

AGENDA

Meeting: Licensing Committee
Place: Committee Room A - Council Offices, Monkton Park, Chippenham
Date: Friday 14 September 2012
Time: 10.30 am

Please direct any enquiries on this Agenda to Stuart Figini, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718376 or email stuart.figini@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Desna Allen	Cllr George Jeans
Cllr Richard Beattie	Cllr Jacqui Lay
Cllr Peggy Dow	Cllr Bill Moss
Cllr Rod Eaton	Cllr Pip Ridout
Cllr Jose Green (Vice Chairman)	Cllr Bill Roberts
Cllr Malcolm Hewson	Cllr Jonathon Seed (Chairman)

Substitutes:

Cllr Liz Bryant	Cllr Bill Douglas
Cllr Allison Bucknell	Cllr Mary Douglas
Cllr Trevor Carbin	Cllr Jon Hubbard
Cllr Ernie Clark	

AGENDA

1. **Apologies**

To receive any apologies.

2. **Minutes** (*Pages 1 - 14*)

To confirm the minutes of the meetings held on 6 February 2012 and 6 June 2012 (copies attached).

3. **Chairman's Announcements**

4. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

5. **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named above for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named above no later than 5pm on 7 September 2012.

Please contact the officer named on the first page of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6. Minutes of the Licensing Sub-Committees

To receive the minutes of the following Licensing Sub-Committees:

6.1. Eastern Area

No Meetings

6.2. Northern Area

- **11 April 2012 - Variation of Premises Licence - PACE, Show Meadow, Royal Wootton Bassett**

6.3. Southern Area

- **10 May 2012 - Application for Sexual Entertainment Venue Club Rouge, 23-25 Milford Street, Salisbury**
- **25 May 2012 - Application for Variation of Premises License: Tilshead garage, High Street, Tilshead, Wiltshire, SP3 4SB**
- **27 July 2012 – Application for a Premises Licence by Mr Enkin Kale in respect of 16 Winchester Street, Salisbury, SP1 1HB.**
- **7 August 2012 - Application for a Premises Licence by Wiltshire Council in respect of; Wilton Development Centre for Young People, The Hollows, Wilton, SP2 0JE.**

6.4. Western Area

- **20 March 2012 - Application by Mrs Tammatha Newberry for a Premises Licence at 5a Church Street, Trowbridge**
- **30 May 2012 - Application for Review of a Premises Licence – Galaxy Caffe, 28 Roundstone Street, Trowbridge BA14 8DE**
- **25 June 2012 - Application by Wiltshire Police for a Review of a Premises Licence at Black Pearl, 5a Church Street, Trowbridge, BA14 8DR**
- **3 August 2012 - Application by Mehmet Yilmaz for a Late Night Refreshment Licence for a Mobile Food Trailer, Bath Road Car**

Park, Melksham

- **23 August 2012 - Application for a Variation of a Premises Licence by Mr Mohamad Saadi in respect of Feta Feast, 82 Market Place, Warminster, Wiltshire, BA12 9AU.**

7. Police Reform and Social Responsibility Act 2011 - Early Morning Restriction Orders and Late Night Levies (Pages 15 - 20)

This report, by Kate Golledge, Public Protection Manager Licensing, Public Protection Services, informs Members of the Licensing Committee of forthcoming changes to legislation brought into being by the Police Reform and Social Responsibility Act 2011.

It informs members of important changes and the availability of two new tools in the licensing suite of controls namely Early Morning Restriction Orders and Late Night Levies which are designed to give local people a greater influence over the type and number of licensed premises in their communities.

8. Licensing Act 2003 - Review of Statement of Licensing Policy (Pages 21 - 24)

This report by Kate Golledge, Public Protection Manager, Licensing, Public Protection Services, provides a position statement on the review of the statement of licensing policy following its approval by Wiltshire Council on 1 December 2009.

It informs members of the relevant changes that have occurred in the years since the policy was approved and suggests a way forward.

9. Licensing Act 2003 - Licensing Authorities as Responsible Authorities (Pages 25 - 32)

This report by Kate Golledge, Public Protection Manager, Licensing, Public Protection Services, informs Members on the internal arrangements of the licensing service to ensure that the Licensing Authority has the correct structure in place to carry out its new function as a Responsible Authority.

It informs members of the relevant changes put in place further to the approval of Council on the 10th July 2012 of the change in the scheme of delegation specific to the Licensing Committee.

10. Dates of Future Committee Meetings

Members are asked to note that the next meeting of the Licensing Committee, will be on Monday 12 November 2012 – Council Chamber, Monkton Park, Chippenham commencing at 10.30am.

11. **Urgent Items**

Any other items of business, which in the opinion of the Chairman, should be taken as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

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LICENSING COMMITTEE

DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 6 FEBRUARY 2012 AT COUNCIL CHAMBER, BRADLEY ROAD, TROWBRIDGE.

Present:

Cllr Desna Allen, Cllr Richard Beattie, Liz Bryant, Cllr Jose Green, Cllr Malcolm Hewson, Cllr George Jeans, Cllr Jacqui Lay, Cllr Bill Moss, Cllr Nina Phillips (Vice Chairman), Cllr Bill Roberts and Cllr Jonathon Seed (Chairman)

Also Present:

Carla Adkins (Public Protection Officer, Licensing), Mandy Bradley (Service Director, Public Protection), Steve Clover (Head of Public Protection – Commercial and Communities), Kate Golledge (Public Protection Manager, North and West, Safer Communities and Licensing) and Paul Taylor (Senior Solicitor), Anna Thurman (Democratic Services Officer)

1. Apologies

Apologies were received from Cllr Rod Eaton who was substituted by Cllr Liz Bryant.

2. Minutes

The minutes from the Licensing Committee meeting held on 7 September 2011 were presented and it was,

Resolved:

To approve and sign the minutes of the meeting held on 7 September 2011 as a correct record.

3. Chairman's Announcements

2012 Year of Celebration

Members will be aware that 2012 is set to be a year of celebration with the Queens Diamond Jubilee and Olympics. Many communities are already well down the path of organising local parties and festivities. Whilst the Licensing team are still waiting to see how plans develop it is worth drawing to Members attention that there is likely to be licensing implications. Members should be

assured that everything will be done to support communities and organisers to ensure their event is both properly licensed and safe but should be aware that there may be a need to convene sub-committees on the odd occasion. This is likely to be true for the Olympic evening event to be held in Salisbury where Wiltshire Council will be the applicant.

This is a developing picture. The Licensing team is working with Laurie Bell and her cross-authority 2012 'Celebration team' so that we can work with communities at an early stage of their planning, helping them through the process where applicable and managing the demand on the service.

I will be kept informed of progress which no doubt will pick up momentum in the near future as we move closer to the summer months.

Street Trading

The 28 day public consultation period for the Wiltshire Council resolution to adopt all streets as consent streets in the Wiltshire Council area closes on the 10 February 2012.

If we do not receive any representations relating to the proposed resolution a public notice will be placed in the newspaper for two consecutive weeks stating that Wiltshire Council have designated all streets in the Council's area as consent streets, and that the designation will come into force on the 1 April 2012.

As soon after this date the new scheme will be implemented and will provide effective powers to control inappropriate street trading within the Council's area.

Home Office Consultation

Section 172 of the Licensing Act 2003 enables the Secretary of State to make licensing hours orders. These orders can be made where there is a period (celebration period) which will mark an occasion of exceptional international, national, or local significance.

During December 2011 the Home Office carried out a consultation with interested parties which proposed that a licensing hours order be made for the Queens Jubilee.

If such an order is made it will allow all currently licensed premises to carry out licensable activities until 01:00 A.M. on both the 1 and 2 June 2012 without the need to apply for a Temporary Event Notice or license variation. There has been overwhelming support for the proposal and it is anticipated that the national licensing hours order will be made by the Secretary of State later this month.

Implementing the Police Reform and Social Responsibility Act 2011

There are a number of key measures in the new Act which include:

- introducing a late night levy to help cover the cost of policing the late night economy
- increasing the flexibility of early morning alcohol restriction orders
- lowering the evidential threshold on licensing authorities

- removing the vicinity test for licensing representations to allow wider local community involvement.

None of the alcohol provisions in the act came into force immediately upon royal assent. The PRSR Act includes a commencement provision for the government to commence any or all of the provisions when it so chooses.

The existing legislative procedure and protocol mean that measures are ordinarily brought into force on one of two common commencement dates in April or October each year, so the earliest any of the alcohol provisions will be introduced is likely to be 6 April 2012, with more complex proposals which require more detailed secondary legislation likely to be commenced later.

Next steps

Some of the alcohol provisions introduced in the act require substantive changes to secondary legislation prior to commencement. Further information regarding consultation on these changes will be available shortly from the Home Office.

The statutory guidance issued under section 182 of the Licensing Act 2003 will also be revised to reflect the changes introduced by the PRSR Act before the first provisions are commenced. The amendments to the statutory guidance will also include a number of other changes the government committed to making in its response to the 'Rebalancing the Licensing Act' consultation. Input from the Licensing Committee will be sought during this process.

Constantine Leisure (Karma)

As expected, Constantine Leisure has now applied for judicial review of the Magistrates' Court's decision in October 2011 to refuse their appeal against the revocation of the premises licence for Karma. The grounds set out in the claim form basically mirror those set out in their pre-action protocol letter in December 2011.

The Council and the police have now submitted their joint response to the Administrative Court, contesting the claim and setting out the reasons why we *consider the decision of the Magistrates' court* should be upheld.

4. Declarations of Interest

There were no declarations of interest.

5. Public Participation

There was no public participation.

6. Minutes of the Licensing Sub-Committees

The minutes from the Licensing Sub-committee meetings held on the 27.09.11, 25.10.11, 3.11.11, 14.11.11, 15.11.11, 21.11.11, 13.12.11, 15.12.11, 22.12.11, 5.01.12 and 6.01.12

Resolved:

To approve the minutes of the meetings held between the 27.09.11 and 6.01.12.

7. Sexual Entertainment Venues

Kate Golledge, Public Protection Manager led the committee through the report on Sexual Entertainment Venues.

With effect from the 6 April 2010 local authorities in England have been able to adopt additional powers to regulate lap dancing clubs and similar venues. Section 27 of the Policing and Crime Act 2009 amend Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 to introduce a new category of sex establishment called 'Sexual Entertainment Venue' which, if adopted by the local authority, will require premises in that area who provide 'relevant entertainment' such as lap dancing to obtain a Sex Establishment Licence.

The legislation is not mandatory for local authorities and therefore will have flexibility to decide whether and, if so, when the new provisions should come into force in their area.

The Home Office has provided guidance for local authorities regarding sexual entertainment venues. The licensing Committee is being asked to consider a Policy and Conditions in relation to the new power for local authorities and agree to adopt such conditions.

Members noted that renewal of a license occurred on a yearly basis and the cost for this was £1200.

After lengthy discussion by the members where amendments were made to the policy it was;

Resolved

- 1) To adopt the implement the Policy and Regulations prescribing Conditions for Sex Establishments from 1 March 2012.**
- 2) To delegate authority to the Service Director Public Protections Services to instigate proceedings under Schedule 3, Local Government (Miscellaneous Provision) Act 1982.**

And subject to the following changes to the Sex Establishment Licensing Policy – Guidance and Standard Conditions;

- i) **Page 106, para 5.4 - delete Ward, insert *Divisional*.**
- ii) **Page 106, para 5.8 - add to the end of the sentence, *as listed in paragraph 6.3*.**
- iii) **Page 106, para 6.2 - insert after should, *or should not*.**
- iv) **Page 107, para 6.2 (f) (ii) - amend the spelling of centers to *centres*.**
- v) **Page 108, para 6.3 (c) and (d) - expand EEA to *European Economic Area***
- vi) **Page 108, para 6.3 (e) - insert *sexual establishment before licence*.**
- vii) **Page 109, para 8.5 - delete 'number of days' and insert *5 working days*.**
- viii) **Page 116, para 7 (k) – insert after exchange '*contact details*,' and delete '*or*'.**
- ix) **Page 117, para 5 (a) – insert after person '*under the age of 18 or*'.**
- x) **Page 117, para 6 (b) – delete at insert '*inside*'.**

8. Harmonised Wiltshire Council Street Collection Policy

Kate Golledge, Public Protection Manager led the committee through the report on the harmonised Wiltshire Council Street Collection Policy.

Prior to the district councils and Wiltshire County Council becoming a unitary authority, the four district councils had individually adopted the standard Regulations relating to street collections. In addition the District Councils adopted their own local policies on such matters as the number of collection allowed in their area by charitable organisations, therefore all following different guidelines.

Councillors sought clarity on the definition of 'street'. Paul Taylor, Solicitor, explained that the definition of 'street' was different in this context than that of the definition that had recently been applied in the Street Trading policy. For the purposes of Street Collections the definition of 'street' is;

'includes any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not'

After further discussion it was,

Resolved:

- 1) To agree the harmonised, Policy on Street Collections.
- 2) To approve that previous Street Collection Regulations be revoked and the new Regulations come into effect and are implemented as soon as possible.

And subject to the following amendment to the Street Collection Policy,

- i) Page 136, insert at the end of paragraph 12 *'this policy covers the whole of the area covered by Wiltshire Council'*.

9. Review of Skin Piercing Bylaws

Carla Adkins, Public Protection Officer, led the committee through the report on Cosmetic Piercing and skin Colouring – Adoption of Legislation and Byelaws.

Wiltshire Council as a unitary authority has not yet adopted the legislation which allows the Council to regulate persons carrying out acupuncture, tattooing, and skin piercing.

The policy has been in use by the Northern Area Hub since 2007.

Members sought clarity on issues surrounding administrative costs and registration fees. It was confirmed that that the administrative costs to Wiltshire Council were covered by the registration fee.

It was,

Resolved:

- 1) To recommend to Council that the provisions of Section 14, 15, 16 and 17 of the Local Government (Miscellaneous) Provisions Act 1982 be adopted and should come into effect on 1 July 2012.
- 2) To recommend to Council that byelaws in the form of the model set out appendix (page 144 – 147 of the agenda refers).
- 3) The Committee recommend to the Council that the current byelaws which had previously been adopted by the ex-district councils be revoked on the confirmation of the new model byelaws.

10. Hypnotism Policy

Kate Golledge, Public Protection Manager led the committee through the report on the Hypnotism Act - Conditions.

The Hypnotism Act 1952 empowered licensing authorities for public entertainments under the Local Government (Miscellaneous Provisions) Act 1982 to attach conditions to a public entertainment licence regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person at the place for which the public entertainment licence had been granted.

Concern over content of some performances of stage hypnotism prompted the issue of the Home Office circular No.42/1989, which proposed, revised and updated guidance for local authorities whilst exercising their licensing responsibilities.

After a short debate it was,

Resolved:

1) To adopt the Conditions.

2) The Licensing Committee delegate authority to the Licensing Manager to determine any future applications under the Hypnotism Act 1952 and to authorise proceedings under the Act.

11. Dates of Future Committee Meetings

The dates of the next meetings were confirmed as:
Tuesday 8 May 2012
Monday the 12 November

The Chairman informed the Committee that there would be a need to hold an additional meeting on 14 September 2012.

12. Urgent Items

Members sought clarity regarding the licensing implications surrounding the Diamond Jubilee celebrations. The Chairman informed the Committee that the Licensing team were working in conjunction with the Communications team to update the existing Communications toolkit, particularly on licensing issues, on how to hold a community event. This will be published on the Wiltshire Council website shortly.

(Duration of meeting: 10.30 am - 12.15 pm)

The Officer who has produced these minutes is Anna Thurman, of Democratic & Members' Services, direct line 01225 718379, e-mail anna.thurman@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

LICENSING COMMITTEE

DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 6 JUNE 2012 AT COUNCIL CHAMBER - COUNCIL OFFICES, BROWFORT, BATH ROAD, DEVIZES SN10 2AT.

Present:

Cllr Peggy Dow, Cllr Rod Eaton, Cllr Jon Hubbard (Substitute), Cllr George Jeans, Cllr Jacqui Lay, Cllr Bill Moss, Cllr Pip Ridout, Cllr Bill Roberts and Cllr Jonathon Seed (Chairman)

13 Apologies and changes to committee membership

Apologies were received from Cllrs Desna Allen (substituted by Cllr Jon Hubbard), Richard Beattie and Jose Green.

The following changes to the committee membership were noted:

- Cllr Pip Ridout to replace Cllr Nina Philips as member of the committee.
- Cllr Mary Douglas to replace Cllr Pip Ridout as substitute member of the committee.
- Cllr Jose Green appointed as Vice Chairman.

14 Chairman's Announcements

There were no Chairman's Announcement.

15 Declarations of Interest

There were no Declaration of Interest.

16 Public Participation

Two members of the public wished to speak in relation to the Increase of Taxi Tariff - South Zone. The Chairman invited them to do so before the item was discussed and determined by the Committee.

17 Increase of Taxi Tariff - South Zone

Firstly the Chairman invited Kate Golledge (Public Protection Manager - Safer Communities and Licensing) to clarify how the proposed implementation date of

7 June 2012 would be achieved. She explained that, should any changes be approved to the Taxi Tariff – South Zone, the decision would be published on the Wiltshire Council Website this day and changes to the fare meters, tariff displays, etc would have to be implemented within 21 days.

Kate Golledge (Public Protection Manager - Safer Communities and Licensing) then introduced her report which set out the responses to the proposed increase of the taxi tariff in the South area of Wiltshire Council following public consultation

Key points raised included:

- The background to this proposal with the first request made in March 2011;
- The request to increase the Taxi Tariff – South Zone had been made by the trade;
- That after three rounds of consultation Licensing Officers and the trade had been unable to reach a compromise;
- That if the system of “extras / surcharges” was kept in the South Zone it would prevent harmonisation of tariffs across the whole of Wiltshire;
- That the modified tariff should enable the trade to make a living whilst ensuring that the needs of the customers were taken into account.

She pointed out that the Committee currently had at least three options before it:

- To maintain the existing Taxi Tariff for the South Zone;
- To implement the Licensing officer’s proposal;
- To implement the trade’s proposal.

Following questions from committee members it was established that a fourth option would be available:

- To implement a modified tariff in-between the existing, the Licensing officer’s proposal and the trade’s proposal.

Mr David Haynes, representing a considerable group of taxi drivers in the South Zone, gave a presentation to explain the rationale behind the trade’s proposal.

Mr Dave Griffin explained the difficulties faced by taxi drivers in the South Zone, due to both the global financial situation and Salisbury’s particular topography.

Members of the Committee then asked technical questions and a discussion ensued regarding the information contained in the agenda pack, public representations on the issue, further information from the Public Protection Manager and the public speakers’ comments on the day.

After a lengthy debate and taking into account the rationale behind the trade’s proposal but also supporting the concept of harmonised tariffs in the future and discussing the details of a potential “fourth option” it was,

Resolved:

1. To implement the following tariff from 7 June 2012:

Tariff One 6am to 10pm	First 352 yards (1/10 th of a mile or 161m) or part thereof £3.20	Each subsequent 176 yards (1/10 th of a mile or 161m) or part thereof 20p	Waiting time for each 48 seconds (=£15 per hour) 20p
Tariff Two 10pm to 6am and on all Public Holidays with the exception of those covered by Tariff 3	First 352 yards (1/10 th of a mile or 161m) or part thereof £4.50	Each subsequent 176 yards (1/10 th of a mile or 161m) or part thereof 30p	Waiting time for each 60 seconds (=£18 per hour) 30p
Tariff Three Christmas Day and New Years Day	First 352 yards (1/10 th of a mile or 161m) or part thereof £6.00	Each subsequent 176 yards (1/10 th of a mile or 161m) or part thereof 40p	Waiting time for each 60 seconds (=£24 per hour) 40p
Soiling charge - whether taxi or seating is soiled or defecated by any passenger or animal, which necessitates cleaning before the vehicle can be used again for public hire.			£100
<u>Mileage Charges</u>			
	1 st Mile	2 nd Mile	Each sub mile
Tariff One 6am to 10pm £3.20 + £1.80	£5.00	£7.00	£2.00
Tariff Two 10pm to 6am £4.50 + £2.70	£7.20	£10.20	£3.00
Tariff Three Christmas Day and New Years Day £6.00 + £3.60	£9.60	£13.60	£4.00

2. To not apply any “extras” or surcharges to the agreed tariff above.

18 **Increase in Taxi fees**

Kate Golledge (Public Protection Manager - Safer Communities and Licensing) introduced the report and pointed out that the licensing of vehicles and drivers under the Local Government (Miscellaneous Provisions) Act 1976 was a self financing service and Wiltshire Council was legally unable to make a profit from the service. She explained that due to rising costs the fees had to be raised to avoid a reduction in the service given to the trade and potentially placing public safety at risk.

She also pointed out that the proposed increased fee for vehicle licences was still £70 cheaper than they had been for the North zone proprietors before the formation of Wiltshire Council.

After a short debate it was,

Resolved:

To increase the fees, with effect from 01 July 2012, to:

- **£180 for vehicle licenses;**
- **£91 for newly licensed drivers; and**
- **£30 for each knowledge test carried out.**

19 **Change to Scheme of Delegation**

Kate Golledge (Public Protection Manager - Safer Communities and Licensing) introduced the report and explained that due to changes in the primary legislation additions and amendments needed to be made to the scheme of delegation in relation to the Licensing Act 2003 and the Town Police Clauses Act 1847 as amended by the Local Government (Miscellaneous Provisions) Act 1976.

Members sought and were offered reassurance that issues that had been brought to sub-committees under the previous scheme of delegation would still be considered by sub-committees.

After a short debate it was,

Resolved:

1. **To approve the additions and amendments (highlighted in bold in the table) to the scheme of delegation as attached to these minutes.**
2. **To commend the changes in the scheme specific to the Licensing**

committee to Full Council on 10 July.

20 **Dates of Future Committee Meetings**

The dates of the next meetings were confirmed as follows all to commence at 10.30am:

Friday 14 September 2012 - Committee Room A, Monkton Park, Chippenham

Monday 12 November 2012 – Council Chamber, Monkton Park, Chippenham

21 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 am - 12.05 pm)

The Officer who has produced these minutes is Marie Gondlach, of Democratic Services, direct line 01225 713 597, e-mail marie.gondlach@wiltshire.gov.uk

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WILTSHIRE COUNCIL

LICENSING COMMITTEE
14 SEPTEMBER 2012

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

EARLY MORNING RESTRICTION ORDERS AND LATE NIGHT LEVIES

Executive Summary

This report informs Members of the Licensing Committee of forthcoming changes to legislation brought into being by the Police Reform and Social Responsibility Act 2011.

It informs members of the Licensing Committee of important changes and the availability of two new tools in the licensing suite of controls namely Early Morning Restriction Orders and Late Night Levies which are designed to give local people a greater influence over the type and number of licensed premises in their communities.

Recommendations

It is recommended:

That the Licensing Committee note this report and agree to carry out a full consultation with all interested parties commencing on the 31st of October 2012 regarding the making of Early Morning Restriction Orders and the introduction of Late Night Levies and thereafter its implementation in line with the responses to that consultation.

Reason for Proposal

Statutory requirements for the Council.

Author: Kate Golledge, Public Protection Manager Licensing,
Public Protection Services.

Corporate Director: Maggie Rae, Public Health & Wellbeing

Contact Details: kate.golledge@wiltshire.gov.uk

EARLY MORNING RESTRICTION ORDERS AND LATE NIGHT LEVIES

Purpose of Report

1. To outline the new powers available to Wiltshire Council from the 31st October 2012 under the amendments to the Licensing Act 2003 to make Early Morning Restriction Orders and impose Late Night Levies.
2. To agree to carry out a full consultation with all interested parties commencing on the 31st October 2012 in line with Wiltshire Councils consultation concordat on the use and scope of the new legislation available to the Licensing Authority.

Background

3. Wiltshire Council, acting as the Licensing Authority will be provided from the 31st October 2012 with two additional tools to shape and determine local licensing within its area, namely:
 - Early Morning Restriction Orders (EMROs)
 - Late Night Levies (LNLs)

Early Morning Restriction Orders

4. If the Council decides to make use of the new legislation, the power will be available to make EMROs if it is considered appropriate for the promotion of licensing objectives, rather than necessary. EMROs are being introduced alongside various other measures aimed at rebalancing the Licensing Act 2003 in favour of local communities, and to increase the tools and powers available to licensing authorities and the police to tackle alcohol-related problems in local areas.
5. If the Licensing Authority introduces an EMRO, it will apply to premises licences, club premises certificates and temporary event notices that operate within the specified EMRO period. Licensing authorities will be required to advertise the proposal to make the EMRO and demonstrate that they have evidence to justify doing so, as well as considering representations, before its introduction.
6. Central Government has announced that in relation to EMROs there will be no exemptions for types of premises. However the provision of alcohol to residents through mini-bars and room service in premises with overnight accommodation would be exempt and in recognition of New Year Eve`s celebration status EMROs would not apply on the 31st of December. EMROs will be a simple, pre-packaged tool for licensing authorities to use to readjust the focus of their night-time economy away from problem drinking, if such a measure would promote the licensing objectives. The effective use of EMROs may make it unnecessary for the Council to consider the use of Cumulative Impact Zones in parts of its area.
7. Draft secondary legislation will add further detail to the EMRO provisions.

Late Night Levies

8. The Late Night Levy will permit the council to charge more for late night licences to pay for additional policing. It is believed to be right that businesses which profit by selling alcohol in the night-time economy should contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.
9. The Late Night Levy will be a local power that the Licensing Authority can choose whether or not to exercise. It must cover the whole of the Licensing Authority's area. However, the Licensing Authority will also be able to choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.
10. If the Licensing Authority chooses to introduce the levy in their area, all licensed premises which are authorised to supply alcohol in the levy period will be affected. Premises that do not wish to operate in the levy period will be able to make a free minor variation to their licence before the levy is introduced.

It is likely that the licensing authority will have the discretion to offer an exemption from the levy to the following categories of premises and schemes although at the time of writing this report the draft regulations listing the exemptions are still outstanding:

- Premises with overnight accommodation
 - Theatres and cinemas
 - Bingo halls
 - Community Amateur Sports Clubs ('CASCs')
 - Community premises
 - Country village pubs
 - Business Improvement Districts ('BIDs')
11. The amount of the Levy has been confirmed as follows, based upon the Non-domestic Rateable Value of the relevant premises:

Band Rateable Value Levy Amount

A - No rateable value to £4,300	Levy Amount = £299.00
B - £4,301 to £33,000	Levy Amount = £768.00
C - £33,001 to £87,000	Levy Amount = £1,259.00
D - £87,001 to £125,000	Levy Amount = £1,365.00
E - Greater than £125,000	Levy Amount = £1,493.00

In addition to the above, premises liable to pay £1,365 or £1,493 (Bands D and E) will, if they are used exclusively or primarily for the supply of alcohol for consumption on the premises, be required to pay a higher levy amount of £2,730 and £4,440 per year respectively.

12. The Licensing Authority has the power to suspend licences for non-payment of the annual fee and the levy.
13. If the Licensing Authority chooses to implement the Late Night Levy, 30% of the net income can be retained by the Council. However, this income must be used for the reduction or prevention of crime and disorder; the promotion of Public Safety; the reduction or prevention of Public Nuisance and/or the cleaning of any relevant highway or relevant land.
14. 70% of the net income will be given to the Police Authority who has the right to use it for any purpose. It is anticipated that the majority of Police Authorities, and in future the new Police Crime Commissioners, will strongly encourage Licensing Authorities to implement the Late Night Levy in their areas.
15. If the Licensing Authority does not offer any exemptions or discounts and chooses to implement the levy from midnight, the amount of **net** income that could potentially be generated from the Late Night Levy in the Licensing Authority's area would be £158,850 calculated on the current number of premises licenses that authorise the sale of alcohol after Midnight.
16. If the Licensing Authority were to choose to implement the Levy after 01:00 the **net** income would be reduced by approximately two thirds which would equate to £52,950. This reduction is to take into account that a significantly lower number of premises are currently licensed beyond 01:00.

Options

17. The options open to the Committee are;
 - Wait until the Licensing Authority has sight of the full set of secondary legislation affecting both the Early Morning Restriction Orders and Late Night Levies (i.e. on the 31st October 2012 when the EMRO's and LNL's will be enacted) before making a decision to make use of the new powers. **or**
 - From the 31st of October 2012, carry out a consultation with all interested parties on the use and scope of both new powers.

Environmental Impact of the Proposal

18. The use of Early Morning Restriction Orders where requested and evidenced by the local community will have the potential to reduce alcohol-related problems late at night for example noise and public disorder.

Equality and Diversity Impact of the Proposal

19. The impact of these proposals is assessed as 'low' against the Council statutory responsibilities.

Risk Assessment

20. To not explore the use of two potentially valuable tools in the Licensing Authorities suite of licensing controls could lead to challenge from both Responsible Authorities and the local community.

Financial Implications

21. There will be some minimal costs involved in running the consultation process.
22. To not explore the use of Late Night Levies could lead to the potential loss of income to both the Council and the Police Authority. This income would reduce the burden on local Council tax payers by offsetting the costs involved in policing the night time economy.

Legal Implications

23. The licensing service is a high profile regulatory service important for protecting the public but also for ensuring the development of the leisure industry, economic viability and a safe night time economy. The balanced application of licensing functions is critical for the reputation of the council and for building trust and confidence in its service provision.

Conclusion

24. At this time of significant change in the legislative and policy regime, consultation with interested parties on the adoption and implementation of new powers is essential both for legal requirements and to gain support for such change.
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Background Papers

The Licensing Act 2003

The Police Reform and Social Responsibility Act 2011

Home Office Guidance Early Morning Restriction Orders

Home Office Guidance Late Night Levies

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Agenda Item 8

WILTSHIRE COUNCIL

LICENSING COMMITTEE

14TH SEPTEMBER 2012

LICENSINGACT2003

REVIEWOFSTATEMENTOFLICENSINGPOLICY

Executive Summary

This report provides a position statement on the review the statement of licensing policy following its approval by Wiltshire Council on 1 December 2009

It informs members of the Licensing Committee of relevant changes that have occurred in the years since the policy was approved and suggests a way forward.

Recommendations

It is recommended:

That the licensing Committee note this position statement and agree to continue the use of the existing statement of licensing policy as approved by Council on 1 December 2009, but that a full review be carried out during 2013.

Reason for Proposal

Statutory requirements for the Council

The Government has conducted a review of the licensing regime but the changes included in the Police Reform and Social Responsible Act 2011 has meant a delayed introduction which makes a review at this time inappropriate.

Author: Kate Golledge, Public Protection Manager, Licensing, Public Protection Services.

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REVIEW OF THE STATEMENT OF LICENSING POLICY

Purpose of Report

1. Wiltshire Council approved the Statement of Licensing Policy under the Licensing Act 2003 at its meeting on 1 December 2009, and it was subsequently reviewed at the meeting of the Licensing Committee held on 30th November 2010.
2. This report details changes which have occurred in licensing issues following the Police Reform and Social Responsibility Act 2011, and advises members on a way forward with respect to a review of the Statement of Licensing Policy.

Background

3. Wiltshire Council, as the Licensing Authority, is required to discharge its responsibilities under the Licensing Act 2003 with a view to promoting the four licensing objectives, namely:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance, and
 - The protection of children from harm
4. The Act was originally designed to be light touch legislation covering a number of 'licensable activities'. Such activities are defined within the Act and broadly relate to the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
5. The existing licensing policy can be found from the following link:
<http://cms.wiltshire.gov.uk/ieListDocuments.aspx?CId=150&MId=5125&Ver=4>
6. Since the policy was approved a number of significant changes have occurred which are relevant to both the policy and licensing regime as a whole.
7. This includes the requirement in the Licensing Act for Local Authorities to review their licensing policy statements every three years has been increased to five. As Wiltshire Council produced a new policy at the end of 2009, it is not required to undertake such a review until 2014, however, in view of the recent changes it is likely that amendments will need be made to the statement of licensing policy during 2013.

Issues affecting the policy

8. On 25th April 2012 the Government laid a commencement order for the majority of the licensing changes included in the Police Reform and Social Responsibility Act 2011. At the same time the Home Office published revised guidance for licensing authorities which not only covers the amended sections of the Act but also makes changes to other aspects of licensing interpretation and administration.
9. Two key elements of licensing reform are not due to come into effect until later this year, i.e. Early Morning Restriction Orders and Late Night Levies. These are dealt with in a separate report to be considered by this Committee

Options

There are two options:

- Change the policy.
- Keep the existing policy until the introduction of Late Night Levies and Early Morning Restriction Orders.

Change the policy

10. The policy could undergo a comprehensive review. This would have to include an extensive consultation process as was done prior to the introduction of the existing policy.
11. As stated earlier in the report, the Act requires that statements of policy must now be reviewed every five years. Any review now could be regarded as being premature given that further changes would have to be made to it following the introduction of Early Morning Restriction Orders and Late Night Levies.

Keep the existing policy

12. The existing policy has been tested through the hearing and review processes since its introduction, and has not been contested by any licensees, or their legal representatives.

Environmental Impact of the Proposal

13. There is minimal environmental impact of this proposal. Successful application of the Licensing Act functions will reduce the impact of licensable activities on the public i.e. noise and public disorder.

Equality and Diversity Impact of the Proposal

14. The impact of this proposal is assessed as 'low' against the Council statutory responsibilities.

Risk Assessment

15. The existing policy is fit for purpose and as such the council is not subject to any significant risks.

Financial Implications

16. If the existing policy is retained there are no additional costs. Further consultation may attract some minor additional costs.

Legal Implications

17. The licensing service is a high profile regulatory service important for protecting the public but also for ensuring the development of the leisure industry, economic viability and a safe night time economy. The balanced application of licensing functions is critical for the reputation of the council and for building trust and confidence in its service provision.

Conclusion

18. Following this limited review of the statement of policy it is concluded that a full review process is not warranted at present and until the Council's policy relating to Early Morning Restriction Orders and Late Night Levies has been agreed.

Background Papers

The Licensing Act 2003

The Police Reform and Social Responsibility Act 2011

Appendices

None

WILTSHIRE COUNCIL

LICENSING COMMITTEE

14TH SEPTEMBER 2012

LICENSINGACT2003

Licensing Authorities as Responsible Authorities

Executive Summary

This report informs Members on the internal arrangements of the licensing service to ensure that the Licensing Authority has the correct structure in place to carry out its new function as a Responsible Authority.

It informs members of the Licensing Committee of relevant changes put in place further to the approval of Council on the 10th July 2012 of the change in the scheme of delegation specific to the Licensing Committee.

Recommendations

It is recommended:

That the Licensing Committee notes this report and agree to the proposed service structure and responsibilities within the Licensing service.

Reason for Proposal

Statutory requirement for the Council.

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Protection Services

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Purpose of Report

1. To inform Members of the Licensing Committee of the arrangements put in place for the Licensing Authority to carry out its function as a Responsible Authority.

Background

2. The Police Reform and Social Responsibility Act 2011 added Licensing Authorities to the list of Responsible Authorities under the Licensing Act 2003. The aim of this change in legislation is to ensure that Licensing Authorities are better able to respond quickly to the concerns of local residents and businesses by taking actions they consider appropriate to tackle irresponsible premises without having to wait for representations from other Responsible Authorities.
3. What are the key changes being made to the Licensing Act 2003?

Licensing Authorities are now empowered to fulfil the same functions as other Responsible Authorities under the Licensing Act 2003, including:

- Making relevant representations relating to new licence applications and licence variations
 - Requesting that the Licensing Authority review an existing licence
 - Making representations regarding the potential cumulative impact of an application in an area where there is a special policy in place regarding cumulative impacts. Wiltshire Council has not adopted a special policy at present concerning cumulative impact areas; however, this may change when the impact of other proposed changes in the legislation take effect.
4. From 25 April 2012, Licensing Authorities have been included in the list of Responsible Authorities under the Licensing Act 2003. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require Responsible Authorities as a matter of course to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes.
 5. It is, therefore, for the Licensing Authority to determine when it considers it appropriate to act in its capacity as a Responsible Authority; the Licensing Authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

6. Licensing Authorities are not generally expected to act as Responsible Authorities on behalf of other parties, for example; local residents, local councillors or community groups, although there are occasions where the Licensing Authority may decide to do so. Members of the Licensing Authority can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these bodies have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may choose to act in its own capacity as Responsible Authority.
7. The Licensing Authority would expect other Responsible Authorities to intervene where the basis for the intervention falls within the remit of that other Responsible Authority. For example, the police should make representations which are based on concerns about crime and disorder. Likewise, it is reasonable to expect the Local Authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each Responsible Authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other Responsible Authority.
8. The 2003 Act enables licensing authorities to act as Responsible Authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other Responsible Authorities.

Separation of responsibilities

9. It is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the Licensing Sub Committee comprising elected members of the authority who are advised by a licensing officer if it is required. Therefore, a separation is achieved by allocating distinct functions to different officials within the authority. In these cases, Licensing Authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the Licensing Committee must be a different individual to the officer who is acting for the Responsible Authority.
10. The officer acting for the Responsible Authority should not be involved in the licensing decision process and must not discuss the merits of the case with those involved in making the determination by the Licensing Authority. Discussion should not take place between the officer acting as Responsible Authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other Responsible Authorities. Representations, subject to limited exceptions, must be made in writing.

It is for the Licensing Authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities.

11. As a unitary council, Wiltshire Council has a large enough licensing service to allocate the function of Responsible Authority to its licensing manager. This role has already been delegated to the licensing manager at the full meeting of the Council on 10th July 2012. In the absence of the Licensing Manager and to bring resilience to the service, the two senior licensing officers within the authority have also been delegated to exercise the function of Responsible Authority.
12. The licensing manager will not be involved in the application process but will set up a separate file to consider the application for the authority in its capacity as Responsible Authority, engage with other Responsible Authorities where appropriate and determine whether the authority acting as a Responsible Authority wishes to make a representation.
13. Communication between the licensing manager exercising the function of Responsible Authority and the licensing officer processing the application should remain formal and be consistent with communications with other Responsible Authorities.
14. At any subsequent Licensing Sub Committee hearing, and in order to ensure that the public have the perception of an actual separation of roles, the officer acting as the Responsible Authority should be seated with the representatives from other Responsible Authorities.

Environmental Impact

15. There is minimal environmental impact of this proposal. Successful application of the Licensing Act functions will reduce the impact of licensable activities on the public – i.e. noise and public disorder.

Equality and Diversity

16. The impact of this proposal is assessed as “low” against the Council statutory responsibilities.

Risk Assessment

17. It is essential to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest.

Financial Implications

18. There will be no additional cost implications for the authority.

Legal Implications

19. Wiltshire Council at its meeting on the 10th July 2012 agreed an amended scheme of delegation specific to the Licensing Committee. The role to act as the Responsible Authority on behalf of the Licensing Authority has been given to the licensing manager and in their absence this role will be carried out by the senior licensing officer.

Conclusion

20. Following the review of the roles and responsibilities of the licensing service it is concluded that the proposed separation of roles within the service will allow the Licensing Authority to function effectively as a Responsible Authority.

Background Papers

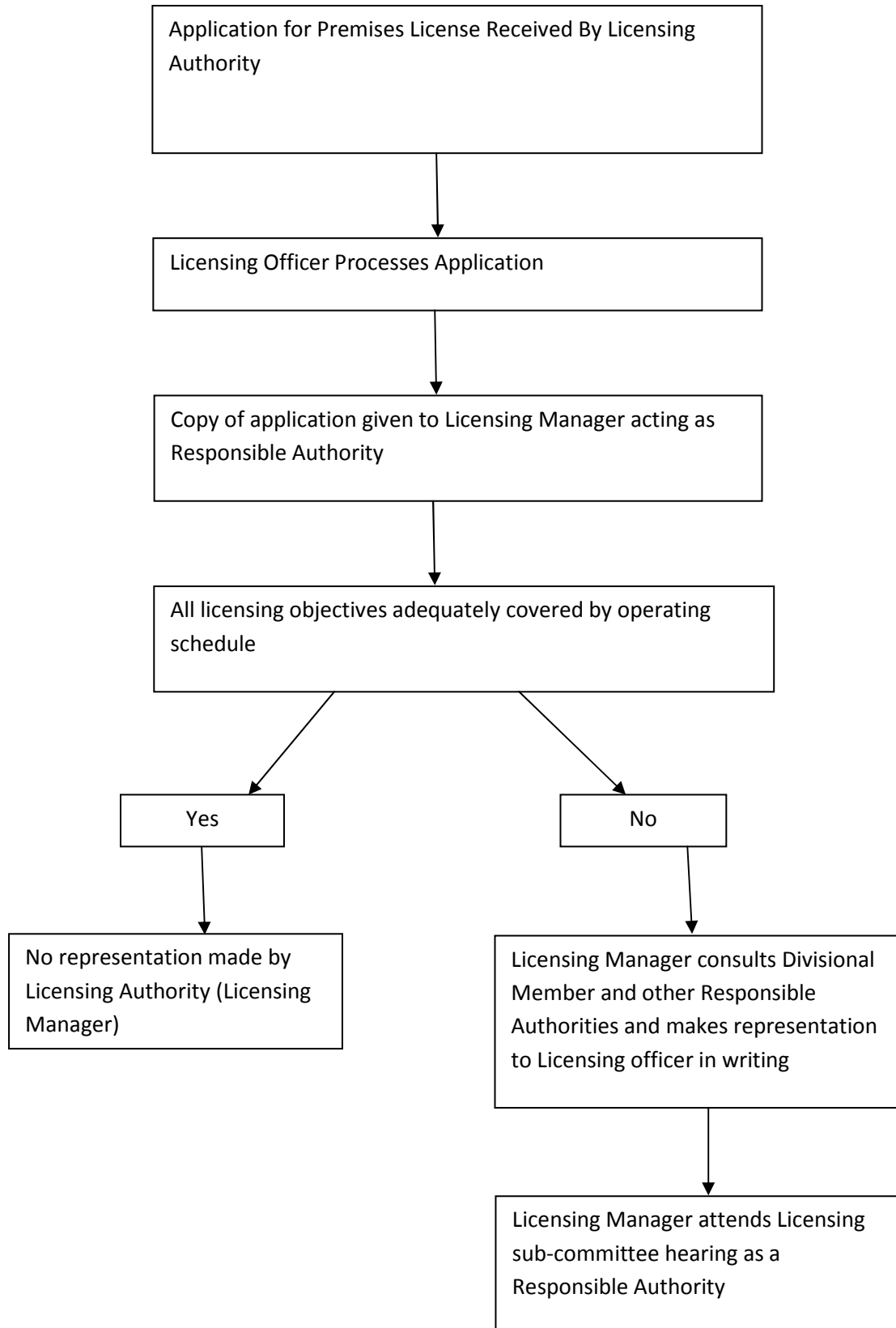
- The Licensing Act 2003
- The Police Reform and Social Responsibility Act 2011

Appendices

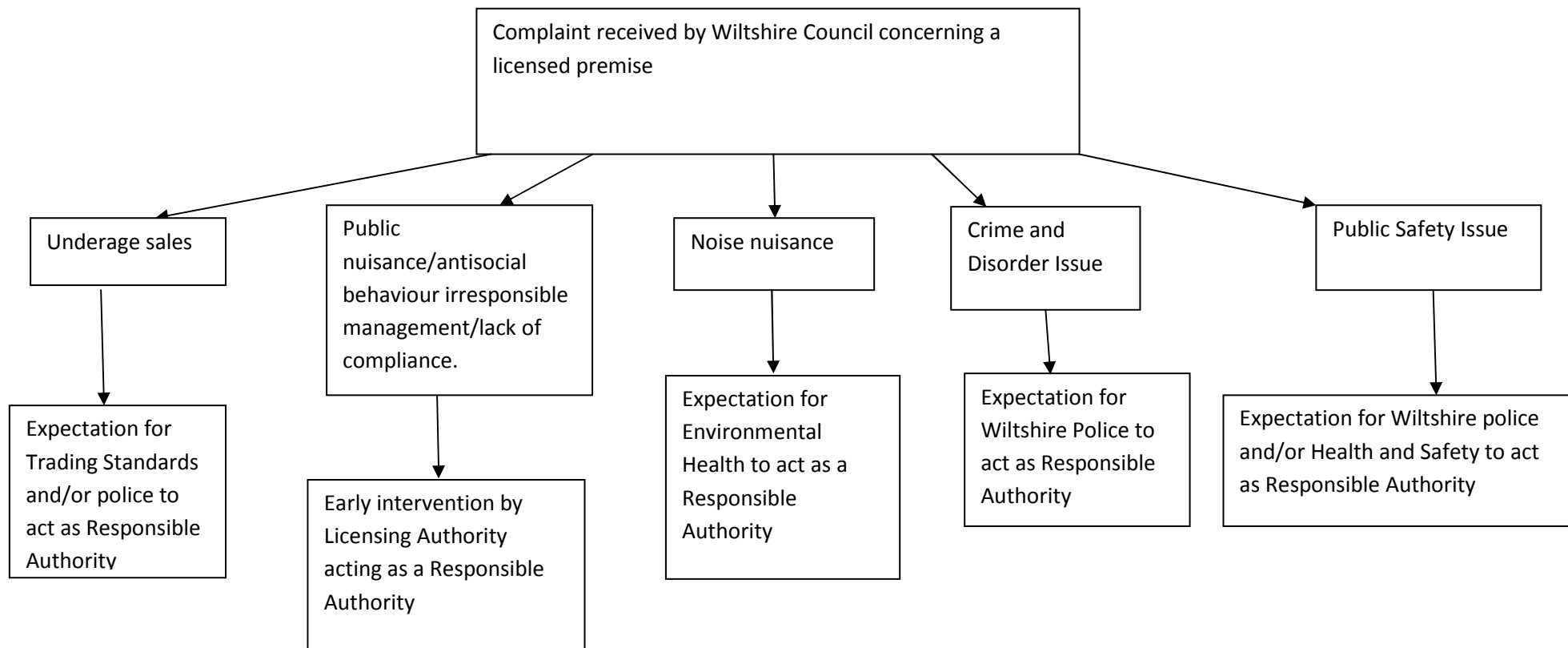
None.

LICENSING AUTHORITY ACTING AS A RESPONSIBLE AUTHORITY

OFFICER ROLES



LICENSING AUTHORITY ACTING AS A RESPONSIBLE AUTHORITY



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