the early hours of the morning; it will, if residential premises are nearby, cause noise nuisance.



Tips for controlling noise from cleaning and bottling out:

1. Refuse storage areas should be sited away from residential properties.
2. Cleaning and bottling out should not occur late at night or early in the morning; it should be carried out during the normal working day.
3. Provide a smooth pathway between the pub and store area.

### Plant & Equipment

Noise from the operation of chiller units, extract ventilation systems and air conditioning systems can give rise to complaints of nuisance, particularly late at night. When buying or installing such plant and equipment consideration should always be given to the level of noise it is likely to produce. In some cases it may be necessary to obtain Planning Permission and/or Building Regulations approval prior to the installation of such plant and you should always seek advice on this from the Council's Development Control & Building Control Divisions.

Tips for controlling noise from plant & equipment:

1. Install, operate and maintain equipment in accordance with the manufacturer's instructions.
2. Where possible locate equipment and exhaust outlets away from (or screened from) dwellings.
3. Always obtain specialist advice when planning to install plant and equipment regarding the level of noise it is likely to generate and where appropriate ensure that properly designed acoustic silencers, screens and/or enclosures are used.

### Communication Can Be The Key To Good Relations With Your Neighbours And The Council

Whatever entertainment you currently provide or are planning for your premises, you would be well advised to consider it from your neighbour's perspective. By thinking carefully about how entertainment held at your premises may impact upon your neighbours, by identifying elements of the entertainment that will need particularly careful management and then by discussing your plans with your neighbours, you are more likely to avoid causing a nuisance.

Contacting The Council For Further Advice

For further information concerning the legal & technical aspects of preventing statutory noise nuisance please contact:-

Mid Sussex District Council  
Environmental Health Section  
**Environmental Protection Team**  
Oaklands  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

Telephone: 01444 477292

e-mail: [envhealth@midussex.gov.uk](mailto:envhealth@midussex.gov.uk)

For further information concerning the legal requirements for public entertainment licensing please contact:-

#### Contacting Specialist Consultants

You should be able to obtain details of acoustic consultants specialising in sound surveys and noise attenuation schemes for licensed premises, by looking under acoustic engineers/acoustic consultants/noise and vibration consultants in your local Yellow Pages/Thompson Local directory. Alternatively, the following organisations may be able to provide you with consultant's details:-

The Institute of Acoustics  
77A St. Peters Street  
St. Albans  
Hertfordshire  
AL1 3BN

Telephone: 01727 848195  
or via e-mail at [www.ioa.org.uk](http://www.ioa.org.uk)

The Chartered Institute of Environmental Health  
Chadwick Court  
15 Hatfields  
London  
SE1 8DJ

Tel. 02079286006  
or via e-mail at [www.cieh.org](http://www.cieh.org)

## 8. AMENDMENT TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING CONVICTIONS POLICY

REPORT OF: Tom Clark, Head of Regulatory Services.  
Contact Officer: Jon Bryant, Hackney Carriage & Private Hire Licensing Officer  
Email: [jon.bryant@midsussex.gov.uk](mailto:jon.bryant@midsussex.gov.uk) Tel: 01444 477076  
Wards Affected: All  
Key Decision No  
Report to Scrutiny Committee for Community, Housing and Planning  
27 June 2018

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### Purpose of Report

- 1 To seek the Committee's endorsement of changes to the Hackney Carriage and Private Hire Licensing Policy as detailed in Appendix 1 before it goes out to public consultation in July 2018. It is proposed that following consultation, if there are significant amendments required it will be reviewed by this Committee in November before it is formally adopted by Council in December 2018.

### Recommendations

- 2 **The Committee is recommended to endorse the changes to the Hackney Carriage and Private Hire Licensing Convictions Policy at Appendix 1 before it is issued for public consultation.**
- 

### Background

- 3 The Council adopted the existing Hackney Carriage and Private Hire Licensing Policy in 2011. The Policy states that it will be reviewed every five years. It was re adopted in 2017 following a review and consultation process.
- 4 The purpose of the Policy is to set out the terms and conditions that will apply to those seeking licences for the Hackney Carriage or Private hire trade, so as to protect the public and help ensure they receive a good service. The policy brings together all of the various different strands of the Council's existing conditions and practices.
- 5 Due to recent changes including recommendations from the Local Government Association regarding convictions policy, and a national consultation regarding Convictions Policies, this section of the Policy requires updating. In addition, the Licensing Section has seen an increase in certain types of offences appearing on applications that are not dealt with specifically in the current policy.
- 6 The Licensing Team has taken the opportunity to reword and update all sections of the convictions policy to provide clarity and consistency for all users. Appendix 1 to this report contains the full wording.

- 7 The main changes to the policy are:
- The new policy provides better guidelines for officers and committee members when making decisions
  - The policy includes a wider range of specified offences and how they will be treated.
  - It extends the relevant period of time that applicants are expected to remain conviction free for.
  - It clarifies that the policy will apply to existing drivers in addition to new applicants although it will not be applied retrospectively to those already licensed.
  - It confirms that the Licensing Authority will only depart from the policy in exceptional circumstances
  - It clarifies, for the benefit of applicants and decision-makers, that the Licensing Authority will deal with Cautions and other Sanctions in a similar way to convictions
  - It confirms that the Licensing Authority makes its decisions on a balance of probability and that consequently, information concerning offences that did not lead to prosecution may still render the applicant as not fit and proper
  - Members should also note that although the policy sets out the minimum requirements before an application will be considered. This does not mean that an applicant will automatically be suitable once the applicable period has elapsed. It merely confirms that their application will be considered and still refused if the Licensing Authority is not satisfied that they are fit and proper to hold a licence.
7. The amendments contained in Appendix 1 will be published for an 8 week consultation period in July 2018. The list of consultees include the following:
- Local Authorities that border Mid Sussex District Council
  - West Sussex County Council
  - Elected Members of the Council
  - The hackney carriage and private hire trade licensed by the Council
  - Parish and Town Councils
  - Sussex Police
  - The Members of Parliament for the District
  - Social Services Child Protection Office
  - Local Bus and Rail operators
  - Organisations representing local businesses
  - Members of the public via the Council's web site, the local libraries and help points
  - Age UK
  - Women's Institute
  - Fawcett Society
  - Local disability groups

## Policy Context

- 8 The Licensing Policy is produced pursuant to powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 as amended, which places a duty on the Council to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

### **Financial Implications**

- 9 None

### **Risk Management Implications**

- 10 In accordance with the Council's Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. It is suggested that the main risk is that if the Council fails to revise the Licensing Policy it may be open to legal challenge.

### **Equality and customer service implications**

- 11 An equality impact assessment was carried out in the development of this policy and did not identify any negative impacts for customers and those protected by equalities legislation. The policy is intended to protect the public, including those who are vulnerable owing to their age or disability, and through our consultation with a range of stakeholders, including the police, we will seek to ensure we have got the balance right in this respect. Details of stakeholders with whom we will consult are included in the draft policy.

### **Background papers**

- 12 None

## Draft Convictions Policy

### 1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the licensing authority when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person
  - That the person does not pose a threat to the public
  - That the public are safeguarded from dishonest person
  - The safeguarding of children and young persons
- 1.3 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licences
  - Existing licensed drivers whose licences are being reviewed or renewed
  - Licensing Officers
  - Members of the licensing sub-committee ('sub-committee')
  - Magistrates and Judges hearing appeals against the licensing authorities decisions
- 1.4 Where Officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing sub-committee. Whilst officers and the sub-committee will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the sub-committee may depart from the guidelines.**
- 1.5 For renewal applications and current licence holders the guidance will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the licensing authority that would call into question a person's suitability to hold a licence.
- 1.6 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:
- 'Would you (as a member of the licensing committee or other person charged with the ability to a grant a hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get in to a vehicle with this person alone?'
- If the answer to this question (or a similar test) is an unqualified 'Yes' then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage or private hire driver's licence.
- 1.7 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the licensing authority will take into consideration the following factors:

- Criminality
- Number of endorsed DVSA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the licensing authority will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Immigration Service, Social Services other licensing authorities, other departments within the Council, and other statutory agencies.

- 1.8 As licensed drivers often carry unaccompanied and vulnerable passengers, the licensing authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.
- 1.9 The licensing authority reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.
- 1.10 In this policy, the word "applicant" refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the council as part of the policy implementation process. It also includes existing licence holders who are being considered by the licensing authority by virtue of offending activity having recently come to light.
- 1.11 In this policy, the word "conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

## **2. General Policy**

- 2.1 Whilst the committee may consider that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, it would normally be expected that the applicant would be required to:
- Remain free of conviction for an appropriate period as detailed below; and
  - Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
- (Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).
- 2.2 The standards and criteria set out below are those that would normally be applied to applications and licences. Each case will be considered on its own merits, and the licensing authority may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant of licence holder will not ordinarily be considered as exceptional circumstances.

2.3 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

2.4 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

### **3 Pre-requisites to making an application**

3.1 It is the policy of the licensing authority that every application for a licence to drive a Hackney Carriage and/or Private Hire Vehicle must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed) -

- That the applicant has the right to live and work in the country
- An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list
- A certificate of their current medical fitness [to Group 2 standard]
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive together with a check of any current driving endorsements held by the driver
- That the applicant has successfully completed of an advanced driving assessment (DSA Test)
- That the applicant has provided two personal references
- That the applicant has passed a local knowledge test
- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for
- (For persons who seek to be authorised to drive a wheelchair accessible vehicle) that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their chair.

3.2 If an applicant has spent six continuous months or more overseas in the past 5 years the licensing authority would expect to see evidence of a criminal record check from the country/countries covering the period before a licence application can be made.

### **4. Appeals**

4.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.



## 5. Powers

- 5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 5.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence

## 6. Consideration of disclosed criminal history

- 6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:
- How relevant the offence(s) are to the licence being applied for
  - How serious the offence(s) were
  - When the offence(s) were committed
  - The date of conviction
  - Circumstances of the individual concerned
  - Sentence imposed by the court
  - The applicant's age at the time of conviction.
  - Whether they form part of a pattern of offending
  - Any other character check considered reasonable (e.g. personal references)
  - Any other factors that might be relevant for example:
    - The previous conduct of an existing or former licence holder,
    - Whether the applicant has intentionally misled the council or lied as part of the application process,
    - Information provided by other agencies/council departments
- 6.2 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.

- 6.3 Existing holders of driver's licences are required to notify the licensing authority in writing within seven working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within seven working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 6.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 6.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.
- 6.6 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.7 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.
- 6.8 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer in confidence for advice.
- 7.0 **Options when determining an application/licence**
- 7.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the licensing authority have the following options:
- grant the licence or take no further action
  - grant the licence with additional conditions
  - refuse, revoke, or suspend the licence
  - issue a warning
- 7.2 If a current licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.
- 8.0 **Serious offences involving violence**
- 8.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 8.2 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder

- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.3 A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault
- Violent disorder
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Affray
- Any offence that may be categorised as domestic violence
- Any offence that may be categorised as stalking
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.4 A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

8.5 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

#### 9.0 **Offences involving a weapon**

9.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

9.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 7 years (or at least 7 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

#### 10.0 **Sexual and indecency offences**

10.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the licensing authority will take a strong line in relation to applicants or existing licence holders with

convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused a licence.

10.2 An application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Indecent exposure
- Soliciting (kerb crawling)
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10.3 In addition to the above the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

#### 11.0 **Dishonesty**

11.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

11.2 In general, a minimum period of 7 years free of conviction or at least 7 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- and any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 11.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.
- 11.4 Applicants or existing licence holders that are found to have intentionally misled the licensing authority, or lied as part of the application or renewal process, will not be issued with a licence.
12. **Drugs**
- 12.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.
- 12.2 A licence will not normally be granted where the applicant has an isolated conviction for an offence related to the supply of drugs and has not been free of conviction for 10 years.
- 12.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 12.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 12.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.
- 12.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.
- 13.0 **Driving offences involving the loss of life**
- 13.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Causing death by dangerous driving
  - Causing death by careless driving whilst under the influence of drink or drugs
  - Causing death by driving: unlicensed, disqualified or uninsured drivers
  - or any similar offences
- 14.0 **Drink driving/driving under the influence of drugs/using a mobile phone whilst driving**
- 14.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least 5 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. If

an applicant has more than one conviction for driving or being in charge of a vehicle while under the influence of drink or drugs the application should normally be refused.

14.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

14.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

14.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

#### 15.0 **Other Motoring Offences**

15.1 There are many motoring offences which attract penalty points and fines. Some of these are not necessarily a bar from an applicant being granted a licence or an existing driver retaining a licence.

15.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 5 years.

15.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

15.4 In this policy, the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

15.5 In "totting up" cases where disqualification is considered by the Court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the licensing authority is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

## 16. **Licensing Offences**

- 16.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 5 years has passed since .
- 16.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

## 17 **Insurance offences**

- 17.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.
- 17.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.
- 17.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.
- 17.4 Where a specific offence is not mentioned, a suitable period will be determined by reference to offences described. The licensing authority reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

## 18.0 **Outstanding charges or summonses**

- 18.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 18.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

## 19.0 **Non-conviction information**

- 19.1 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.
- 19.2 The licensing authority will take into account intelligence it receives which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In

considering the most appropriate action to take following the receipt of information), the credibility of both the witness / complainant and the licence holder will be taken into account.

19.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.

## 20.0 **Once a licence has been granted**

20.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

20.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

20.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

## 21 **Licences issued by other licensing authorities**

21.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

21.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## 22 **Summary**

22.1 To summarise, a criminal history in itself will not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

22.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

22.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.



## 9. SCRUTINY COMMITTEE FOR COMMUNITY, HOUSING AND PLANNING WORK PROGRAMME 2018/19

REPORT OF: Tom Clark, Head of Regulatory Services  
Contact Officer: Hamish Evans, Member Services Officer  
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Wards Affected: All  
Key Decision: No

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### Purpose of Report

1. For the Scrutiny Committee for Community, Housing and Planning to note its Work Programme for 2018/19.

### Summary

2. Members are asked to note the attached Work Programme. The Work Programme will be reviewed as the final piece of business at each meeting, enabling additional business to be agreed as required.

### Recommendations

3. **The Committee are recommended to note the Committee's Work Programme as set out at paragraph 5 of this report.**
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### Background

4. It is usual for Committees to agree their Work Programme at the first meeting of a new Council year and review it at each subsequent meeting to allow for the scrutiny of emerging issues during the year.

### The Work Programme

5. The Committee's Work Programme for 2018/19 is set out below:

Meeting date	Item	Reason for Inclusion
4 July 2018	Developer Contributions SPD.	District Plan Supporting Document.
4 July 2018	Conservation Area Appraisals.	The report outlines an ongoing programme for the development of appraisals for other Conservation Areas in the District.
4 July 2018	Gambling Act Policy.	To seek the Committee's views on the content of the Draft 'Gambling Act 2005 (Statement of Licensing Policy) 2018' before it goes out to public consultation in July 2018.

**Policy Context**

6. The Work Programme should ideally reflect the key priorities of the Council, as defined in the Corporate Plan and Budget.

**Financial Implications**

7. None.

**Risk Management Implications**

8. None.

**Background Papers**

None.