

Council

Thursday, 26 September 2013

**BACKGROUND REPORTS RELATING TO MINUTES
RESERVED TO COUNCIL FOR DECISION UNDER
THE COUNCIL'S MANAGEMENT SCHEME**

Contact: Shaun Banks (Telephone 01793 463606),
email: sbanks@swindon.gov.uk

This page is intentionally left blank

Swindon Borough Council Housing Tenancy Strategy

Cabinet

Date: 24th July 2013

Author:	Cabinet Member for Public Protection, Housing and Streetsmart (Delivery) and Head of Housing
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 For Cabinet to agree the principals on which social housing in Swindon should be allocated in future.
- 1.2 This Tenancy Strategy contributes towards three of the Council's strategic priorities: Right skills, right jobs, right places, making the best use of resources inside and outside of the council and working with people to help them fulfil their potential.

2. Recommendations

Cabinet is recommended to:

- 2.1 Propose the Swindon Housing Tenancy Strategy attached at Appendix One to Council for adoption and, if Council approves, authorise the Head of Housing to implement an Allocations Policy based on it. (Members should note that the existing Housing Allocations Policy will remain in place until such time as the new Policy is agreed).
- 2.2 To authorise the Head of Housing , in consultation with the Cabinet Member for Public Protection, Housing and Streetsmart (Delivery) to undertake a consultation to inform the Housing Allocations Policy to be presented to Cabinet and Council in October and November 2013.

3. Detail

- 3.1 The Localism Act 2011 has given local authorities greater control over the way that tenancies are allocated in future. Section 150 of the Localism Act 2011 states that 'A local housing authority in England must prepare and publish a strategy (a "tenancy strategy") setting out the matters to which the registered providers of social housing for its district are to have regard in formulating policies.'
- 3.2 The aim of the strategy is to implement the objectives of the Government's Housing Strategy for England, Laying the Foundations. This states that social housing should be focussed on those households who 'need and deserve it the most'. Actions that we can take are changes to the Allocations Policy aimed at

Further information on the subject of this report can be obtained from James Graham, 01793 464474, jgraham@swindon.gov.uk.

Swindon Borough Council Housing Tenancy Strategy

Cabinet

Date: 24th July 2013

reducing the size of the waiting list, and ensuring that we get the best use out of scarce social housing.

- 3.3 Cabinet approval of this Strategy enables officers to commence an extensive review of the Housing Allocations Policy. The review will include a consultation period with all stakeholders, existing and prospective tenants. The consultation will commence in August 2013 and it is hoped that the findings will be brought to the Cabinet meeting in September or at the latest October 2013. Members should note that both the Tenancy Strategy and the Housing Allocations Policy as significant Council decisions will need ratification from Full Council before they can come into effect.
- 3.4 The strategy contains a number of changes to the way that social housing is allocated
- 3.4.1 Additional priority for households in work, training or volunteering.
- 3.4.2 Long fixed term tenancies will be introduced for new tenants of working age.
- 3.4.3 Those who are able to afford to purchase their own home will not be eligible for social housing.
- 3.5 This report only applies to future tenants of general needs housing, so existing tenants, and applicants for sheltered housing are not affected.
- 3.6 The Tenancy Strategy will act as a guide for social housing landlords operating in the Borough, who need to have regard to its contents.
- 3.7 The Housing Tenancy Strategy does not cover wider issues in the housing market, such as the supply of affordable housing, which will be dealt with in the Housing Strategy.
- 3.8 The Housing Allocations Policy will be brought to Cabinet in October 2013.

4. Alternative Options

- 4.1 The Council is required by statute to have a Tenancy Strategy, the details of which can be changed.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 Resources will be required to manage the review process, which will be allocated through the 2014/15 HRA budget process.

Further information on the subject of this report can be obtained from James Graham, 01793 464474, jgraham@swindon.gov.uk.

Swindon Borough Council Housing Tenancy Strategy

Cabinet

Date: 24th July 2013

Legal and Human Rights Implications

- 5.2 Where tenancies are not renewed the reviewer will need to consider the proportionality of ending a tenancy, as it could interfere with tenants' rights.

All Other Implications

- 5.3 None specific have been identified.

Diversity Impact Assessment

- 5.4 A Diversity Impact Analysis has been carried out, and is available from the author of the report. Negative impacts from the Tenancy Strategy will be mitigated in the Allocations Policy.

Risk Management

- 5.5 No unmitigated risks identified.

6. Consultees

- 6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 None

8. Appendices

- 8.1 Appendix 1 - Draft Swindon Housing Tenancy Strategy.

9. Key Decision/Decision in Forward Plan

- 9.1 This is not a Key Decision and is included in the Cabinet Work Programme / Forward Plan for July 2013.

This page is intentionally left blank

Appendix 1

Swindon Borough Council

Draft Housing Tenancy Strategy

Cabinet July 2013

Contents

Introduction.....	3
Background	4
Swindon Borough Council and the Tenancy Strategy	5
Preference to households who make a positive contribution	6
Ensuring the waiting list helps households most in need	7
Fixed Term Tenancies	8
Reviewing Fixed Term Tenancies	9
Principles for the Allocations Policy:.....	10

1. Introduction

- 1.1. As a result of the Localism Act 2011 and the Government's Housing Strategy 'Laying the Foundations: a housing strategy for England' Councils have more control over the way that we allocate social housing. The intention is for Councils to get the most from this increasingly valuable resource, to ensure that social housing goes to those that 'need and deserve it the most'.
- 1.2. Swindon Borough Council has the opportunity to take advantage of the new flexibility to cater for the particular needs of Swindon. This document sets out our approach to the additional priority groups for housing, the way that the waiting list will be managed more effectively, and the way that flexible tenancies will be managed.
- 1.3. The Tenancy Strategy sets out the principles for allocating social housing in Swindon in future. These principles will be implemented in a new, updated Allocations Policy.

2. Background

- 2.1. Previously Councils have been required to use set criteria for prioritising who gets social housing in its area. The Localism Act 2011 added some flexibility to this, so while the traditional criteria still apply Councils have new powers to add other groups that it may wish to prioritise to complement local priorities.
- 2.2. The reasons that households get priority for social housing have been:
 - People who are homeless, or owed a housing duty
 - People living in overcrowded, insanitary or unsatisfactory housing
 - People who need to move on medical or welfare grounds
 - People who need to move to a particular area
- 2.3. Having been allocated a home, people have historically been given lifetime tenancies. This means that households have the right to remain in those properties, regardless of any changes in their circumstances and could only be required to leave by a court order as a result of a breach of the tenancy. Furthermore, families resident in those properties have a right to inherit the tenancy.
- 2.4. Councils have been required to have open waiting lists for social housing. This means that regardless of their circumstances households can register for a council property. Partially as a result of this the number of households on the waiting list has grown to an unmanageable extent. In April 2013 there were 15,663 households on the waiting list, of which more than half were deemed to be in no need of housing or were ineligible to bid.
- 2.5. The changes to tenancies will only affect future tenants, so existing tenants will not see any change in their tenancies, or their rights to remain in their homes.
- 2.6. The changes Swindon Borough Council is considering include:
 - Additional criteria where the Council will give households that are in work, training or volunteering additional priority.
 - Long fixed-term tenancies will be introduced for new tenants of working age.
 - Those who are able to afford to purchase their own home outright will not be eligible for social housing.

3. Swindon Borough Council and the Tenancy Strategy

- 3.1. Swindon is a growing town, with some 22,000 new homes projected to be built by 2026, including the development of Wichelstowe and the regeneration of the town centre. It is important that the way that social housing is allocated contributes to this growth, as well as continuing to ensure that the vulnerable are assisted and that we get the most use out of our current housing stock.
- 3.2. Swindon Borough Council is the largest landlord with over 10,000 properties in the town. There are a number of Housing Associations who manage property in the Borough who will use their own allocations criteria.
- 3.3. The Council's strategic priorities are:
 - Find ways to reduce vulnerability and improve health for all
 - Right skills, right jobs in the right places
 - Make best use of Swindon's resources inside and outside of the council
 - Work with residents to create well cared for neighbourhoods
 - Work with people and families to help them fulfil their potential

4. Preference for households who make a positive contribution

4.1. Social housing is an important part of the Borough's infrastructure. Households are expected to use the opportunity of social housing, and then to move on when they have the ability to do so. Therefore the Council will give reasonable preference to certain groups who make a positive contribution to the community.

4.2. In addition to the existing groups that we prioritise:

- People who are homeless, or owed a housing duty
- People living in overcrowded, insanitary or unsatisfactory housing
- People who need to move on medical or welfare grounds
- People who need to move to a particular area

The Council will also offer additional reasonable priority for households who are the following:

- Members of the Armed Forces
- In work
- In training
- In education
- Formal volunteers

5. Ensuring the waiting list helps households most in need

5.1. The Council wants the waiting list to focus on those households who are most in need to meet the Government's strategic objectives as set out in its 'Housing Strategy for England, Laying the Foundations'.

5.2. The following groups will not be able to join the waiting list:

Households ineligible for social housing by virtue of being foreign nationals subject to immigration control. This also applies to other households from abroad excluded by statute or regulation, for example those households who do not pass the Habitual Residency Test.

Households with an annual gross income exceeding the amount of money that is needed to buy a property as set out in the Swindon Strategic Housing Market Assessment. The only deduction to be included for consideration in household income will be for those households with child maintenance payments.

Applicants who are under the age of 18.

Households with no strong local connection that have been resident in the Borough for less than 24 months.

Households who have perpetrated anti-social behaviour, where there is evidence that has led to, or would have led to possession of a property.

5.3. Whilst we are seeking to ensure that social housing goes to local households in need, the Council is mindful that there will be instances when households that have not been resident in the Borough should have access to social housing. The following groups will be allowed to go on the waiting list:

Households with a local connection who serve or have served in the Armed Forces

Households with a local connection being released from prison

Households with a local connection who have been resident elsewhere for medical reasons

Households fleeing domestic or associated violence

6. Fixed Term Tenancies

6.1. The Council will issue introductory tenancies of 12-months in all instances, followed by flexible tenancies in the majority of cases.

6.2. The renewal of fixed term tenancies will be particularly important for families whose children are still at local schools. In this instance therefore, families will be offered long tenancies.

6.3. The Fixed Term tenancy is not to be used as a proxy for tenancy enforcement. So, where households breach the terms of their tenancy landlords are expected to take the appropriate action as they would with lifetime tenancies.

6.4. The Council's Strategy will be:

Households moving into Sheltered Housing will not be affected by this, and will continue to be given lifetime tenancies.

Households with dependent children will be offered an introductory tenancy of 12 months, followed by a fixed tenancy for an initial period of 10 years.

Households without children will be offered an introductory tenancy of 12 months, followed by a fixed term tenancy for an initial period of 5 years.

7. Reviewing Fixed Term Tenancies

- 7.1. The Council will have the option not to review tenancies, in which case the tenancy will lapse to a secure tenancy. This is to give the Council flexibility in the event of a significant reduction of demand. Where tenancies are reviewed the household will be contacted 6 months prior to the end of the fixed tenancy.
- 7.2. Households will need to demonstrate that they continue to meet the allocations criteria. Households who do not meet the criteria may be offered different accommodation that meets their needs, or they may be offered advice and assistance to seek accommodation elsewhere.
- 7.3. Put simply, reviews will seek to determine whether the household would be allocated the tenancy were it an applicant rather than an existing tenant. The review will consider the following factors:
- Household size compared to the property
 - Health factors
 - Social factors
 - Household income
 - Household conduct
- 7.4. Households who meet the criteria can remain in their property on another fixed-term tenancy which will be applied flexibly to meet their circumstances.

8. Principles for the Allocations Policy:

8.1. The Council will develop an Allocations Policy to implement the objectives laid out in the Tenancy Strategy. The council wants the Allocations Policy to meet the following criteria:

Introduce additional, reasonable preference for households who are in work, training or who formally volunteer.

Maintain a more manageable waiting list, excluding those who have little need of social housing in Swindon.

Introduces fixed term tenancies as outlined in the Tenancy Strategy.

8.2. The Allocations Policy will also meet the following criteria:

Choice:

The majority of applicants should be able to choose where they live.

Simplicity:

The policy should be transparent, give clear understanding of housing need in Swindon, be easy to understand, and cost effective to administer

Flexibility:

The policy should deliver flexibility in terms of how it is applied across the Borough and to people. It should offer opportunities for strategic intervention for people and areas.

Local Government Ombudsman Review 2013

Cabinet

Date: 11th September 2013

Author: Leader of the Council
Director of Law and Democratic Services

Wards: All

Locality Affected: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 To report the receipt of the Local Government Ombudsman's Annual Review for 2012/13 which gives the total number of complaints investigated by the Local Government Ombudsman.
- 1.2 To highlight the changes in the procedure made by the Local Government Ombudsman which were introduced in April 2013, and the transfer of Housing landlord complaints from the Local Government Ombudsman to the Housing Ombudsman.
- 1.3 Reporting that the Local Government Ombudsman has not made any findings of maladministration against the Council could be seen as contributing to increasing public engagement in public life and confidence in Councillors and the local authority. This would support the Corporate Strategy to develop a national profile in order to secure maximum benefit for Swindon.

2. Recommendations

Cabinet is requested to recommended to Council:

- 2.1 To receive and welcome the Local Government Ombudsman's Annual Review and note that there has not been any findings of maladministration against the Council during 2012/2013.
- 2.2 To request the Chief Executive, Board Directors and Heads of Service to ensure that, where possible, complaints are resolved internally before reference to the Local Government Ombudsman and that requests for information from the Local Government Ombudsman are speedily dealt with .
- 2.3 To note the changes with regard to Housing Landlord Complaints.

3. Detail

Local Government Ombudsman

- 3.1 The Local Government Ombudsman traditionally issues an Annual Letter and Report in June/July in each year. Following a restructure of the Local Government Ombudsman' Service and changes in recording and dealing with complaints, the Local Government Ombudsman has not been able to produce

Further information on the subject of this report can be obtained from Sally Rhind-Tutt, Direct Dial 01793 463608 srhind-tutt@swindon.gov.uk.

Local Government Ombudsman Review 2013

Cabinet

Date: 11th September 2013

more detailed statistics this year as it has in the past. It has also moved from the production of a formal Annual Letter and Report to publishing a more general Annual Review. Normally within the report the complaints are broken down into service areas together with response times. This year's review is more general. The Review letter is attached at Appendix 1.

- 3.2 The Annual Review is published on the Local Government Ombudsman's website www.lgo.org.uk (follow the link to Councils' Performance where the previous year's figures are on display).
- 3.3 The total number of complaints received and investigated by the ombudsman during 2012/2013 was 24. Last year the total number was 25. This is 33.3% lower than the average number of complaints about a unitary authority.
- 3.4 Complaints investigated by the Local Government Ombudsman are logged on to the Council's Customer Complaints and Comments system (LAGAN) which can be accessed by other users throughout the Council.
- 3.5 The Local Government Ombudsman has included the average national statistics broken down into types of authorities which enables a comparison of total numbers of complaints for the year to be made.

District/Borough Councils-	10 complaints
Unitary Authorities-	36 complaints
Metropolitan Councils-	49 complaints
County Councils-	54 complaints
London Boroughs-	79 complaints

- 3.6 Whilst the Local Government Ombudsman has not provided more extensive statistics this year and has not identified the 24 complaints referred to above, the Council's Link Officer has collated statistics for the period from 1st April 2012 to 31st March 2013 and has identified the following:

Of the complaints

- 3.6.1 There were no cases of maladministration found involving the Council.
- 3.6.2 There were 7 cases where the Council has provided a remedy in the form of financial payment resulting in the Local Government Ombudsman discontinuing the investigation.
- 3.6.3 There were 2 cases where action taken by the Council was sufficient to enable the ombudsman to discontinue the investigation.
- 3.6.4 There were 15 cases where the Ombudsman decided that no further investigation was required.

Further information on the subject of this report can be obtained from Sally Rhind-Tutt, Direct Dial 01793 463608 srhind-tutt@swindon.gov.uk.

Local Government Ombudsman Review 2013

Cabinet

Date: 11th September 2013

- 3.7 In addition there were 4 complaints that the Ombudsman referred to the Council's internal complaints procedure because the Council had not had an opportunity to deal with the complaint.
- 3.8 In April 2013, the Local Government Ombudsman changed the way in which it deals with complaints and introduced a three-stage approach.
- 3.8.1 *Intake Stage* The ombudsman may decide not to investigate or if there is sufficient information to pass it on for investigation. If the Council has not had a chance to deal with the complaint the complainant will be asked to go to the Council direct (previously such complaints would have been forwarded to the council to deal with under its complaints procedure.) There will be exceptions to this such as complaints involving School Admissions.
- 3.8.2 *Assessment Stage* It is at this stage that the Council may be approached for information which will help a decision to be made and it is crucial that the Council responds promptly. The Assessment Team will be sifting out more serious cases and passing these rapidly on to the investigation teams. Accordingly it is important that officers ensure that, where possible, complaints are resolved by this stage in the process and that requests for information from the Local Government Ombudsman are speedily dealt with.
- 3.8.3 *Investigation.* It is anticipated that only serious complaints will reach this stage. The Council is given 28 working days in which to respond with the information and documents requested and it is important that officers give priority to this.
- 3.8.4 The complaints are dealt with by the Local Government Ombudsman's generic teams with a range of skills and experience and there will also be specialist expertise available such as for Adult Social Care, Planning etc.
- 3.8.5 The Local Government Ombudsman will require the complainant to make clear:
- what they believe the service provider has done wrong,
 - the injustice they claim to have suffered as a direct result, and
 - what they are looking for to put the matter right.
- 3.8.6 The Local Government Ombudsman will apply a two stage test:
- The jurisdiction Stage (can they investigate); and
 - The discretionary Stage (should they investigate)

Further information on the subject of this report can be obtained from Sally Rhind-Tutt, Direct Dial 01793 463608 srhind-tutt@swindon.gov.uk.

Local Government Ombudsman Review 2013

Cabinet

Date: 11th September 2013

- 3.9 Following investigation and *at the decision stage* the Local Government Ombudsman will publish a “Statement of Reason”. Neither the complainant(s) nor the officers will be named and the decision will be published on the Local Government Ombudsman’s website.

Housing Ombudsman

- 3.10 From 1st April 2013, all social housing complaints that relate to the landlord function are dealt with by the Housing Ombudsman (previously the Housing Ombudsman only dealt with complaints from Housing Association tenants). Other Housing related complaints such as housing allocations or homelessness continue to be dealt with via the existing Local Government Ombudsman procedure.
- 3.11 Before the Housing Ombudsman will consider or investigate a complaint it must have been referred to by a ‘designated person’ (MP, Councillor or recognised tenant panel), or by the tenant themselves if eight weeks have passed from the completion of the landlords internal complaint process.
- 3.12 At Swindon, a Tenants Panel has been trained to deal with landlord complaints and the complainant, if a tenant, may opt to refer their complaint to the Tenants Panel before submitting to the Housing Ombudsman. It is hoped that the complaint can be resolved at this stage without the need for the complaint to be escalated. It is expected that the Tenants Panel will be registered with the Housing Ombudsman in the near future.

4. Alternative Options

- 4.1 There are no alternative options. The Council could decide to develop a different approach to the way it responds to Ombudsman’s complaints. However, there is no evidence that this is required given the outcome of the Annual Review.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no financial implications. Where the Local Government recommends a local settlement then this will come from the appropriate service budget.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights implications have been taken fully into account in the preparation of this report and it is considered that the recommendations are compatible with Convention rights.

Further information on the subject of this report can be obtained from Sally Rhind-Tutt, Direct Dial 01793 463608 srhind-tutt@swindon.gov.uk.

Local Government Ombudsman Review 2013

Cabinet

Date: 11th September 2013

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other specific implications.

Diversity Impact Assessment

- 5.4 A Diversity Impact Assessment (DIA) has not been undertaken at this stage. The procedure for dealing with Ombudsman's complaints is shortly to be the subject of a DIA

Risk Management

- 5.5 Poor performance and findings of maladministration pose a reputational risk to the Council. This is mitigated by the overall performance of the Council and the systems it operates for responding to complaints and ombudsman investigations.

6. Consultees

- 6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 Local Government Ombudsman annual review

8. Appendices

- 8.1 Appendix 1 – Review Letter from the Local Government Ombudsman

9. Key Decision/

- 9.1 This is not a Key Decision and is included in the Cabinet Work Programme / Forward Plan for September 2013.

This page is intentionally left blank

16 July 2013

By email

Mr Gavin Jones
Chief Executive
Swindon Borough Council

Dear Mr Jones

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2013. This year we have only presented the total number of complaints received and will not be providing the more detailed information that we have offered in previous years.

The reason for this is that we changed our business processes during the course of 2012/13 and therefore would not be able to provide you with a consistent set of data for the entire year.

In 2012/13 we received 24 complaints about your local authority. This compares to the following average number (recognising considerable population variations between authorities of a similar type):

District/Borough Councils-	10 complaints
Unitary Authorities-	36 complaints
Metropolitan Councils-	49 complaints
County Councils-	54 complaints
London Boroughs-	79 complaints

Future development of annual review letters

We remain committed to sharing information about your council's performance and will be providing more detailed information in next year's letters. We want to ensure that the data we provide is relevant and helps local authorities to continuously improve the way they handle complaints from the public and have today launched a consultation on the future format of our annual letters.

I encourage you to respond and highlight how you think our data can best support local accountability and service improvements. The consultation can be found by going to www.surveymonkey.com/s/annualletters

LGO governance arrangements

As part of the work to prepare LGO for the challenges of the future we have refreshed our governance arrangements and have a new executive team structure made up of Heather Lees, the Commission Operating Officer, and our two Executive Directors Nigel Ellis and Michael King. The Executive team are responsible for the day to day management of LGO.

The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB

T: 024 7682 0000
F: 024 7682 0001
W: www.lgo.org.uk

Helpline: 0300 061 0614

Since November 2012 Anne Seex, my fellow Local Government Ombudsman, has been on sick leave. We have quickly adapted to working with a single Ombudsman and we have formally taken the view that this is the appropriate structure with which to operate in the future. Our sponsor department is conducting a review to enable us to develop our future governance arrangements. Our delegations have been amended so that investigators are able to make decisions on my behalf on all local authority and adult social care complaints in England.

Publishing decisions

Last year we wrote to explain that we would be publishing the final decision on all complaints on our website. We consider this to be an important step in increasing our transparency and accountability and we are the first public sector ombudsman to do this. Publication will apply to all complaints received after the 1 April 2013 with the first decisions appearing on our website over the coming weeks. I hope that your authority will also find this development to be useful and use the decisions on complaints about all local authorities as a tool to identify potential improvement to your own service.

Assessment Code

Earlier in the year we introduced an assessment code that helps us to determine the circumstances where we will investigate a complaint. We apply this code during our initial assessment of all new complaints. Details of the code can be found at:

www.lgo.org.uk/making-a-complaint/how-we-will-deal-with-your-complaint/assessment-code

Annual Report and Accounts

Today we have also published *Raising the Standards*, our Annual Report and Accounts for 2012/13. It details what we have done over the last 12 months to improve our own performance, to drive up standards in the complaints system and to improve the performance of public services. The report can be found on our website at www.lgo.org.uk

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jane Martin', with a horizontal line underneath.

Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

The establishments of markets in Swindon Town Centre

Licensing Committee

Date: 1st August 2013

Author:	Head of Public Protection & StreetSmart
Wards:	Central
Locality Affected:	Central Locality Area
Parishes Affected:	None

1. Purpose and Reasons

- 1.1 To establish a policy in relation to provision of street markets in Swindon Town Centre following the Full Council resolution of the 18th July 2013 to removal the prohibition from street trading in certain streets in the town centre to allow street markets.

2. Recommendations

The Committee is recommended to:

- 2.1 Agree the policy relating to provision markets in the town centre as set out in Appendix A.
- 2.2 Direct the Head of Public Protection and StreetSmart to issue the formal notice to amend the prohibition of street trading in certain streets in the town centre.

3. Detail

- 3.1 At the licensing Committee of the 9th July 2013 the Committee resolved “that the following streets, Canal Walk, Havelock Square, Havelock Street, Fleet Street, Regent Circus, Cenotaph are redesigned from Prohibited Streets to Consent Streets for the purpose of Street Markets.”
- 3.2 This resolution was ratified at Full Council on the 18th July 2013.
- 3.3 The licensing committee also resolved that Head of Public Protection and Streetsmart be requested to prepare a report setting out (a) Street Market Trading Policy and Service Level Agreement, (b) a Fee Structure for Street Markets, and (c) a review of logistical requirements required for street markets including access to an electricity supply and a review of street furniture within the consultation streets.
- 3.4 Councillors Dickinson, Faramazi and Perkins, the Head of Public Protection and StreetSmart, the Licensing and Animals Team Leader, Principle Solicitor and the Managing Director of InSwindon have prepared the Street Markets Policy contained in Appendix A.
- 3.5 The fee structure for street markets is set out in Appendix B.

Further information on the subject of this report can be obtained from Philip Thomas, 01793 466146, pthomas@swindon.gov.uk.

4. Alternative Options

4.1 None

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

5.1 None, any costs associated with consultation will be met within existing budgets.

Legal and Human Rights Implications

5.2 To remove the prohibition will permit any trader to seek street trading consent in the town centre.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

5.3 None

Links to One Swindon, Strategic Objectives, Plans and Policies

5.4 One Swindon Priority - We can all benefit from a growing economy and a better town Centre.

Diversity Impact Assessment

5.5 None required

Risk Management

5.6

6. Consultees

6.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

7.1 None

8. Appendices

8.1 Appendix A – Street Markets Policy

8.2 Appendix B – Markets fee Structure.

This page is intentionally left blank

1. INTRODUCTION

1.1 Street markets have been part of the town centres in the UK for many years. In the past they tended to be very local affairs but the last decade has seen a growth in specialist markets such as Continental, German and Farmer's Markets that offer a more specialised experience. Street markets can bring benefits to the Town centre. They offer an alternative shopping experience; a place for social interaction; provide an attraction for tourists and can make a contribution to the local economy. On the other hand, they may take business away from established retailers; they pay no rent and can take up prime dates when the streets could be used for alternative purposes. There is a need, therefore, to take a balanced approach to the issue and the Council will, therefore, support street markets where they contribute to the overall social and economic wellbeing of the Town. This guidance applies to 'Consent Streets' in which street trading will be limited to markets of the type described and that this guidance applies to Market Operators and stall holders involved in such market trading.

1.2 The Council has control over areas which have been adopted as Public Highway under law. However some of the streets in the town centre are not owned by the Council and therefore the landowners consent will be required for street trading activities in these streets. This Policy only applies to 'Consent Streets' in which street trading will be limited to markets of the type described section 3 below, in the geographical area shown on map 1 annexed.

1.3 The requirements of this policy should be complied with before seeking statutory consents.

2. OBJECTIVES

2.1 In supporting street markets within Swindon Town Centre, the Council has a number of objectives:

- support the local economy;
- enhance the shopping experience;
- provide an additional attraction to encourage more shoppers to the Town Centre;

- encourage local producers and businesses; and
- add vibrancy to the town centre.

3. GENERAL PRINCIPLES

3.1 The Council will take the following factors into account when considering proposals for street markets:

- benefit the economy of the Town;
- potential to connect with local businesses;
- provide opportunities for the sale of local produce;
- offer a diverse range of products;
- minimise their impact on the environment and use sustainable methods in their operations; and
- where possible, seek to employ local residents.

3.2 In considering proposals for Street Markets within the town centre, preference will be given to markets in the following order:

- A weekly general market
- Markets offering local produce or craft items;
- Markets that show a link to existing shops and/ or local producers; and
- Markets with no local connections, such as Continental style markets.
- Festive Markets such as a Christmas Market

3.3 The preferred usage for markets in the town centre are set out below, although a market will be considered in any consent street

Markets Options					
Type	Frequency	Location	Duration	Goods	Conditions
Christmas Market	Annual	Canal Walk/Wharf Green	Maximum 21 days, to fit in with the lights switch on	Festive related goods, this includes hot food.	Stall holders must use the chalets provided by InSwindon
					In Swindon are responsible for the site layout of the market
					The layout of the market must be designed to ensure access between shop fronts and chalets for emergency services.
Weekly Market	Weekly	Canal Walk, Wharf Green, Havelock Square	One day per week as agreed between the Market organiser and Licensing Committee	Ideally goods that compliment that which is currently being sold in the town centre	The Stalls used must meet the design code as between the market organiser and licensing committee
				Hot food can be sold but must be subsidiary to the main business of stall.	The layout of the market must be designed to ensure access between shop fronts and chalets for emergency services.

Specialist market	Monthly	Canal Walk, Wharf Green, Havelock Square, The Parade, The Cenotaph, Theatre Square	One day per Month as agreed between the Market organiser and Licensing Committee	Must be in keeping and related to the theme of the specialist market	The layout of the market must be designed to ensure access between shop fronts and chalets for emergency services.
-------------------	---------	--	--	--	--

3.3.1

- 3.4 In submitting a proposal to the Council, Market Operator and Stall Holders will be expected to show how their event complies with the above objectives and general principles. The Council will not normally support an application where the above objectives and general principles have not been appropriately addressed.

4. GENERAL CONDITIONS

- 4.1 The appearance of a market must ideally enhance, or at least not be detrimental to the street scene. A colour photograph of the market as it would be conducted in the street must be submitted with the application, and precise measurements of height, width and depth of proposed stalls

- Street markets will be limited to one per calendar month (this is in addition to any planned farmers markets which are exempt from this policy).
- Street markets will not be held in the same week as Farmer's markets.
- Traders will provide their own stalls. However in respect of Christmas Market, InSwindon will provide Chalets
- A street market should normally consist of 10 to 50 individual stalls (this would not apply to charity markets).
- A street market will normally be permitted to last not more than 3 days, except Christmas Market which will last no more than 21 days.
- Markets will have a theme in relation to the goods being sold e.g. a continental or Christmas market.

- The use of generators will be prohibited unless absolutely necessarily, in the event of generators being required they will be of a design to minimise noise and pollution.
- Music will not normally be permitted. If you wish to provide music and feel that there are exceptional circumstances to support this you must give notification with the application form. Music will only be permitted if specific consent is granted in that case.
- Other than Christmas markets and continental markets, hot food should only be sold as ancillary to the stall holder's main activity.

5. PROCEDURES

5.1 Determination of Applications

In Swindon, in consultation with relevant Cabinet Member, opposition spokesmen, Chair of Licencing and ward councillors of the ward(s) in which the market is to be held and, where necessary, with the Head of Public Protection & StreetSmart, will determine if proposals comply with policy. The Council's Licensing Service will determine any proposals, the above objectives and general principles will be taken into account together with the Guidance set out in Section 6. In addition, the history of previous use of the public realm by a Market Operator and Stall Holder will be taken into account, together with the views of other public agencies e.g. Police and Fire Service. Applicants should therefore consider these matters when submitting a Business Case proposal.

In Swindon, will be responsible for facilitating the provision of markets in the town centre and ensuring that the markets comply with this policy.

5.2 Risk Assessment

The Market Operator and Stall Holders must undertake a Risk Assessment for the event and forward a copy to the Council six weeks prior to commencement. Failure to do so will result in cancellation of the market. Thereafter, the Market Operator and Stall Holders will be expected to comply with the outcome of the Risk Assessment.

5.3 Location

Street Markets will only be allowed within particular areas of the town centre that have been designated as 'Consent Streets'. These are shown on Map 1. No Street Markets

will be allowed out with these specified zones within Business Improvement District area.

5.4 Other Statutory Consents

The Market Operator must ensure that the correct planning and highways consents are in place before submitting a 'street-trading' consent application on behalf of each of the stall holders. Licences are dealt with under the statutory procedures outlined in the Act.

5.5 Management Procedures

Where statutory consents are granted, the Council will expect the Market Operator and Stall Holders to comply with any conditions attached to the grant of any consents and the relevant criteria. Lack of compliance by Operators and/or stall holders may be taken into account when future proposals are considered by the Council.

6. GUIDANCE

In submitting a Business Case proposal, the Market Operator and Stall Holders should take the following matters into account.

6.1 Public Safety

The market should not present a significant risk to the public in terms of road safety, obstruction or fire hazard and should not present a risk to public order. If a market stall(s) causes an obstruction to the free flow of pedestrians or access for emergency vehicles, the Council reserves the right to remove such stalls.

6.2 Potential Nuisance

The market should not present a substantial risk of public nuisance from noise, rubbish, fumes, vermin, vibration, smoke or dust. The Market Operator and Stall Holders shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public. Failure to do so may mean removal of the said stall(s).

6.3 Health and Safety

All participants/contractors must comply with the relevant Health and Safety legislation throughout the duration of the market.

The Market Operator and Stall Holders are responsible for all public health and safety aspects of the event prior to, during and subsequent to the event.

All stalls/equipment must be contained within the locations specified and laid out by the Council and must be positioned to allow free flow of pedestrians or access by emergency service vehicles. Ideally there must be a gap of 2 metres around the market to ensure swift and safe evacuation, having regard to the volume of people likely to be in the building.

The positioning of the stall must ensure that emergency vehicles can gain access to building frontages. This applies to items that cannot be quickly and easily removed.

Where food is sold, the Market Operator and Stall Holder will be required to ensure that all participants comply with the relevant food safety legislation:

The Market Operator and Stall Holder shall keep his trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use. Failure to do so may mean removal of the said stall(s).

The Market Operator and Stall Holder shall remove all equipment from the street outside trading hours unless appropriate on-site security measures for their retention have been agreed in advance with the Council. This will not apply in the case of Christmas Markets as InSwindon will provide chalets..

6.4 Amplified Music

The Market Operator and Stall Holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television sets unless prior consent has been granted by the Council.

6.5 Advertising

The Market Operator and Stall Holder shall not place on the street or affix to any equipment placed on the street (excluding the trading units) any advertising material of any description whatsoever. The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street, grass or planted area or place or fix any equipment of any description in the said surfaces. The Market Operator and Stall Holder must not attach anything to any street furniture.

6.6 Equipment

The Market Operator and Stall Holder shall not place on the street any furniture or equipment other than as permitted by the Council and the Market Operator and Stall Holder must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.

The Market Operator and Stall Holder shall not remove any existing street furniture without the express permission of the Council.

6.7 Waste

The Market Operator and Stall Holder shall provide at his own cost and expense litterbins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items and remove them and their contents at the end of each daily period of use. Thereafter, the waste should be deposited at an appropriate waste site.

The Market Operator and Stall Holder shall retain with any van, cart, barrow or other vehicle or stall included within his consent any water used or waste produced until the end of each daily period. Thereafter it should be removed and disposed of at a suitable waste disposal point. In particular the Market Operator and Stall Holder shall not deposit any such waste near or into any street drain or channel or any public litter bin.

6.8 Use of electricity

The Council may make the provision for the use of electricity for the stall holders and will charge an appropriate fee for this.

6.9 Insurance

The Market Operator and Stall Holders must have at least £5million public liability insurance to cover any activity arising from the trading.

6.10 Fire prevention

No refuse or combustible material is to accumulate in or around any pitch or placed near to electrical fittings.

No hazardous substances or chemicals or inflammable substance should be stored on the pitch. No gas bottles or other high-pressure container to be left on the pitch unattended or over night

Any stall holder that has any form of heat, gas or electrical equipment on or around their stall, must have a fully functioning fire extinguisher.

6.11 Evacuation

In the event of fire, bomb threat or such potentially serious incident which requires the immediate evacuation of the area, instructions will be given by the InSwindon staff.

All traders are advised to make themselves aware of the evacuation procedure in place at the market. On being requested to evacuate by a member of the InSwindon team, emergency services or police, traders should leave the market without delay and where possible and, without danger to themselves or others, assist in directing customers away from the market area.

6.12 Conduct of stall holders

All traders must comply fully with all the rules, regulations and with all terms and conditions of any permit agreement when attending the market and shall comply with all reasonable directions of the Market Operator and InSwindon. The Council's decision is final in all matters and it can remove any trader at its discretion.

All market traders, their servants, agents, employees or contractors are required to conduct themselves in an orderly manner so as not to cause annoyance or inconvenience to other users of the market and to act in a responsible manner and not cause any act of neglect, wilful damage or disturbance to the peaceable enjoyment of the market.

The stallholder shall not use or permit to be used abusive, profane, offensive or insulting language.

In a dispute between a trader and consumer the trader should at all times endeavour to remain courteous and polite. Where the matter cannot be resolved amicably the Market Operator will attempt to arbitrate, if requested to do so. If in his/her opinion the consumer is found to have a justifiable complaint, the trader will be requested, without any liability on the part of the Market Operator, to rectify the matter as recommended.

If the Market Operator is unable to offer a clear opinion or the trader is unwilling to resolve the matter then the consumer will be advised to take the matter to the local

Trading Standards Service. The trader will be expected to comply with the written opinion of the Trading Standards Service.

The stall/ pitch holder will move to another pitch when told by the InSwindon staff with short notice. This is to ensure that complaints or other issues can be dealt with quickly.

The Council reserves the right to restrict or prevent any trader from participating in a market if they breach this policy.

7. REVOCATION & RENEWAL

In accordance with the Local Government (Miscellaneous) Provisions Act 1982, the Council may revoke any consent at any time if, in the Council's opinion, the stall holder is operating in an inappropriate manner contrary to the above objectives, general principles and management and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the Market Operator and Stall Holder in respect of such revocation. Where a consent is revoked the stall holder is entitled to have the fee paid remitted in whole or in part. Consents are only valid for 12 months and then have to be renewed

8. REVIEW

This policy will be reviewed 12 months from the date of commencement.

9. CONTACTING THE COUNCIL

For further information please contact: Licensing Team at:

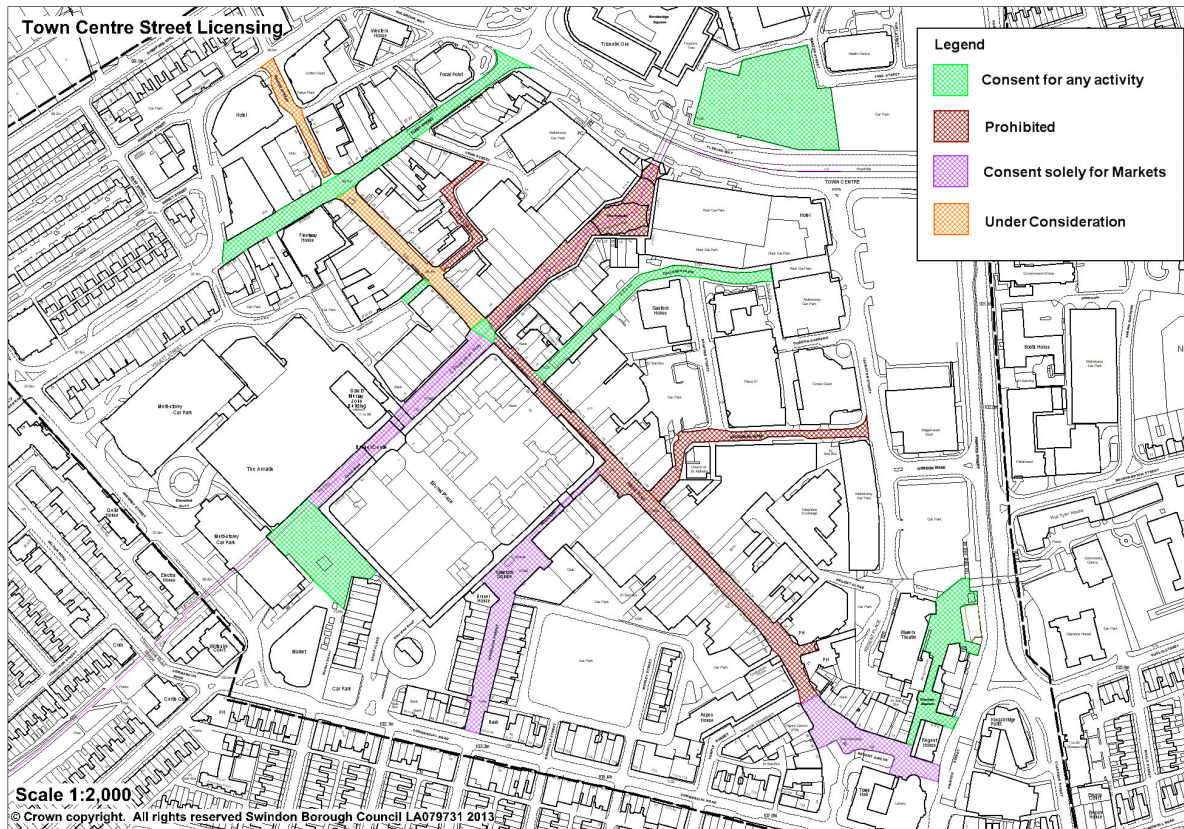
The Licensing Office
Swindon Borough Council
Wat Tyler House
Beckhampton Street
Swindon
SN1 2JH

E-mail: licensing@swindon.gov.uk

Tel: 01793 445500

Appendix A

Consent Streets in Swindon Town Centre



This page is intentionally left blank

Appendix B

Street Market fees

Type	Daily fee	Annual fee
Weekly Market	£30	£300
Christmas Market	N/A	£100
Charity Market	£20 for one pitch	£200
	£30 for two pitches	£300

❖ No charge will be made for the Christmas Market in 2013.

This page is intentionally left blank

Review of Scheme of Delegation of Functions under the Licensing Act 2003

Licensing Committee

Date: 23 September 2013

Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 On 25 April 2012, the Licensing Act 2003 was amended by the Police Reform and Social Responsibility Act 2011 and additional duties were imposed on the Licensing Authority.
- 1.2 These functions, such as the suspension of a licence for non-payment of the annual fee, are largely administrative but they currently lie with the Licensing Committee. It therefore seems appropriate to review the delegation of licensing functions under the Licensing Act 2003 to ensure that an efficient and cost-effective service is provided.

2. Recommendations

- 2.1 It is recommended that:

The Licensing Committee delegates its functions under the Licensing Act 2003 as per the table in paragraph 3.6 of the report.

3. Detail

- 3.1 On 25 April 2012, the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 as follows:
 - 3.1.1 The Licensing Authority and Local Authority responsible for public health became responsible authorities;
 - 3.1.2 The vicinity test for those who make a representation was removed and 'interested parties' became 'other persons';
 - 3.1.3 The evidential burden on Licensing Authorities has been reduced, so instead of the Sub-Committee having to take 'necessary steps' to promote the licensing objectives when determining an application, they must now take 'appropriate steps' to promote the licensing objectives;
 - 3.1.4 A Late Temporary Event Notice may now be accepted up to 5 working days prior to the event instead of 10 working days, and Environmental Health (Noise and Health&Safety) are now a consultee for all Temporary Event Notices received by Swindon Borough Council in addition to the Chief Officer of Wiltshire Police. Where an objection notice is served in

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Review of Scheme of Delegation of Functions under the Licensing Act 2003

Licensing Committee

Date: 23 September 2013

response to a late temporary event notice, the Licensing Authority must serve a counter notice and the event cannot go ahead. The time limits for temporary event notices have been relaxed such that an event may last for up to 168 hours instead of 96 hours and events may now take place on no more than 21 days in a calendar year, instead of 15 days;

- 3.1.5 A Premises Licence or Club Premises Certificate must be suspended for non-payment of the statutory annual fee unless the amount payable is disputed, or non-payment is due to an administrative error in which case, a 21 day grace period is provided; and
- 3.1.6 The Statement of Licensing Policy must now be reviewed at 5 yearly intervals instead of 3 yearly intervals.
- 3.2 The Secretary of State published new Guidance under section 182 of the Licensing Act 2003, in October 2012 reflecting the above changes. The Guidance refers to the administration, exercise and delegation of functions (para 13.59 – 13.61) and provides that *“Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.”*
- 3.3 It is therefore proposed that the suspension of Premises Licences and Club Premises Certificates for non-payment of annual fees is delegated to the Head of Public Protection & Streetsmart in the interest of speed, efficiency and cost-effectiveness of the service. This is a duty that the Licensing Authority must carry out unless the amount payable has been disputed in advance or there is an administrative error, in which case a 21-day grace period is given.
- 3.4 It is proposed that where objection notices are received in response to late temporary event notices, the service of counter notices is delegated to the Head of Public Protection & Streetsmart. This is because there is no discretion given to the Licensing Authority and a counter notice must be served.
- 3.5 It is also proposed that the responsible authority function of the licensing authority is delegated to the Head of Public Protection & Streetsmart. Where this power is used to make a representation or application to review an authorisation, there will be clear separation of responsibilities between the Officer acting as the responsible authority and the Officer presenting the report to the Sub-Committee to ensure procedural fairness.
- 3.6 The proposed scheme of delegation of licensing functions is therefore:

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Review of Scheme of Delegation of Functions under the Licensing Act 2003

Licensing Committee

Date: 23 September 2013

Matter to be Deal With	Full Committee	Sub Committee	Head of Public Protection & Streetsmart
Matters relating to maintenance of the Public Register (s.8)			All cases
Application for a Premises Licence / Provisional Statement / Club Premises Certificate		If relevant representation is made	If no relevant representation is made
Application to vary a Premises Licence / Club Premises Certificate		If relevant representation is made	If no relevant representation is made
Decision whether to consult other responsible authorities on minor variation applications			All cases
Determination of minor variation applications			All cases
Application to Vary a Designated Premises Supervisor (DPS)		If a Police Objection is made	All other cases
Request to be Removed as a DPS			All cases
Determination of an application to vary a Premises Licence at a community premises to include the alternative licence condition		If a Police objection is made	All other cases

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Review of Scheme of Delegation of Functions under the Licensing Act 2003

Licensing Committee

Date: 23 September 2013

Matter to be Deal With	Full Committee	Sub Committee	Head of Public Protection & Streetsmart
Application to Transfer a Premises Licence		If a Police Objection is made	All other cases
Application for an Interim Authority Notice		If a Police Objection is made	All other cases
Application to review a Premises Licence / Club Premises Certificate		All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious etc			All cases
Decision to make a representation when the Licensing Authority is the relevant Licensing Authority			All cases
Decision to make a representation when the Local Authority is a consultee and not the relevant authority considering the application		All cases	-
Suspension of a Premises Licence / Club Premises Certificate for non-			All cases

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Review of Scheme of Delegation of Functions under the Licensing Act 2003

Licensing Committee

Date: 23 September 2013

payment of annual fee			
Matter to be Deal With	Full Committee	Sub Committee	Head of Public Protection & Streetsmart
Withdrawal of a Club Premises Certificate where the Club Ceases to be a Qualifying Club under the Act (s.90)			All cases
Acknowledgement of a temporary event notice			All cases
Determination of an objection to a standard temporary event notice		All cases	
Serving of a counter-notice to a late temporary event notice where an objection notice is received			All cases
Serving of a counter-notice to a temporary event notice where Permitted Limits are Exceeded			All cases
Application for the Grant / Renewal of a Personal Licence		If a Police Objection is made	If no Police objection is made
Determination of an Objection Notice in Response to a Notification of Convictions Coming to Light after Grant / Renewal of a Personal Licence		All cases	

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Review of Scheme of Delegation of Functions under the Licensing Act 2003

Licensing Committee

Date: 23 September 2013

Matter to be Deal With	Full Committee	Sub Committee	Head of Public Protection & Streetsmart
Updating of Premises Licences (under s.56), Club Premises Certificates (under s.93) and Personal Licences (under s.134)			All cases
Issuing copies of Premises Licences and Summaries (under s.25), Club Premises Certificates and Summaries (under s.79), Temporary Event Notices (under s.110) and Personal Licences (under s.126) due to theft, lost etc.			All cases
Authorisation of Officers Generally under the Act and specifically under Parts 3 and 4 and section 108(5)			All cases
Instigation of proceedings for an offence			All cases

4. Alternative Options

- 4.1 The Licensing Committee may delegate its licensing functions in any other way but should ensure that an efficient and cost-effective service is provided.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 The proposed scheme of delegation will ensure the most cost-effective service is provided. The administrative functions are covered by the application and annual fees set by central government.

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Review of Scheme of Delegation of Functions under the Licensing Act 2003

Licensing Committee

Date: 23 September 2013

Legal and Human Rights Implications

- 5.2 Swindon Borough Council has a statutory duty to carry out its functions under the Licensing Act 2003.
- 5.3 The delegation of licensing functions as set out in the table in paragraph 3.6 is within the Committee's statutory powers.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.4 There are no staffing, sustainability, health, rural or crime and disorder implications associated with this report.

Diversity Impact Assessment

- 5.5 No diversity impact assessment has been undertaken.

Risk Management

- 5.6 The administration of licensing functions as set out in the table in paragraph 3.6 of the report will ensure an efficient service is provided

6. Consultees

- 6.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 Licensing Act 2003
- 7.2 Secretary of State Guidance under section 182 of the Licensing Act 2003
- 7.3 Police Reform and Social Responsibility Act 2011 – Part 2, Chapter 1
- 7.4 Swindon Borough Council's Constitution 2013-14

8. Appendices

None

This page is intentionally left blank

Provisions of the Scrap Metal Dealers Act 2013 and approve the fees appropriate for the applications

Licensing Committee

Date: 23 September 2013

Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and the main provisions come in to force in October this year by means of a Commencement Order(s).
- 1.2 The Commencement Order initiates the new system of licensing to be administered by the local Authority with most of the provisions of the Scrap Metal dealers Act 2013 coming into effect from 1 October 2013. The provisions for offences come into effect from the 1st of December 2013
- 1.3 This report outlines the provisions of the Act and highlights some of the changes that will take place

2. Recommendations

- 2.1 It is recommended that:

The Licensing Committee notes the new provisions and approves the fee level set for applications pursuant to the Scrap Metal Dealers Act 2013

3. Detail

- 3.1 The growth of metal theft offences has highlighted the ineffectiveness of the existing registration scheme in preventing the sale of stolen metal. Government decided that regulatory reform of the scrap metal sector was needed.
- 3.2 In December 2012, some legislative steps to prohibit cash payments for scrap metal, amend police powers of entry into unregistered scrap metal sites, and an increase in the existing financial penalties for offences were brought into force.
- 3.3 The 2013 Act contains additional provisions to raise standards in the industry, replacing the overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory scheme and making Councils responsible for the licensing and enforcement of the Act alongside the Police.
- 3.4 Some of the changes due to be implemented in 2013 are set out below:

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Provisions of the Scrap Metal Dealers Act 2013 and approve the fees appropriate for the applications

Licensing Committee

Date: 23 September 2013

- 3.5 The creation of a central public register containing details of all businesses and individuals licensed as scrap metal dealers. The register will be created and maintained by the Environment Agency.
- 3.6 The Act brings in two types of licences either a site/premises licence or a mobile collectors' licence. The licence allows a business to trade as a scrap metal dealer at the premises identified, or in the case of a collectors licence to collect scrap metal within the Council boundary.
- 3.7 Applicants for a licence must be suitable and the Council can have regard to:
- Whether the applicant or any site manager has been convicted of any relevant offence;
 - Whether the applicant or site manager has been the subject of any relevant enforcement action;
 - Any previous refusal for issue or renewal of a scrap metal licence (and the reasons for the refusal);
 - Any previous refusal for an environmental permit or registration (and the reasons for the refusal);
 - Any previous revocation of a scrap metal licence (and the reasons for the revocation)
 - Whether the applicant has demonstrated that there will be adequate procedures to ensure compliance with the Act.
- 3.8 Upon receipt of an application the Local Authority may consult with any other local authority, (if an application has been made to them or issued to the same applicant), the Environment Agency and the Police
- 3.9 Councils will have the power to turn down unsuitable applicants and have powers to vary licences by adding to the licence up to two statutory conditions provided by the Act.
- 3.10 The current legislation permits registration with minimal information and no fee payable. The 2013 Act will require more detailed information to be submitted on application and will allow the local authority to set a fee. The fee must be on a cost recovery basis and local authorities will have to have regard to any guidance issued by the Secretary of State in determining the activities that can be funded by the licence fee.
-

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Provisions of the Scrap Metal Dealers Act 2013 and approve the fees appropriate for the applications

Licensing Committee

Date: 23 September 2013

-
- 3.11 Scrap metal dealers will need to obtain the full name and address of the metal supplier and keep copies of the proof of identification. In addition the dealer must keep records of the type and description of the metal(s) including weight and identifying marks, the date and time of receipt, the vehicle registration of any vehicle delivering the metal and copies of cheques used to pay for metal. All records must be kept for 3 years. The Act reaffirms the prohibition on the payment of cash for metal.
- 3.12 Police Officers and Council Officers will be given powers to inspect licensed premises and can require production of any scrap metal at the premises, inspect records and take copies of those records. Additionally the Act provides the Police and Council with power to issue closure notices and to apply to a justice of the peace for a closure order.
- 3.13 It is proposed that the Licensing Authority for Swindon Borough Council introduce the fee of £190 for a licence pursuant to the Scrap Metal Dealers Act 2013

4. Alternative Options

- 4.1 The Licensing Committee may delegate its licensing functions or set amended fees in any other way but should ensure that an efficient and cost-effective service is provided.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 The proposed scheme of delegation will ensure the most cost-effective service is provided. The administrative functions are covered by the application and annual fees set by central government.

Legal and Human Rights Implications

- 5.2 Swindon Borough Council has a statutory duty to carry out its functions under the Scrap Metal Dealers Act 2013.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no staffing, sustainability, health, rural or crime and disorder implications associated with this report.

Diversity Impact Assessment

- 5.4 No diversity impact assessment has been undertaken.

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: KAshton@swindon.gov.uk.

Provisions of the Scrap Metal Dealers Act 2013 and approve the fees appropriate for the applications

Licensing Committee

Date: 23 September 2013

6. Consultees

- 6.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 Scrap Metal Dealers Act 2013
7.2 Secretary of State Guidance

8. Appendices

None