



**SWINDON BOROUGH COUNCIL**  
**Municipal Year 2012/13**

**Thursday, 20 September 2012**

**COUNCIL CHAMBER**  
**CIVIC OFFICES**  
**SWINDON**

12 September 2012

Dear Councillor,

**Summons to attend Council Meeting**

A MEETING of the **Council**, which you are requested to attend, is to be held at the CIVIC OFFICES, SWINDON, on **Thursday, 20 September 2012 at 7.00 p.m.**

The business to be transacted will be as follows:-

**AGENDA**

**1. Apologies for Absence**

**2. Communications**

To receive any communications or letters which the Mayor or Chief Executive may have to bring before the Council.

**3. Minutes (Pages 1 - 6)**

To receive the minutes of the previous meeting held on 19<sup>th</sup> July 2012.

**4. Declarations of Interest**

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

**5. Public Question Time**

See explanatory note below.

**6. Minutes for Confirmation (Pages 7 - 98)**

(1) To consider Minutes for Confirmation from Cabinet:

- Minute 32 – Local Government Ombudsman’s Latter 2011/12.
- Minute 36 – Military Covenant – Motion at Council.

(2) To consider Minute for Confirmation from the Licensing Committee:

- Minute 11 – Introduction of a Licensing Regime for Sexual Entertainment Venues.

(3) To note Minute from Cabinet:

- Minutes 43(6) - Street Lighting and Traffic Signals Review.

**7. Appointment of Representative to Serve on the Joint Wiltshire and Swindon Police and Crime Panel**

The Council’s Conservative Group have requested that Councillor Andrew Bennett be appointed to replace Councillor Roderick Bluh as a representative serving on the Joint Wiltshire and Swindon Police and Crime Panel for the remainder of the Municipal Year, 2012/13.

**8. Motions**

**(a) Motion - Unison**

**Councillor Jim Grant will move and Councillor Stan Pajak will second:**

“Swindon Borough Council recognises the role that UNISON has with regard to consultation, negotiation and representation on behalf of the Council’s employees.

Following consultation on the proposal to reduce central funding for UNISON facility time, Swindon Borough Council believes that the most efficient and effective way of meeting its responsibilities as an employer in its relationship with UNISON is to continue to centrally fund the equivalent of 1.5 full-time posts to undertake this role. Accordingly, Council urges Cabinet to request a report from the Head of People and Change as to how this can be achieved.”

**(b) Motion - Allotments**

**Councillor Cindy Matthews will move and Councillor Steve Wakefield will second that:**

“This Council recognizes the role its allotments play in bringing exercise, fresh food and a sense of self-sufficiency to many of its local residents.

This Council notes that there is a large waiting list for allotment plots, while many of Swindon Council's allotment plots have been left unused for a number of months.

This Council notes the expression of interest from the Swindon Allotment and Leisure Gardens Association, an organisation representing the views of Swindon's allotment holders, for taking over the management of

Swindon Borough Council's allotments.

With this in mind, Council requests Cabinet to consider establishing an allotments cooperative organisation, which will manage and collect the rents from the users of Swindon Borough Council's allotment sites.

Prior to Cabinet considering this, this Council requests that the Lead Member establishes a cross-party working group to produce detailed recommendations to Cabinet of how this Co-operative organisation will work in practice and how the users of Swindon Borough Council's allotments can play a much greater role in managing these allotments."

(c) **Motion - Green Waste Collections**  
**Councillor Mark Dempsey will move and Councillor Neil Heavens will second that:**

"This Council expresses its concern at the present standard of green waste collection within the Borough and requests that the Cabinet produce a report for the next Council meeting outlining what action will be taken to improve the service"

(d) **Motion - Provision of Infrastructure**  
**Councillor Richard Hurley will move and Councillor Dale Heenan will second:**

"The provision of Infrastructure in the Eastern Villages is of huge concern to local residents and local Councillors on the East of Swindon, particularly the issue of traffic.

This Council requests:

- The Head of Highways ensures that the option of an Eastern link road at either Dorcan or Commonhead is properly considered.
- The Head of Highways ensures that the White Hart junction rebuild, the Green bridge over the A419, an Eastern Link road and any other necessary projects are included in the Infrastructure Delivery Plan under the Community Infrastructure Levy.
- The Head of Planning ensures that any future Supplementary Planning Document for the Eastern Villages includes the appropriate transport links like the White Hart junction rebuild, the Green bridge over the A419 and an Eastern link road.
- The Board Directors of Service Delivery and Commissioning, and the Chief Executive review all of the available funding for the Eastern Villages infrastructure and opens talks with Government to provide any shortfall."

(e) **Motion - Housing**  
**Councillor Steve Allsopp will move and Councillor Julie Wright will second that:**

"This Council notes the local housing challenges over the next decade. These challenges include:

- The effects of Housing Benefit changes
- The need to kickstart housing developments at strategic sites in order to stimulate the local economy, with particular reference to Wichelstowe
- The increasing demand for social housing **and the need to ensure there are mixed developments**
- And the increasing numbers of families unable to afford home ownership, while there is a lack of medium-term private rented housing for families

In order to meet the increasing demand for private sector rented housing for families, Council requests its Board Director for Finance, Revenues, Benefits and Property to present a report to Cabinet detailing how the Council can use its current property portfolio to establish a joint venture vehicle with a developer, which establishes housing developments that would orientate towards long term private sector tenancies (10 years+), with an inflation linked rent review. This would unlock the value of Council land, help stimulate an ailing construction sector and bring a new model of providing market facing rented accommodation in Swindon, driving up standards and supporting social cohesion.

This Council also requests its Board Director for Service Delivery to organise a Housing Conference with all the different kinds of local housing stakeholders invited, including tenants in private and social housing, to shape how Swindon faces the specific housing challenges detailed above."

(f) **Motion - Leisure Facilities**  
**Councillor John Haines will move and Councillor Claire Ellis will second:**

This Council welcomes the Administration's commitment to promoting access to sport through a range of public and private sector providers.

This Council supports Moirai, the private sector company providing a £65m refurbishment of the Oasis and its bid to have Olympics Basketball court re-sited in Swindon.

This Council congratulates the Administration for taking the bold step to seek a private sector option to rebuild the Oasis, and notes this would have been unaffordable if left to the Swindon Taxpayers alone.

This Council requests that the Cabinet Member for Leisure and Strategic Transport ensure that the Leisure Libraries, Culture and Parks options appraisal due for consideration by Cabinet contains full details of Swindon's Olympic legacy.

**9. Minutes of Cabinet and Decisions Delegated to Cabinet Members** (Pages 99 - 132)

Members have the opportunity to raise questions with the relevant Cabinet Member in respect of Cabinet minutes (which are not reserved for Council for decision) and in respect of individual Cabinet Member delegated decisions.

**10. Minutes of other Council Bodies**

Members have the opportunity to raise questions with the relevant Chair in respect of all other Committee minutes (not reserved to Council for decision), as set out in the Minute Book circulated separately.

**11. Councillors Question Time**

Questions (if any) of which notice has been given by Councillors in accordance with Standing Order 15.

Yours faithfully

Director of Law and Democratic Services

**Questions by Members of the Public in accordance with Standing Order 11**

Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Council (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

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## COUNCIL

**THURSDAY, 19 JULY 2012**

**PRESENT:-** The Worshipful The Mayor in the Chair; Councillors Junab Ali, Steve Allsopp, Abdul Amin, Paul Baker, John Ballman, Ray Ballman, Mike Bawden, Andrew Bennett, Roderick Bluh, Wayne Crabbe, Doreen Dart, Mark Dempsey, Mark Edwards, Toby Elliott, Claire Ellis, Emma Faramarzi, Fionuala Foley, Brian Ford, Mary Friend, Jim Grant, John Haines, Peter Heaton-Jones, Neil Heavens, Russell Holland, Fay Howard, Richard Hurley, Colin Lovell, Nick Martin, Cindy Matthews, Brian Mattock, Derique Montaut, Teresa Page, Stan Pajak, Maureen Penny, Garry Perkins, Julian Price, David Renard, Ann Richards, James Robbins, Rochelle Russell, Kevin Small, Vera Tomlinson, Joe Tray, Steve Wakefield, Nadine Watts, Peter Watts, Keith Williams, David Wood, Robert Wright and Julie Wright.

### **27. Apologies for Absence**

Apologies for absence were received from Councillors Rex Barnett, Alan Bishop, Michael Dickinson, Dale Heenan, Des Moffatt and Nicky Sewell.

### **28. Communications**

The Chief Executive reported that a letter had been received from Justin Tomlinson M.P., dated 16<sup>th</sup> July 2012 regarding Youth Unemployment (Agenda Item 7(a) (Motion – Apprenticeships)) and from Robert Buckland M.P., dated 18<sup>th</sup> July 2012 regarding Youth Unemployment (Agenda Item 7(a) (Motion – Apprenticeships)).

### **29. Minutes**

Resolved – That the minutes of the meeting held on 20<sup>th</sup> June 2012, be confirmed and signed.

### **30. Declarations of Interest**

Councillor Jim Robbins made a personal declaration of interest in respect of Agenda Item 7(a) as he was employed by Churchfields Academy.

Councillor Emma Faramarzi made a personal declaration of interest in respect of Agenda Item 7(a) as she was a Member of The Federation of Small Businesses which was involved in some of the schemes referred to in the letter submitted to the Council by Justin Tomlinson M.P.

### **31. Public Question Time**

Mr. Chris Watts submitted a written question to the Leader of the Council regarding Government funding for Council staff earning less than £21,000.

A written answer was tabled at the meeting.

Mr. Brian Cockbill submitted a written question to the Leader of the Council regarding the Mechanics' Institute and the minutes of the Annual Council meeting held on 18<sup>th</sup> May 2012.

A written answer was tabled at the meeting.

Mr. Brian Cockbill asked a supplemental question in respect to the recovery of costs associated with the Mechanics Institute and a response was given at the meeting.

Mr. Stuart Hibbard submitted a written question regarding planning conditions in force at the Stagecoach Depot in Swindon.

A written answer was tabled at the meeting.

Mr. Hibbard asked a supplemental question regarding the accuracy of the response tabled and the Chair of the Planning Committee indicated he would investigate the comments made by Mr. Hibbard.

### **32. Minutes for Confirmation**

(1) Councillor Roderick Bluh moved and Councillor David Renard seconded:

“That Minute 8 of the Cabinet (Wiltshire and Swindon Aggregate Minerals Site Allocations Development Plan Document) be confirmed and adopted.”

The Motion was put to the vote and declared carried.

(2) Councillor Russell Holland moved and Councillor Roderick Bluh seconded:

“That Minute 21(1) of the Cabinet (One Swindon – Annual Report – First Year) be confirmed and adopted.

The Motion was put to the vote and declared carried.

(3) Councillor Roderick Bluh moved and Councillor David Renard seconded:

“That Minute 22(1) of the Cabinet (A Community Infrastructure Levy for Swindon) be confirmed and adopted.

The Motion was put to the vote and declared carried.

### **33. Motion - Apprenticeships**

Councillor Mark Dempsey moved and Councillor Jim Robbins seconded:

“This Council notes the devastating effects of high levels of youth unemployment. This Council also notes that Swindon has been identified as a youth unemployment hotspot, with the second highest rate of youth unemployment in the South West. This Council is concerned by the lack of any meaningful action by its two MPs to highlight and tackle this issue.



This Council also notes that in April 2009 it resolved to instruct Cabinet to investigate the creation of a scheme whereby organisations awarded a contract by Swindon Borough Council would be encouraged to take on apprenticeships. This Council also notes the Cabinet report of October 2011 on Strategic Commissioning, which sought to provide employment opportunities for young trainees and unemployed people through its procurement system.

With this in mind Council would like to reaffirm its commitment to encourage the creation of more work experience, apprenticeship and training opportunities and asks the relevant Cabinet Member to bring a report to Cabinet, detailing how the Council can meet these commitments, with a view to:

- Promoting apprenticeships and work experience opportunities though conditions imposed by the Council via planning applications;
- Promoting more apprenticeships and work experience opportunities through the Council procurement system;
- Seeking to get a voluntary commitment from existing contractors to create more apprenticeships and other training opportunities”.

Councillor Garry Perkins moved and Councillor Roderick Bluh seconded that the Motion be amended to read:

“This Council also notes that in April 2009 it resolved to instruct Cabinet to investigate the creation of a scheme whereby organisations awarded a contract by Swindon Borough Council would be encouraged to take on apprenticeships. This Council also notes the Cabinet report of October 2011 on Strategic Commissioning, which sought to provide employment opportunities for young trainees and unemployed people through its procurement system.

This Council also notes the work undertaken by the Council and its One Swindon partners to provide apprenticeships and monitoring through Plan 500.

With this in mind, Council would like to reaffirm its commitment to encourage the creation of more work experience, apprenticeship and training opportunities through:

- Promoting apprenticeships and work experience opportunities though the Council procurement system;
- Seeking to get a voluntary commitment from existing contractors to create more apprenticeships and other training opportunities.”

With the agreement of the mover and seconder of the amendment the amendment was amended to read:

“This Council also notes that in April 2009 it resolved to instruct Cabinet to investigate the creation of a scheme whereby organisations awarded a contract by Swindon Borough Council would be encouraged to take on apprenticeships. This Council also notes the Cabinet report of October 2011 on Strategic Commissioning,

which sought to provide employment opportunities for young trainees and unemployed people through its procurement system.

This Council also notes the work undertaken by the Council and its One Swindon partners to provide apprenticeships and monitoring through Plan 500 *and that more should be done*.

With this in mind, Council would like to reaffirm its commitment to encourage the creation of more work experience, apprenticeship and training opportunities through:

- Promoting apprenticeships and work experience opportunities through the Council procurement system;
- Seeking to get a voluntary commitment from existing contractors to create more apprenticeships and other training opportunities.”

The Amendment was put to the vote and declared carried becoming the Substantive Motion.

The Substantive Motion was put to the vote and unanimously agreed.

#### **34. Motion - Tadpole Farm/Core Strategy**

Councillor Julian Price moved and Councillor Jim Grant seconded:

“This Council is disappointed that the unapproved Core Strategy published last year has been taken as a material consideration for determining two significant outline planning applications in the Borough, at Commonhead and Tadpole Farm.

This Council also asks the Lead Member for Strategic Planning to ensure the following strategic Borough priorities are included within the next version of the Core Strategy proposals:

- The re-instatement of the Purton-Iffley Relief Road as designed.
- That the A419 be deemed as a major economic artery for Swindon and that a Spine Road link the A419 to the Tadpole Farm development.
- That Oakhurst Way not be shown as the principal access to the Tadpole Farm development.”

Councillor Keith Williams moved and Councillor Roderick Bluh seconded that the Motion be amended to read:

“This Council notes that the draft Core Strategy, considered and approved by Council on 25<sup>th</sup> February 2008 (Minute 108), 16<sup>th</sup> July 2009 (Minute 19) and 17<sup>th</sup> February 2012 (Minute 19) has been taken as material consideration for determining two significant outline planning applications in the Borough, at Commonhead and Tadpole Farm.

This Council asks the Cabinet Member for Strategic Planning and Sustainability if the draft Core Strategy can take into consideration the following:

- That the Council should negotiate with the Department for Transport to determine if the Purton-Iffley Relief Road, which was removed from the Haydon 3 Section 106 agreement by Planning Committee because the previous Government could not commit to the £100million funding, can be reinstated.
- That the A419 be deemed as a major economic artery for Swindon and that a Spine Road link the A419 to the Tadpole Farm development.
- If Oakhurst Way is the primary access to Tadpole Farm, and detail all the proposed traffic management measures secured for the Tadpole farm development to ensure that the highway is fit for purpose.”

With the agreement of the mover and seconder of the Amendment it was amended to read:

“This Council notes that the draft Core Strategy, considered and approved by Council on 25<sup>th</sup> February 2008 (Minute 108), 16<sup>th</sup> July 2009 (Minute 19) and 17<sup>th</sup> February 2012 (Minute 19) has been taken as material consideration for determining two significant outline planning applications in the Borough, at Commonhead and Tadpole Farm.

This Council asks the Cabinet Member for Strategic Planning and Sustainability if the draft Core Strategy can take into consideration the following:

- That the Council should negotiate with the Department for Transport to determine if the Purton-Iffley Relief Road, which was removed from the Haydon 3 Section 106 agreement by Planning Committee because the previous Government could not commit to the £100million funding, can be reinstated.
- That the A419 be deemed as a major economic artery for Swindon and that a Spine Road link the A419 to the Tadpole Farm development.
- *Whether or not Oakhurst Way should be the primary access to Tadpole Farm, and all the proposed traffic management measures secured for the Tadpole Farm development to ensure that the highway is fit for purpose be detailed.”*

The Amendment was put to the vote and declared carried becoming the Substantive Motion.

The Substantive Motion was put to the vote and declared carried.

### **35. Minutes of Cabinet and Decisions Delegated to Cabinet Members**

The Council considered (a) the minutes of the meetings of the Cabinet held on 21<sup>st</sup> March and 1<sup>st</sup> June 2012, (b) decisions taken by Cabinet Members relating to delegated decisions taken under their portfolio responsibilities, and (c) questions to the Cabinet Members regarding their portfolio responsibilities and answers received.

**36.**

**Minutes of other Council Bodies**

The Council (a) received the Minutes set out in the “Minutes of Other Council Bodies” circulated with the Agenda, and (b) considered questions to Chairs regarding the work of their Committees and other bodies and answers received.

**37.**

**Councillors Question Time**

The Director of Law and Democratic Services reported that a Standing Order 15 Question had been received from Councillor Mark Dempsey and a written answer had been tabled.

There was no supplemental question.

**MINUTES FOR CONFIRMATION**

**CABINET**

**5<sup>TH</sup> SEPTEMBER 2012**

**32. Local Government Ombudsman's Annual Letter 2011/12  
(Minute for Confirmation)**

The Leader of the Council and the Director of Law and Democratic Services submitted a joint report setting out the Local Government Ombudsman's Annual Letter and Summary of Statistics for Swindon for 2011/12.

The Chair welcomed the contents of the Local Government Ombudsman's Annual Review and noted that there had been no cases of maladministration involving the Council in 2011/12. He highlighted that there had again been a reduction in the total number of complaints investigated and in the Council's response times to Ombudsman enquiries.

Resolved – **That the Council be recommended to –**

**(a) Welcome and note the Local Government Ombudsman's Annual Review for Swindon for the year ending 31<sup>st</sup> March 2012, that stated that the Local Government Ombudsman had no concern regarding the Council's response times and that there were no issues arising from the complaints investigated that she wished to bring to the attention of the Council;**

**(b) Note that**

- **the Annual Statistics indicate that the total number of enquiries and complaints received by the Local Government Ombudsman reduced slightly in the year ending 31<sup>st</sup> March 2012;**
- **the average time taken by the Council to respond to the Local Government Ombudsman's initial inquiry has also reduced for the year ended 31<sup>st</sup> March 2012;**

**(c) Request that the Board Director, Transformation and Strategic Projects and all relevant Heads of Service take further steps to continue the trend identified in paragraphs 2.3 and 2.4 of the joint report;**

**(d) Request that the Induction process for staff (both SBC and partners) should include information on the role of the Local Government Ombudsman and emphasise the importance for all staff to adhere to set procedures.**

The reasons for the decision and alternative options are as set out in the report to the meeting.

**36. Military Covenant - Motion at Council (Minute for Confirmation)**

The Chief Executive and the Leader of the Council submitted a joint report responding to a Motion arising from the Council meeting on 29<sup>th</sup> March 2012 that called on the adoption by the Council of a Military Covenant.

The Chair advised that a Military Covenant, or an Armed Forces Community

Covenant, as it was more formally known, was a statement of mutual support between a civilian community and the serving members, veterans and families of the armed forces community. The joint report explained how the Council was able to work with its partners to support the principles of the Covenant and to support serving and former members of the military and their families. It also set out the proposed arrangements for the formal signing of the covenant. He hoped that all Councillors, the Council's partners and the local community would all support this covenant and its aims.

Councillor Steve Wakefield welcomed the proposal. He advised that the Council had long sought to support the Armed Forces and provided the example of a Council motion that he had proposed in January 2007 in support of access to Housing and that the Council had approved (Minute 103 2006/07).

Councillor Jim Grant, Leader of the Opposition, advised that he and his political group fully supported the entering into of the proposed covenant.

**Resolved – That the Council be recommended that –**

- (a) Swindon Borough Council enters into an Armed Forces Community Covenant by way of the signing of a covenant agreement at the Royal Yeomanry Freedom event to be held on Sunday 21<sup>st</sup> October 2012 at the Civic Offices, Swindon.**
- (b) The Council's participation in the Armed Forces Community Covenant reflects the commitments set out in paragraph 3.6 of the joint report.**
- (c) The Director of Law and Democratic Services, in consultation with the Leader of the Council, Board Directors and other partner organisations be authorised to prepare and finalise the detail of the Armed Forces Community Covenant to be signed on 21<sup>st</sup> October 2012.**
- (d) The Mayor, the Leader of the Council and the Leader of the Opposition and Minority Group be authorised to sign the Covenant on behalf of the Council.**

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **11. Introduction of a Licensing regime for Sexual Entertainment Venues**

The Council's Interim Licensing Manager submitted a report setting out the proposed introduction of a licensing regime for "sexual entertainment venues" through the adoption of the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, by Section 27 of the Policing and Crimes Act 2009.

**Resolved – That, subject to the agreement of the Council, the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, by Section 27 of the Policing and Crimes Act 2009, be adopted.**

**43. Street Lighting and Traffic Signals Review  
(Minute for Confirmation)**

The Cabinet Member for Leisure and Strategic Transport and the Head of Highways and Transport submitted a joint report that responded to Council motions regarding street lighting and traffic signalled junctions (Minute 113 of the Council 2011/12, Minute 96 of the Council 2011/12 and Minute 73 of the Council 2010/11) and provided an update on the progress of outcomes of the Traffic Signal Review approved by the Cabinet in April 2011 (Minute 109 2010/11 refers).

Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport, referred to the background to the joint report and highlighted the outcomes of the trials conducted to date. He commented on how proposals for schemes identified from the outcomes of the Swindon Traffic Signal Review would be progressed.

Councillor Steve Wakefield commented that there had been a mixed reaction from local residents to the changes made to the Mannington Roundabout, but there was overall support for the new arrangements. He was supportive of completing the trial and analysing the results. He wondered if the review could be extended to include neighbouring roundabouts such as that at Meads.

Resolved – (1) That it be reaffirmed that there are no plans to conduct street light switch-off trials in the future.

(2) That, in recognition of the benefits of the reduced off-peak delays to traffic and public support for the scheme, the part-time operation of the traffic signals at Mannington, Swindon, continues but it remain on a trial basis until a full 12 month review of driver behaviour is available for analysis in March 2013.

(3) That it be noted that the Traffic Signal Review Stage 1 of all roundabouts, junctions and pedestrian crossings controlled by traffic signals in Swindon is now complete and that future decisions on individual signal installations arising from the Review will be undertaken through the agreed Local Transport Plan (LTP3) Implementation Plan process.

(4) That, subject to approval by the Department for Transport, the Head of Highways and Transport be authorised to undertake a trial of Pedestrian Countdown Timers in Swindon.

(5) That it be noted that work on Bruce Street Bridges and the Meads Roundabouts, Swindon, to improve junction efficiency and reduce delays has been prioritised within the Local Transport Plan (LTP3).

**(6) That the Council be advised of the recommendations set out above in response to the Council Motion of the 23rd February 2012.**

The reasons for the decision and alternative options are as set out in the report to the meeting.

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# Local Government Ombudsman – Annual Review 2011/2012

Cabinet

Date: 5<sup>th</sup> September 2012

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Author:	Leader of the Council
	Director of Law and Democratic Services
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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## 1. Purpose and Reasons

- 1.1 To enable the Cabinet to consider and to make comments on the Local Government Ombudsman's Annual Review, which provides statistics for the complaints received by the Local Government Ombudsman for the period 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012.
- 1.2 To encourage the Council to continue to improve its performance by ensuring that where possible complaints are resolved internally before reference to the Local Government Ombudsman. However, where there is an investigation by the Local Government Ombudsman, ensure that requests for information and supporting documents are supplied as fully and as quickly as possible but within the timescale stipulated by the Ombudsman (28 days).

## 2. Recommendations

### **Cabinet is requested to: recommend that the Council**

- 2.1 Welcome and note the Local Government Ombudsman's Annual Review for Swindon for the year ending 31<sup>st</sup> March 2012, which states that the Local Government Ombudsman has no concerns about the authority's response times and that there are no issues arising from the complaints that she wishes to bring to the attention of the Council;
- 2.2 Note that the Annual Statistics indicate that the total number of enquiries and complaints received by the Local Government Ombudsman reduced slightly in the year ending 31<sup>st</sup> March 2012;
- 2.3 Note that the average time taken by the Council to respond to the Local Government Ombudsman's initial inquiry has also reduced for the year ended 31<sup>st</sup> March 2012;
- 2.4 Request that the Board Director, Transformation and Strategic Projects and Heads of Service take further steps to continue the trend identified in 2.2 and 2.3;
- 2.5 Request that the Induction process for staff (both SBC and partners) should include information on the role of the Local Government Ombudsman and emphasise the importance for all staff to adhere to set procedures.

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Further information on the subject of this report can be obtained from Sally Rhind-Tutt, 01793 463608, [srhind-tutt@swindon.gov.uk](mailto:srhind-tutt@swindon.gov.uk).

# Local Government Ombudsman – Annual Review 2011/2012

Cabinet

Date: 5<sup>th</sup> September 2012

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## 3. Detail

- 3.1 The statistics received from the Local Government Ombudsman for 2011/2012, and the accompanying letter, are attached as Appendix 1 and 2.
- 3.2 Whilst noting the slight reduction in response times, it should be noted that there are some service areas where the response time has been well under 20 days and those areas should be thanked for their promptness. The time given by the Ombudsman for the Council to respond is 28 days.
- 3.3 Whilst there were fewer complaints investigated there was a slight increase in the number of premature complaints. The Ombudsman is required to ensure that, before investigating a complaint, it has been through the Council's internal complaints procedure (unless there are exceptional circumstances e.g. education –application for a school place)
- 3.4 In many instances where complaints are referred to the internal complaints procedure they are then then resolved at this stage without the need for the Ombudsman to investigate.
- 3.5 There has been an increase in the number of Adult Social Care complaints. This can be attributed to the fact that with effect from October 2010 the Local Government Ombudsman can investigate complaints regarding the provision of Social Care whether this is paid for privately or by the Council, and this includes care in the home or care in a privately owned care home.
- 3.6 A comparison with the previous year's statistics as well as with neighbouring authorities is attached as Appendix 3.

## 4. Local Government Ombudsman Seminar

- 4.1 A Seminar, to be facilitated by the Local Government Ombudsman, has been arranged to take place on 28<sup>th</sup> September 2012, to which representatives from all Directorates have been invited. The objective is to give an understanding of the role of the ombudsman as well as advice on how to deal with complaints at the initial stages and steps that could be taken to try to avoid them being escalated to the ombudsman but also once at that level how they are dealt with.

## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 5.1 There are no financial implications arising from the report. However, no specific budget provision is made for compensation payments relating to findings of maladministration by the Ombudsman, hence any payments need to be absorbed within existing Directorate budgets. Penalties can be significant and it is important that all Directorates are aware of the potential implications of the findings of an Ombudsman investigation.

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Further information on the subject of this report can be obtained from Sally Rhind-Tutt, 01793 463608, [srhind-tutt@swindon.gov.uk](mailto:srhind-tutt@swindon.gov.uk).

# Local Government Ombudsman – Annual Review 2011/2012

Cabinet

Date: 5<sup>th</sup> September 2012

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## Legal and Human Rights Implications

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

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

- 5.3 There are none linked to this report.

## Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.4 There are none linked to this report.

## Diversity Impact Assessment

- 5.5 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

- 5.6 There are none linked to this report.

## **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 1 - Letter dated from the Local Government Ombudsman
- 8.2 Appendix 2 - Statistics for complaints provided by the local Government Ombudsman
- 8.3 Appendix 3 –Comparative Statistics

## **9. Key Decision/Decision in Forward Plan**

- 9.1 This is a not a Key Decision and is included in the Cabinet Forward Plan for September 2012.

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Further information on the subject of this report can be obtained from Sally Rhind-Tutt, 01793 463608, [srhind-tutt@swindon.gov.uk](mailto:srhind-tutt@swindon.gov.uk).

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22 June 2012

*By email*

Mr G 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 me about your authority for the year ended 31 March 2012. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number forwarded by the Advice Team to my office, and decisions made on complaints about your authority. The decision descriptions have been changed to more closely follow the wording in our legislation and to give greater precision. Our guidance on statistics provides further explanation ([see our website](#)).

The statistics also show the time taken by your authority to respond to written enquiries.

I am pleased to say that I have no concerns about your authority's response times and there are no issues arising from the complaints that I want to bring to your attention.

### ***Changes to our role***

I am also pleased to have this opportunity to update you on changes to our role. Since April 2010 we have been exercising jurisdiction over the internal management of schools on a pilot basis in 14 local authority areas. This was repealed in the Education Act 2011 and the power restored to the Secretary of State for Education. During the short period of the pilot we believe we have had a positive impact on the way in which schools handle complaints. This was endorsed by independent research commissioned by the Department for Education which is available [on their website](#).

Our jurisdiction will end in July 2012 and all complaints about internal school matters will be completed by 31 January 2013.

From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO). We are working with the IHO to ensure a smooth transition that will include information for local authority officers and members.

### ***Supporting good local public administration***

We launched a new series of Focus reports during 2011/12 to develop our role in supporting good local public administration and service improvement. They draw on the learning arising from our

casework in specific service areas. Subjects have included school admissions, children out of school, homelessness and use of bankruptcy powers. The reports describe good practice and highlight what can go wrong and the injustice caused. They also make recommendations on priority areas for improvement.

We were pleased that a survey of local government revenue officers provided positive feedback on the bankruptcy focus report. Some 85% said they found it useful.

In July 2011, we also published a report with the Centre for Public Scrutiny about how complaints can feed into local authority scrutiny and business planning arrangements.

We support local complaint resolution as the most speedy route to remedy. Our training programme on effective complaint handling is an important part of our work in this area. In 2011/12 we delivered 76 courses to councils, reaching 1,230 individual learners.

We have developed our course evaluation to measure the impact of our training more effectively. It has shown that 87% of learners gained new skills and knowledge to help them improve complaint-handling practice, 83% made changes to complaint-handling practice after training, and 73% said the improvements they made resulted in greater efficiency.

Further details of publications and training opportunities are on [our website](#).

### ***Publishing decisions***

Following consultation with councils, we are planning to launch an open publication scheme during the next year where we will be publishing on our website the final decision statements on all complaints. Making more information publicly available will increase our openness and transparency, and enhance our accountability.

Our aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This will help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

We will publish a copy of this annual review with those of all other English local authorities on our website on 12 July 2012. This will be the same day as publication of our Annual Report 2011/12 where you will find further information about our work.

We always welcome feedback from councils and would be pleased to receive your views. If it would be helpful, I should be pleased to arrange a meeting for myself or a senior manager to discuss our work in more detail.

Yours sincerely



Dr Jane Martin  
Local Government Ombudsman

	<b>2010/2011</b>	<b>2011/2012</b>	<b>Wiltshire Council</b>	<b>West Berkshire</b>
Response times	25	24.3 days	38.9 days	36.0 days
Total No of complaints investigated by the Local Government Ombudsman	26	25	51	21
Adult Care Services	1	4	6	1
Benefits & Tax	7	4	0	2
Corporate and Other Services	3	4	5	3
Education & Children's Services	2	3	9	2
Environmental Services & Public Protection & Regulation	4	3	6	4
Highways & Transport	5	5	5	1
Housing	1	2	3	4
Planning & Development	3	1	17	4
Total No. of premature complaints referred to the Council to be put through the internal complaints procedure.	21	22	25	8

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# Military Covenant - Motion at Council

**Cabinet**

**Date: 5<sup>th</sup> September 2012**

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Author: Chief Executive and Leader of the Council

Wards /Locality Affected /Parishes Affected: All

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## **1. Purpose and Reasons**

- 1.1 This report responds to the motion arising from the Council meeting of 29<sup>th</sup> March 2012 (Minute 131 of Council 2011/12) on the adoption by the Council of a Military Covenant. An Armed Forces Community Covenant, as it is formally known, is a statement of mutual support between a civilian community and the serving members, veterans and families of local armed forces community. This report indicates how the Council is able to work with its partners to support to the principles of the Covenant.

## **2. Recommendations**

Cabinet is requested to recommend to the Council that:

- 2.1 Swindon Borough Council enters into an Armed Forces Community Covenant by way of the signing of a covenant agreement at the Royal Yeomanry Freedom event to be held on Sunday 21<sup>st</sup> October 2012 at the Civic Offices, Swindon.
- 2.2 The Council's participation in the Armed Forces Community Covenant reflects the commitments set out in paragraph 3.6 of this report.
- 2.3 The Director of Law and Democratic Services in consultation with the Leader of the Council, Board Directors and other partner organisations be authorised to prepare and finalise the detail of the Armed Forces Community Covenant to be signed on 21<sup>st</sup> October 2012.
- 2.4 The Mayor, the Leader of the Council and the Leader of the Opposition and Minority Group be authorised to sign the Covenant on behalf of the Council.

## **3. Detail**

- 3.1 At the Council meeting on 29<sup>th</sup> March 2012, the following motion was moved by the then Mayor, Councillor Ray Ballman and seconded by the then Deputy Mayor (now Mayor) Councillor Mick Bray (Minute 131 2011/12):

“This Council supports the Armed Forces Community Covenant and asks the Chief Executive, in consultation with colleagues in the Health Sector, to report to Cabinet on this matter in order that a Community Pledge can be signed when the Royal Yeomanry take up the Freedom of the Borough on 21<sup>st</sup> October 2012.”

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Further information on the subject of this report can be obtained from Stephen Taylor, Direct Dial Telephone Number (01793) 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Military Covenant - Motion at Council

**Cabinet**

**Date: 5<sup>th</sup> September 2012**

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- 3.2 The motion received the unanimous support of the Councillors present at the meeting.
  - 3.3 An Armed Forces Community Covenant is a statement of mutual support between a civilian community, which includes the Council, the Health Authority, Voluntary organisations, serving members and family of the Armed Forces and Veterans.
  - 3.4 Work is being under taken by the Director of Law and Democratic Services to prepare the Covenant with Council officers meeting with military and other partner organisations. These meetings have included Board Directors of the Council, representatives of voluntary and business organisations, the Royal Yeomanry and SEQOL. Meetings are shortly to be held involving health and other partners. These meetings aim to identify the ways in which partners, including the Council, can align their actions and services to the principles and aims of the Covenant. It is anticipated that by October 2012 a range of partners will take part in the signing and entering into of the Covenant.
  - 3.5 The aims and objectives of the Covenant are to:
    - 3.5.1 Encourage local communities to support the Armed Forces Community in their areas.
    - 3.5.2 Nurture public understanding and awareness amongst the public of issues affecting the Armed Forces Community.
    - 3.5.3 Recognise and remember the sacrifices and challenges faced by the Armed Forces Community.
    - 3.5.4 Encourage activities that help to integrate the Armed Forces Community into local life.
    - 3.5.5 Encourage the Armed Forces Community to help and support the wider community, whether through participation in events and joint projects, or other forms of engagement.
  - 3.6 The Council's commitment to the Community Covenant is by way of:
    - 3.6.1 Recognising the achievement of the Borough's Royal Territorial Army Regiment, the Royal Yeomanry by supporting the Freedom of the Borough Parade in October 2012 and likewise that of any other armed forces unit within the Borough.
    - 3.6.2 Encourage adult involvement with Cadet Forces by attending Passing Out parades, awards evenings and by involving Cadets in Mayoral functions and events, for example, Remembrance Day Services at the Cenotaph and Freedom Parades.
- 

Further information on the subject of this report can be obtained from Stephen Taylor, Direct Dial Telephone Number (01793) 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Military Covenant - Motion at Council

Cabinet

Date: 5<sup>th</sup> September 2012

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- 3.6.3 Encourage schools, voluntary organisations and charities to access the Community Grant Scheme which will fund projects aimed at strengthening the ties and the mutual understanding between members of the Armed Forces Community and the wider community in Swindon.
- 3.6.4 Provide a housing ladder of opportunity for veterans who need to access affordable social housing. Members may wish to note that a review of the Council's Housing Allocations Policy is currently underway and consideration will be given as part of this exercise to how support can be provided to military personnel and veterans.
- 3.6.5 Assist with requests for adapted homes for wounded soldiers.
- 3.6.6 Support and recognise the achievements of staff who volunteer in Military Reservist Units.
- 3.6.7 Support service personnel, their dependents and veterans to access the health care/social health care they need in partnership with the Borough's health care providers.
- 3.7 The motion at Council proposed that "a Community Pledge can be signed when the Royal Yeomanry take up the Freedom of the Borough on 21<sup>st</sup> October 2012". This proposal has been welcomed by the Royal Yeomanry and other military partners.
- 3.8 It is proposed that the Mayor, the Leader of the Council, the Leader of the Opposition and the Leader of the Minority Group be authorised to sign the Covenant on behalf of the Council, alongside other community partners.

## 4. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 4.1 There are no direct financial implications for the Council. The Council's use of existing budgets will enable it to support the covenant as many of these aspects reflect current Council practices.
- 4.2 In August 2011 a Community Covenant Scheme was established by the Ministry of Defence to support financially projects which strengthen the ties or the mutual understanding between members of the Armed Forces Community and the wider community in which they live. Up to 30 million has been earmarked for projects over a four year period which should meet aims of the Community Covenant. The grant scheme will consider applications for funding between £100 and £250,000. It is possible that projects in support of the Covenant and its aims will be able to access this funding. Although none have been identified at this time.

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Further information on the subject of this report can be obtained from Stephen Taylor, Direct Dial Telephone Number (01793) 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Military Covenant - Motion at Council

Cabinet

Date: 5<sup>th</sup> September 2012

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## Legal and Human Rights Implications

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

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

- 4.3 There are no direct implications associated with this report.

## Links to One Swindon, Strategic Objectives, Plans and Policies

- 4.4 The Community covenant reflects a One Swindon approach and a number of the commitments will have links to One Swindon and other corporate objectives and plans.

## Diversity Impact Assessment

- 4.5 A Diversity Impact Assessment (DIA) has not been undertaken at this point. When SBC policies (such as Housing Allocations) are revised, they will be required to reflect the requirements of the Military Covenant and any additional government guidance. It is at this point that DIAs will need to be completed and will clearly set out any positive impact applied to current or former military personnel as a consequence of the covenant.

## Risk Management

- 4.6 There are none identified linked to this report.

## **5. Consultees**

- 5.1 The Board Director Commissioning, Board Director, Service Delivery, InSwindon, Royal Yeomanry, Chief Executive of SEQOL

## **6. Background Papers**

- 6.1 None.

## **7. Appendices**

- 7.1 None.

## **8. Key Decision/Decision in Forward Plan**

- 8.1 This is not a Key Decision and is included in the Cabinet Forward Plan for September 2012.

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Further information on the subject of this report can be obtained from Stephen Taylor, Direct Dial Telephone Number (01793) 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Consider Introducing a Licensing regime for “sexual entertainment venues”

Licensing Committee

Date: 18<sup>th</sup> July 2012

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

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## 1. Purpose and Reasons

- 1.1 The report asks the Committee to consider recommending to Council, the adoption of the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 by Section 27 of the Policing and Crime Act 2009. This introduces a Licensing regime for “sexual entertainment venues” such as lap dancing.
- 1.2 This would allow the authority to impose a potentially wider range of conditions on the licences of Sexual Entertainment Venues than they are currently able to under the Licensing Act 2003.

## 2. Recommendations

- 2.1 That the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 by Section 27 of the Policing and Crime Act 2009 be adopted.
- 2.2 That it be recommended to Full Council that the amendment to the legislation is adopted by this Authority.

## 3. Detail

- 3.1 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 to allow the Licensing Authority to licence “sexual entertainment venues”, where “relevant entertainment” is provided before a live audience for the financial gain of the organiser or the entertainer.
- 3.2 This brings the licensing of lap dancing and pole dancing clubs and other similar venues out of the Licensing Act 2003 regime and into the regime set out in the 1982 Act, which is currently used to regulate establishments such as sex shops and sex cinemas. The Licensing Act 2003 will still be relevant if a premise carries out other licensable activities e.g. the sale of alcohol or the provision or regulated entertainment that is not relevant entertainment.
- 3.3 The Home Office have issued guidance to assist local authorities in the adoption and implementation of the amended legislation. This is included in this report at **Appendix 1**.

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Further information on the subject of this report can be obtained from Bob Mattock, Interim Licensing Manager, on 01793 466113, email: [bmattcock2@swindon.gov.uk](mailto:bmattcock2@swindon.gov.uk).

# **Consider Introducing a Licensing regime for “sexual entertainment venues”**

**Licensing Committee**

**Date: 18<sup>th</sup> July 2012**

- 
- 3.4 Formal Adoption of the New Provisions Section 27 came into force on 6th April 2010. Following this date, local authorities may resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area. Adoption is a matter for the Council on recommendation from the Licensing Committee.
- 3.5 If the local authority failed to adopt Schedule 3 in the way described above, within twelve months of the new legislation taking effect, it must then carry out a full public consultation exercise before formally adopting the legislative amendments
- 3.6 This authority did not adopt the amendment within the specified time, so if the recommendation to adopt is approved, authority is sought to undertake a full public consultation exercise
- 3.7 The procedure for local authorities to adopt Schedule 3 as amended by Section 27 is set out in Section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that the amendments made by Section 27 to that Schedule shall apply to their area and the day on which it shall come into force within this District. The specified day must be more than one month after the day on which the resolution was passed.
- 3.8 The local authority shall publish notice that they have passed the resolution referred to above for two consecutive weeks in a local newspaper. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the local authority's area.
- 3.9 There is currently no Council policy covering “relevant entertainment” (live performances or live display of nudity) at “sexual entertainment venues” as defined by Section 27 of the Policing and Crime Act 2009. If the legislative amendment is to be adopted a policy may be put in place provided it does not prevent any individual application being considered on its merits at the time the application is made. There is no requirement to have such a policy.

## Supporting Information

- 3.10 The increase nationally in the number of lap dancing clubs since the implementation of the Licensing Act 2003 has become a concern for many local communities. Currently any representations made against premises licence applications for venues providing lap dancing and similar entertainment can only be based on the four licensing objectives, namely:
- The prevention of crime and disorder;
  - Public safety;

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Further information on the subject of this report can be obtained from Bob Mattock, Interim Licensing Manager, on 01793 466113, email: [bmattcock2@swindon.gov.uk](mailto:bmattcock2@swindon.gov.uk).

# **Consider Introducing a Licensing regime for “sexual entertainment venues”**

**Licensing Committee**

**Date: 18<sup>th</sup> July 2012**

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- The prevention of public nuisance;
  - The protection of children from harm.
- 3.11 As a result, licensing authorities could not consider the objections of local people and businesses that were based on matters outside the scope of the four objectives noted above, for example, such as whether a lap dancing club would be appropriate given the character and locality of the area in which it was proposed to be situated.
- 3.12 The Government has responded to calls for further controls to be introduced specific to lap dancing clubs and similar premises by introducing legislation through the Policing and Crime Act 2009 to reclassify such venues under “Sexual Establishments” as a new ‘Sexual Entertainment Venue’ under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

## Implications of the Changes

- 3.13 As detailed above Section 27 of the Policing and Crime Act 2009 introduces a new Category of ‘Sex Establishment’ under Schedule 3 to the 1982 Act called a ‘Sexual Entertainment Venue’. In the definition of this type of venue, the entertainment must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)’. Such venues will require a Sex Establishment Licence.
- 3.14 However, there is an exemption for premises which provide such entertainment infrequently and, even if premises do qualify as a Sexual Entertainment Venue, the local authority still has the discretion to waive the requirement for a licence.
- 3.15 In summary, the amendments to Schedule 3 to the 1982 Act will: Allow local people to oppose an application for a Sex Establishment licence for example if they have legitimate concerns that a Sexual Entertainment Venue would be inappropriate given the character of an area.
- 3.16 Require licences to be renewed at least annually, at which point local people will have the opportunity to raise objections (if any) with their local authority.
- 3.17 Allow a local authority to reject a licence application on potentially wider grounds than currently permitted by the Licensing Act 2003 if they believe, for example that to grant a licence for a Sexual Entertainment Venue (including a lap dancing club) would be inappropriate given the character of the relevant locality.
- 3.18 Allow a local authority to impose a potentially wider range of conditions on the licences of Sexual Entertainment Venues than they are currently able to under the Licensing Act 2003.

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Further information on the subject of this report can be obtained from Bob Mattock, Interim Licensing Manager, on 01793 466113, email: [bmattcock2@swindon.gov.uk](mailto:bmattcock2@swindon.gov.uk).



## **Consider Introducing a Licensing regime for “sexual entertainment venues”**

**Licensing Committee**

**Date: 18<sup>th</sup> July 2012**

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- 3.19 These new legislative provisions took effect from the 6th April 2010.
- 3.20 This Council originally adopted the previous provisions of the LGMPA 1982 and the Council will now need to adopt the new provisions which have been inserted into Schedule 3.
- 3.21 The Council may wish to produce a new separate policy in relation to ‘Sex Establishments’ licensing including, for example, an indication of how many sex establishments, or sex establishments of a particular kind, it considers to be appropriate for a particular locality. It doesn’t have to do this to be able to refuse an application on the grounds that at the time an application is determined the number of sex establishments is equal to or exceeds the number which the Council considers is appropriate for that locality. However, it may be advisable to set this kind of detail out in a policy to ensure transparency and consistency.

### Proposed Implementation

- 3.22 The Home Office have consulted on and have now proposed a ‘Transitional Period’ for the implementation and application process for new ‘Sexual Entertainment Venues’. Any Operator – new or existing - who wishes to provide ‘Relevant’ for the duration of the transitional period or until their application for a Sex Establishment licence (submitted before the expiry of the transitional period) has been determined, whichever is the later.
- 3.23 The transitional period will start on the date this authority adopts the amendments to Schedule 3 to the 1982 Act (the 1st appointed day). It will last for 12 months.
- 3.24 For 6 months following the 1st appointed day, applicants will be able to submit applications all of which will be considered together by the local authority at the end of the period. In effect all current operators apply for a new type of licence and all applications get decided together at the end i.e. not first come first granted basis.
- 3.25 Applications received after the first 6 months (2nd appointed day), will be considered after applications received before the 2nd appointed day have been determined.
- 3.26 Licences granted for Sexual Entertainment Venues will not take effect until the conclusion of the 12 month transitional period (the 3rd appointed day).
- 3.27 Any pre-existing operator who has failed to obtain a licence after the 3rd appointed day will not be permitted to provide Relevant Entertainment unless they have submitted an application within this time that has yet to be determined.

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Further information on the subject of this report can be obtained from Bob Mattock, Interim Licensing Manager, on 01793 466113, email: [bmattock2@swindon.gov.uk](mailto:bmattock2@swindon.gov.uk).



# Consider Introducing a Licensing regime for “sexual entertainment venues”

Licensing Committee

Date: 18<sup>th</sup> July 2012

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- 3.28 The Government has decided, having listened to views from previous consultations, that existing operators will not be given ‘Grandfather Rights and will have to apply for a new type of licence.
- 3.29 That the suggested date of coming into force of this amendment to Schedule 3 is to be confirmed. This will allow the authority time to consult upon and formulate a policy, conditions and fees prior to the implementation date if the Council were to decide to adopt the legislation.

## 4. Alternative Options

- 4.1 To agree to the adoption of the amendment.
- 4.2 To decline to make the said adoption.

## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 5.1 Lap dancing venues are currently licensed under the Licensing Act 2003 and, as such, the fees are set by statute. It is proposed that if a local authority adopts the new Schedule 3 then reasonable fees will be set by the local authority. This means that we must have regard to cost of implementation, administration and enforcement of the legal requirements.
- 5.2 The recommendations of this report should be contained within existing budgets.

### Legal and Human Rights Implications

- 5.3 There are no material legal implications arising from the adoption of the new provisions provided the relevant statutory procedures are followed.
- 5.4 The Council must ensure it complies with the EU Services Directive 2006/123/EC when applying the licensing provisions in Schedule 3. The regulations may affect the way fees are set, applications are processed and licences are granted.
- 5.5 When making decisions the Council must take into account any existing rights operators may have under Article 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

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

- 5.6 This report and recommendations are being considered under Licensing Legislation and any implications will be considered within this context.
- 

Further information on the subject of this report can be obtained from Bob Mattock, Interim Licensing Manager, on 01793 466113, email: [bmattock2@swindon.gov.uk](mailto:bmattock2@swindon.gov.uk).

# **Consider Introducing a Licensing regime for “sexual entertainment venues”**

**Licensing Committee**

**Date: 18<sup>th</sup> July 2012**

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## Diversity Impact Assessment

- 5.7 There are no negative impacts of opportunity for any known group. The Government has carried out an equality impact assessment of the proposed legislation which has found that no unintended or disproportionate impact is likely.
- 5.8 Applications are considered in accordance with legislative requirements and each case is judged on its own merits. Therefore there are no equality impact issues in respect to the issuing of licences.

## Risk Management

- 5.9 There is a risk that if the authority chooses not to adopt this amendment to the legislation, that there could be an increase in the number of sexual entertainment establishments within the area.
- 5.10 Similarly, it would mean that existing or new applications for such premises would remain licensed under the Licensing Act 2003. This would reduce the ability to apply conditions to the licence to those which meet the four licensing objectives

## **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 1 - Home Office Guidance
- 8.2 Appendix 2 - Draft Policy

# **Sexual Entertainment Venues**

Guidance for England and Wales

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## MINISTERIAL FOREWORD



In September 2008, the previous Home Secretary announced the Government's intention to give local people greater say over the number and location of lap dancing clubs in their area. This followed a consultation with local authorities which highlighted concerns that existing legislation did not give communities sufficient powers to control where lap dancing clubs were established.

In order to address these concerns, section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

These new measures, which take effect on 6th April 2010 in England and on 8th May in Wales, will, if adopted by local authorities, give local people a greater say over where and how many lap dancing clubs open and operate in their neighbourhoods.

These are important reforms to further empower local communities and the purpose of this guidance is to provide advice to local authorities, operators, local people and other interested parties on the new measures introduced by section 27 and the associated secondary legislation.

**Alan Campbell**

A handwritten signature in dark ink that reads "Alan Campbell". The signature is written in a cursive style with a large initial 'A'.

**Parliamentary Under-Secretary of State for Crime Reduction**

**March 2010**

# INTRODUCTION

## Definitions

### 1.1 In this guidance –

The “2009 Act” means the Policing and Crime Act 2009

The “1982 Act” means the Local Government (Miscellaneous Provisions) Act 1982

The “2003 Act” means the Licensing Act 2003

“Section 27” means section 27 of the Policing and Crime Act 2009

“Schedule 3” means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982

## Policing and Crime Act 2009

1.2 Section 27 introduces a new category of sex establishment called ‘sexual entertainment venue’, which will allow local authorities to regulate lap dancing clubs and similar venues under Schedule 3.

1.3 Section 27 gives local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

## The Guidance

1.4 The guidance is provided for local authorities carrying out their functions under Schedule 3, as amended by section 27. It will also be of use to operators, the police and the general public.

- 1.5 Interpretation of the relevant primary and secondary legislation is ultimately a matter for the courts. However, local authorities are encouraged to have regard to the guidance when exercising their functions (although there is no statutory requirement to do so) in order to promote best practice and consistency across England and Wales.
- 1.6 The guidance is composed of 3 sections. Section 2 focuses on the 2009 Act and the definition of ‘sexual entertainment venue’. Section 3 provides an explanation of the meaning and effect of Schedule 3 to the 1982 Act and section 4 provides guidance on the transitional provisions as set out in the transitional orders: *The Policing and Crime Act 2009 (Commencement No.1 and Transitional and Saving Provisions)(England) Order 2010* and the *Policing and Crime Act 2009 (Consequential Provisions )(England) Order 2010* and any equivalent orders made by Welsh Ministers in respect to Wales.
- 1.7 Apart from extending the scope of the 1982 Act to cover the licensing of sexual entertainment venues and removing the sex encounter establishment category in those local authority areas that adopt the new provisions, the 2009 Act and the associated secondary legislation makes only minor changes to the operation of Schedule 3.
- 1.8 Section 27 of, and Schedule 3 to, the 2009 Act come into force in England on 6<sup>th</sup> April as does the *Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010*. In Wales, the equivalent provisions come into force on 8<sup>th</sup> May 2010.



## POLICING AND CRIME ACT 2009

### Meaning of Sexual Entertainment Venue

- 2.1 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. A sexual entertainment venue is defined as *"any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer."*
- 2.2 The meaning of 'relevant entertainment' is *"any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)."* An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 2.3 While local authorities should judge each case on its merits, we would expect that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood:
- Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows
- 2.4 The above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative. Ultimately, decisions to licence premises as sexual entertainment venues shall depend on the content of the entertainment provided and not the name it is given.

- 2.5 For the purposes of these provisions a premises includes any vessel, vehicle or stall but does not include a private dwelling to which the public are not admitted.

## Nudity

- 2.6 It is important to note that although the definition of relevant entertainment makes reference to a 'live display of nudity', the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.
- 2.7 Paragraph 2A(14) of Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

## The Organiser

- 2.8 The relevant entertainment must be provided for the financial gain of the 'organiser' or 'entertainer'. The 'organiser' means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.
- 2.9 The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for

one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

### **Spontaneous Entertainment**

2.10 Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser may be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

### **Premises that are not sexual entertainment venues**

2.11 Paragraph 2A(3) of Schedule 3 sets out those premises that are not sexual entertainment venues. These are:

- sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act);
- premises which provide relevant entertainment on an infrequent basis. These are defined as premises where-
  - a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
  - b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
  - c) no such occasion has lasted longer than 24 hours.
- other premises or types of performances or displays exempted by an order of the Secretary of State.

2.12 Premises which provide relevant entertainment on an infrequent basis will continue to be regulated under the 2003 Act, insofar as they are

providing regulated entertainment under that Act, either by virtue of a premises licence or club premises certificate issued under Part 3 or Part 4 or a temporary events notice issued under Part 5 of that Act. Any premises that provide relevant entertainment on more occasions, more frequently or for a longer period of time than is permitted under the exemption will be operating as a sexual entertainment venue and will have committed an offence under Schedule 3 unless they hold a sexual entertainment venue licence or the local authority has waived the requirement for such a licence.

### **Amendments to the Licensing Act 2003**

- 2.13 Schedule 7 to the 2009 Act amends the 2003 Act to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the 1982 Act) do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act. However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment), they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the 2003 Act for those other activities, subject to any exceptions contained in that Act.
- 2.14 In practice, this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.15 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from

the definition of regulated entertainment in the 2003 Act. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to. (Nor will providing entertainment facilities for the purposes of the provision of relevant entertainment be regulated entertainment under the 2003 Act).

- 2.16 Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment venue licence but will instead need an appropriate authorisation under the 2003 Act, for example, to cover the performance of dance. The exemption from requirements of the 2003 Act for live music or the playing of recorded music which is integral to relevant entertainment does not apply to such venues.

### **Consultation with Local People**

- 2.17 If a local authority has not made a resolution to adopt the provisions introduced by section 27 within one year of it coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.
- 2.18 The purpose of this duty is to ensure that local authorities consider the views of local people where, for whatever reason, they have not adopted the provisions.
- 2.19 This duty should be seen to be an extension to existing general duties on local authorities to consult and involve local people when exercising their functions.
- 2.20 The 2009 Act is not prescriptive about how local authorities should consult with local people in order to comply with this duty. Local authorities have extensive experience of engaging with local people and will know what works best in their individual areas. Clearly, the Secretary of State expects that any consultation exercise carried out under this duty will be fair and meaningful. Local authorities should

seek to make any relevant information available to local people in order to inform their understanding and publish the outcomes of the consultation on the internet.

- 2.21 In practice, local authorities may decide to consult local people on this matter when they consult and involve local people on broader local priorities and crime and disorder or anti-social behaviour priorities as part of their work to develop Local Area Agreements/Local Delivery Agreements and crime and disorder strategies, as required under various existing duties, including, section 138 of the Local Government and Public Involvement in Health Act 2007 and regulation 12 of the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007. This will ensure that consultations are not onerous and form part of the ongoing engagement with local communities undertaken by all local authorities.
- 2.22 For the purposes of this duty 'local people' are defined as anyone who lives or works in the local authority area.

## **SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

### **The Appropriate Authority**

- 3.1 The appropriate authority is responsible for determining applications for sex establishment licences. For the purposes of the 1982 Act 'appropriate authority' means the local authority which passed a resolution under section 2 of that Act to adopt Schedule 3 in their area. 'Local authority' means—
- (a) the council of a district (including a unitary County Council) or, in Wales, the principal council<sup>1</sup>;
  - (b) the council of a London borough; and
  - (c) the Common Council of the City of London.

### **Committee or Sub-Committee**

- 3.2 Functions under Schedule 3 are the responsibility of the full council of the appropriate authority, as defined above. Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.
- 3.3 An authority may delegate its functions to those who sit on its licensing committee set up to discharge licensing functions under the 2003 Act. However, when dealing with an application for a sex establishment licence, the members of the committee would not be acting as the licensing committee under the 2003 Act and would instead be exercising their functions under Schedule 3.

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<sup>1</sup> See section 2 of the 1982 Act. Section 17 of the Local Government (Wales) Act 1994 provides that legislative references to district councils are to be interpreted as references to principal councils in Wales. Unitary County Councils have all the functions and powers of district councils.

## Adopting the Provisions

- 3.4 Section 27 comes into force on 6<sup>th</sup> April 2010 in England and 8<sup>th</sup> May in Wales<sup>2</sup>. On or following this date local authorities may resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area.
- 3.5 Although many local authorities will have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 will have effect in the local authority area. However, where a local authority has not resolved to adopt Schedule 3 to the 1982 Act before the coming into force of Section 27, the amendments made to Schedule 3 by section 27 will apply automatically if a resolution to adopt Schedule 3 is made subsequently (see Schedule 3 to the 2009 Act).
- 3.6 The procedure for local authorities to adopt Schedule 3 as amended by section 27 is set out in section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that Schedule 3 or, in the case of an authority where Schedule 3 is already in force, the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it or they shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed.
- 3.7 The local authority shall publish notice that they have passed a resolution under section 2 of the 1982 Act or (in cases where Schedule 3 is already in force but the local authority is adopting the amendments made by section 27) paragraph 2(2) of Schedule 3 to the 2009 Act for two consecutive weeks in a local newspaper that is circulated in their area. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the

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<sup>2</sup> Section 27 (11) was brought into force on 2nd March 2010 but only for the purpose of making the transitional orders.



local authority's area. The notice should state the general effect of Schedule 3.

- 3.8 While there is no statutory duty to do so, prior to deciding whether to pass a resolution, local authorities may, as a matter of good practice, wish to seek the views of local people and businesses. The Secretary of State also encourages local authorities to engage with known sexual entertainment venues at the earliest possible opportunity once a decision to adopt the provisions has been made, to ensure affected businesses are aware of what action they will need to take in order to comply with the new regime.

### **Requirement for a Sex Establishment Licence**

- 3.9 Any person wishing to operate a sex establishment as defined by Schedule 3 requires a sex establishment licence, unless the requirement for a licence has been waived by the appropriate authority.
- 3.10 An applicant can apply for a waiver either as part of the application for a licence or separately. The local authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days notice.

### **Premises that are deemed to be Sexual Entertainment Venues**

- 3.11 Paragraph 27A of Schedule 3 deems premises with licences to operate as sexual entertainment venues to be sexual entertainment venues whilst their licence remains in force, irrespective of how frequently they are or have been providing relevant entertainment. This remains the case even if premises operate within the exemption for infrequent events.

- 3.12 If an operator with a sexual entertainment venue licence is operating within the exemption for infrequent events and no longer wants their premises to be treated as a sexual entertainment venue (e.g. because they are no longer operating as a lap dancing club) they may write to the relevant local authority to request that their licence be cancelled. Upon receiving such a request from a licence-holder a local authority must cancel the licence in question.

## Notices

- 3.13 Applicants for a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.
- 3.14 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 day beginning with the date the applications was made.
- 3.15 All notices should be in the form prescribed by the appropriate authority and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 3.16 There are similar notification requirements for applications made under the 2003 Act. Where an applicant is making an application under both Schedule 3 and the 2003 Act at the same time they may wish to combine these requirements where permitted.

## Application Forms

- 3.17 Unlike the 2003 Act there is no prescribed application form for an application made under Schedule 3 to the 1982 Act. However, the application must be in writing and contain the details set out in paragraph 10 of Schedule 3 along with such other details as the

appropriate authority may reasonably require. Local authorities must provide for applications to be made electronically and may produce and publish recommended application forms for sex establishment licences setting out all the details required.

### Single Point of Contact

- 3.18 Following amendments to sub-paragraph 10(14) made by the Provision of Services Regulations 2009, where an application for the grant, renewal or transfer of a licence is made by means of a relevant electronic facility it will be the responsibility of the appropriate authority to send a copy of an application to the chief officer of police, not later than 7 days after the date the application is received.
- 3.19 Where an application is made by any other means the responsibility to send a copy of the application to the chief officer of police within 7 days of the application being made will remain the responsibility of the applicant.
- 3.20 For the purpose of Schedule 3 a relevant electronic facility means the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009 or any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.

### Fees

- 3.21 Schedule 3 to the 1982 Act states that an application for the grant, renewal, variations or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities, but does not expand on what would be considered to be reasonable.
- 3.22 However, local authorities should have regard to the following documents when determining their fee: *The European Services*

*Directive: Guidance for Local Authorities<sup>3</sup> and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees within the service sector.<sup>4</sup>*

## Objections

- 3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values<sup>5</sup> and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

## Hearings

- 3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.
- 3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no

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<sup>3</sup> <http://www.berr.gov.uk/files/file50026.pdf>

<sup>4</sup> [www.lacors.gov.uk](http://www.lacors.gov.uk)

<sup>5</sup> R v Newcastle upon Tyne City Council ex parte The Christian Institute [2001] B.L.G.R. 165

obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.<sup>6</sup>

## Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- (a) to a person under the age of 18;
- (b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

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<sup>6</sup> R v Plymouth City Council v Quietlynn [1998] Q.B. 114.

- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- (d) that the grant or renewal of the licence would be inappropriate, having regard—
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.<sup>7</sup>

3.31 The Provision of Services Regulations 2009<sup>8</sup> amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

### Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having

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<sup>7</sup> *Belfast City Council v Miss Behavin’ Ltd* (Northern Ireland) (2007) [2007] UKHL 19

<sup>8</sup> Regulation 47

regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated;  
and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.<sup>9</sup>

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding that two sex establishments 200 miles away from one another were in the same

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<sup>9</sup> See R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249 for further guidance.

locality. Case law also indicates that a relevant locality cannot be an entire local authority area or an entire town or city.<sup>10</sup>

- 3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.
- 3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

### **Licence Conditions**

- 3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.
- 3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:
- The hours of opening and closing
  - Displays and advertisements on or in sex establishments
  - The visibility of the interior of a sex establishment to passers-by
  - Any change of use from one kind of sex establishment to another

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<sup>10</sup> R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249



- 3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.
- 3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on the each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licences or clubs premises certificate and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

### **Duration of Licences**

- 3.43 Licences for sex establishments can be granted for up to one year.

### **Appeals**

- 3.44 In the event that the appropriate authority refuses an application for the grant, renewal or transfer of a sex establishment licence the applicant may appeal the decision in a magistrates' court, unless the application was refused under 12(3)(c) or (d), in which case the applicant can only challenge the refusal by way of judicial review.

### **Licensing Policies**

- 3.45 While local authorities are not required to publish a licensing policy relating to sex establishments they can do so if they wish as long as it

does not prevent any individual application from being considered on its merits at the time the application is made.<sup>11</sup>

- 3.46 A licensing policy for sex establishments might include statements about where local authorities are likely to consider to be appropriate or inappropriate locations for such venues. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically, by reference to a defined locality.
- 3.47 Local authorities could also use a licensing policy to indicate how many sex establishments, or sex establishments of a particular kind, they consider to be appropriate for a particular locality.
- 3.48 Local authorities can also produce different policies or a separate set of criteria for different types of sex establishments. This might be appropriate to reflect distinctions between the operating requirements of different sex establishments or the fact that the location that a local authority considers appropriate for a sex shop may be different to that of a sexual entertainment venue.

## Offences

- 3.49 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that Schedule and include:
- knowingly causing or permitting the use of any premises as a sex establishment without a licence;
  - being the holder of a licence, knowingly employing a person in a sex establishment who is disqualified from holding a licence;
  - being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
  - being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable

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<sup>11</sup> R v Peterborough City Council ex parte Quietlynn Ltd (1986) 85 LGR 249

excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;

- being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 to enter the establishment
- being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

3.50 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.

3.51 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty to this offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Provisions Relating to Existing Premises**

3.52 Where a local authority resolves that Schedule 3 apply in their area having not previously made such a resolution, paragraphs 28 and 29 will have effect for the purpose of sex shop, sex cinemas and hostess bars, but will not have effect for the purpose of sexual entertainment venues. The transitional provisions relating to sexual entertainment venues are explained in part 4 of this guidance.

### **The Services Directive**

3.53 Schedule 3 to the 1982 Act constitutes an authorisation scheme under Article 9 of the EU Services Directive 2006/123/EC (“the Directive”) which was implemented in the UK by the Provision of Services Regulations 2009 (“2009 Regulations”), which came into force on 28th December 2009. Local authorities must ensure they comply with the Regulations when applying the licensing provisions in Schedule 3.

3.54 The Department of Business, Innovation and Skills (BIS) has produced guidance for both businesses and local authorities to assist in

understanding the impact of the Directive and 2009 Regulations and what service providers and relevant authorities must do in order to comply. Both guidance documents can be found on the BIS website: <http://www.berr.gov.uk/whatwedo/europeandtrade/europe/services-directive/page9583.html>

- 3.55 In particular, the 2009 Regulations may affect the way in which local authorities set application fees, process applications and grant licences.

## TRANSITIONAL PROVISIONS

- 4.1 This section provides guidance on the transitional provisions as set out in the *Policing and Crime Act 2009 (Commencement No.1, and Transitional and Saving Provisions)(England) Order 2010* (“the *Transitional Order*”) and the *Policing and Crime Act 2009 (Consequential Provisions)(England) Order 2010* (“the *Consequential Order*”) and the equivalent orders made by Welsh Ministers for Wales.

### Transitional Period

- 4.2 The ‘transitional period’ will last for 12-months beginning with the date that the local authority resolves that Schedule 3 as amended by the 2009 Act will come into force in their area (‘the 1st appointed day’). Six months following the 1st appointed day will be known as the ‘2nd appointed day’ and the day on which the transitional period ends will be known as the ‘3rd appointed day’.
- 4.3 The appointed days will vary across local authority areas depending on when individual local authorities resolve that the provisions will come into force in their area.

### Existing Operators

- 4.4 To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later.

- 4.5 “Preparatory work” refers to work carried out by an operator, such as a refurbishment or refit, in order that they can use the premises as a sexual entertainment venue in the future. The operator will have been granted a 2003 Act licence before the 1<sup>st</sup> appointed day but will not have used the premises as a sexual entertainment venue by that date. It is likely that such operators will be known to a local authority. However, where a dispute arises between a local authority and an licence-holder over whether the licence-holder qualifies as an existing operator by virtue of this provision the local authority will need to seek evidence from the licence-holder to demonstrate that they clearly intended to operate a sexual entertainment venue in the future and work had been done to achieve this end.
- 4.6 For the purposes of the Transitional Order a “2003 Act Licence” means a premises licence or club premises certificate under which it is lawful to provide relevant entertainment.

### **New Applicants**

- 4.7 New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence.

### **Determining Applications Received On or Before the 2nd Appointed Day**

- 4.8 Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards.

- 4.9 As the appropriate authority is able to refuse applications having regard to the number of sex establishment they consider appropriate for a particular locality, all applications made on or after the 1<sup>st</sup> appointed day but on or before the 2nd appointed day shall be considered together. This will ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.
- 4.10 No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 3rd appointed day, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

### **Determining Applications Received After the 2nd Appointed Day**

- 4.11 Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.
- 4.12 As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

### **Outstanding Applications**

- 4.13 Local authorities should attempt where possible to determine outstanding applications made under the 2003 Act, which include an application for the provision of relevant entertainment, before the date

that Schedule 3 as amended by the 2009 Act comes into force in their area.

- 4.14 Where it has not been possible to determine application before the 1st appointed day, local authorities should advise applicants that they will need to submit an application for a sex establishment licence as set out in Schedule 3 if they wish to provide relevant entertainment. From the 1st appointed day onwards outstanding applicants shall be dealt with as though they are new applicants.

### Existing Licence Conditions

- 4.15 In many cases licences granted under the 2003 Act to existing operators will contain conditions that relate expressly and exclusively to the provision of relevant entertainment. Such a condition might prohibit contact between a performer and customer during a lap dance. In these cases, in order to avoid duplication, where conditions on premises licences or club premises certificates relate only to the provision of relevant entertainment, they shall be read as if they were deleted from the 3rd appointed day onwards.
- 4.16 In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the conditions in the licence granted under the 1982 Act they shall likewise be read as though they have been deleted.
- 4.17 Where a local authority decides to grant a sex establishment licence to an existing operator, who is subject to conditions on their existing premises licence or club premises certificate that relate expressly to the provision of relevant entertainment, they may wish to replicate the existing conditions on the new sex establishment licence if they believe that the existing conditions are sufficient. However, they could equally decide to impose new conditions consistent with Schedule 3 if they believe that new or additional conditions are necessary.



- 4.18 Although the Transitional Order does not require redundant conditions to be physically removed from a premises licence or club premises certificate, operators and local authorities may agree that this is desirable in order to clarify the operator's legal obligations. Such changes can be made via the minor variations procedure under section 41A of the 2003 Act.

### **ECHR Considerations**

- 4.19 The Transitional Order allows local authorities to refuse applications, whether they are from existing operators or new applicants, on one or more grounds set out in paragraph 12 of Schedule 3. When making such decisions, local authorities must take into account any rights the existing operators may have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 4.20 In light of the leading case of *Belfast City Council v Miss Behavin' Ltd* (Northern Ireland)<sup>12</sup> it would be prudent for local authorities to assume that freedom of expression includes the right to use particular premises as sexual entertainment venues and that a person who is denied the right to use his premises as a sexual entertainment venue where he already has a licence to do so under the 2003 Act (or in future under the 1982 Act) has been deprived of possessions. (Some Lords did not decide this point or disagreed that such rights were engaged and therefore it would still be open to local authorities to argue that such rights were not engaged in a particular case). However, in any event, the House of Lords were agreed that such rights would only be engaged at a low level. This led Lord Hoffman to say that if the local authority exercises its powers rationally and in accordance with the purposes of the statutory provisions, it would require very unusual facts for it to amount to a disproportionate restriction on Convention rights.

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<sup>12</sup> [2007] UKHL 19

- 4.21 Nevertheless, local authorities would be well advised to consider whether any interference with the applicant's rights under Article 10 or Article 1, Protocol 1 of the European Convention on Human Rights is necessary and proportionate for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, Protocol 1, can be justified in the general interest.

### **Changes to Licensing Policies**

- 4.22 Many local authorities who have already adopted Schedule 3 will have published a licensing policy for sex establishments. Such policies may provide a useful guide to potential applicants about whether a particular application is likely to be successful or not.
- 4.23 Upon resolving to adopt the sexual entertainment venue provisions introduced by the 2009 Act, local authorities should ensure that their licensing policies for sex establishments are up to date and reflect the changes introduced by Section 27. This could mean updating existing policies or producing a policy specific to regulation of sexual entertainment venues.

## **London**

### **Sex Encounter Establishments**

- 4.24 London local authorities which have adopted Schedule 3 to the 1982 Act as amended by the Greater London Council (General Powers) Act 1986 are able to regulate sex encounter establishments. However, under sub-paragraph 3A(i) premises that hold a premises licence or club premises certificate for the provision of regulated entertainment or late night refreshment are not regarded as sex encounter establishments. This means that, in practice, there are very few, if any, premises that are licensed as sex encounter establishments.

- 4.25 Therefore, the transitional provisions set out that where a local authority, which has previously adopted provisions to regulate sex encounter establishments, passes a resolution to adopt Schedule 3, as amended by section 27, the existing sex encounter establishment category will be replaced by the new sexual entertainment venue category.
- 4.26 In these circumstances, an existing sex encounter establishment licence will be treated as though it had been granted under the new sexual entertainment venue regime with any terms, conditions and restrictions carried over.

### **Hostess Bars**

- 4.27 The hostess bar category of sex establishment, as introduced by section 33 of the London Local Authorities Act 2007, is largely unaffected by the 2009 Act provisions.
- 4.28 In cases where a London local authority has already resolved that the hostess bar category has effect in their area, they will be able to retain this category after the amendments made by the 2009 Act have been adopted and the sex encounter establishment category has been repealed, subject to the amendments made to Schedule 3 by the 2009 Act. Where London local authorities have not adopted the sexual entertainment venue provisions, it will still be open for them to resolve to adopt the hostess bar category after the 2009 Act provisions have been adopted without having to adopt the sex encounter establishment category.

### **Soliciting for Custom**

- 4.29 Under Section 22 of the London Local Authorities Act 2004, as amended by Section 72 of the London Local Authorities Act 2007, it is an offence in London to solicit for custom for a sex establishment. However, paragraph 2A provides a defence if the premises concerned are licensed under Part 3 of the 2003 Act.

- 4.30 When a London local authority resolves to adopt the provisions introduced by Section 27, it will be a defence if the premises are licensed as a sexual entertainment venue under Schedule 3 of the 1982 Act or are operating lawfully under a 2003 Act licence during the transitional period at the time of the alleged offence.

## ANNEX A: GUIDE TO TRANSITIONAL PERIOD AND EXISTING OPERATORS

### Appointed Days

#### 1st Appointed Day

The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

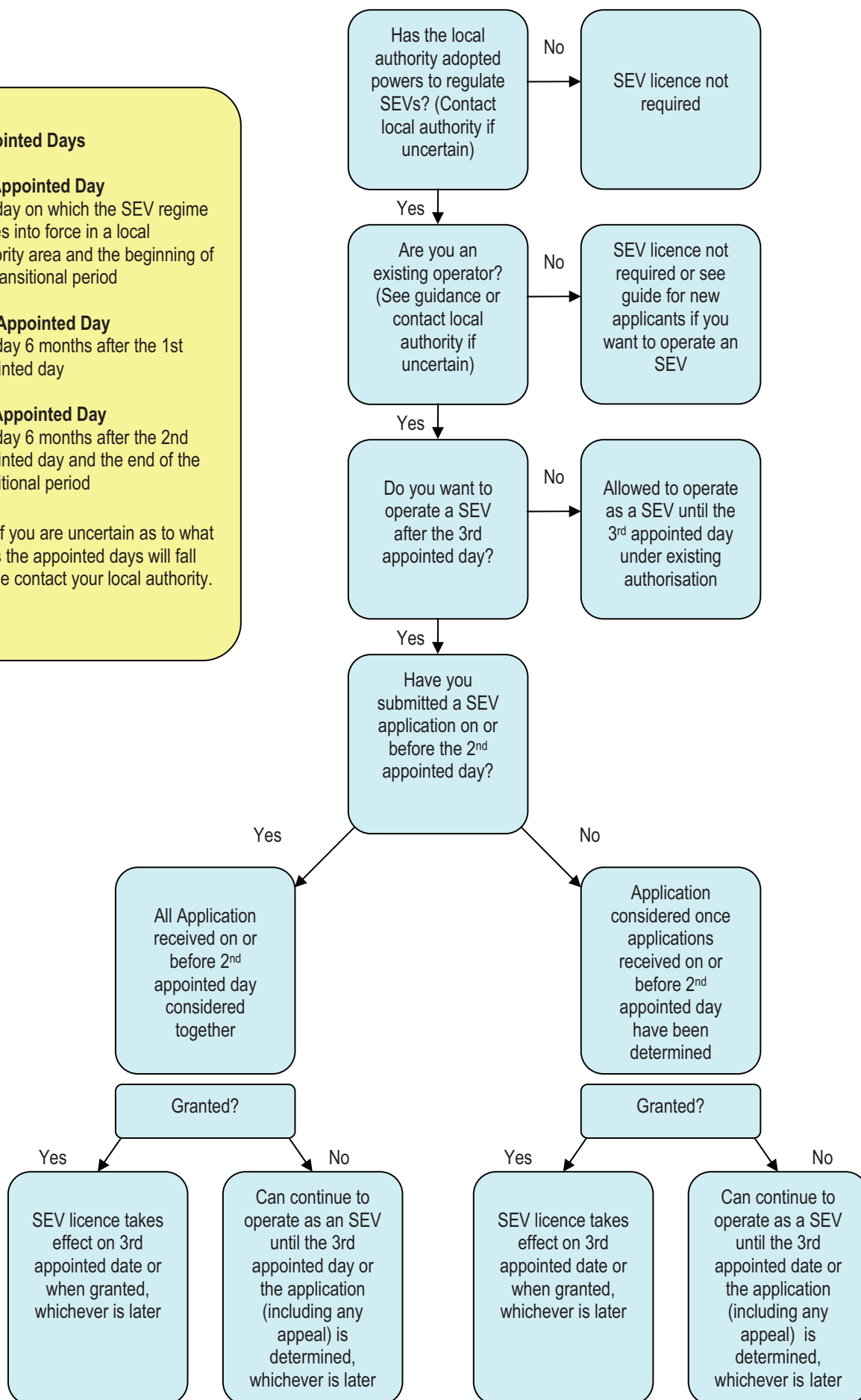
#### 2nd Appointed Day

The day 6 months after the 1st appointed day

#### 3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

**NB:** If you are uncertain as to what dates the appointed days will fall please contact your local authority.



## ANNEX B: GUIDE TO TRANSITIONAL PERIOD AND NEW APPLICANTS

### Appointed Days

#### 1st Appointed Day

The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

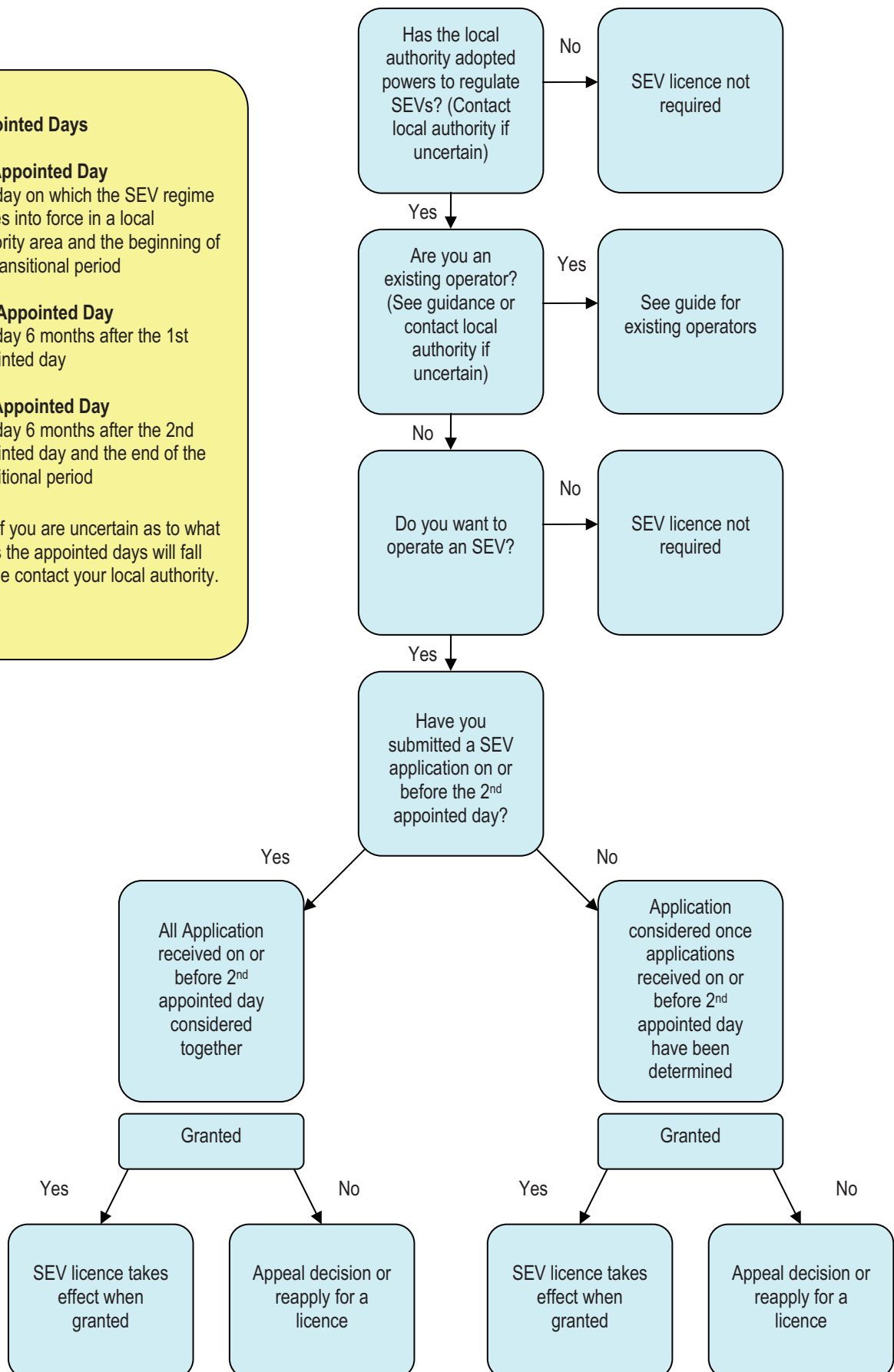
#### 2nd Appointed Day

The day 6 months after the 1st appointed day

#### 3rd Appointed Day

The day 6 months after the 2nd appointed day and the end of the transitional period

**NB:** If you are uncertain as to what dates the appointed days will fall please contact your local authority.



***DRAFT***  
**Sex Establishment  
Licensing Policy**

## **FOREWORD**

Swindon Borough



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## **1. INTRODUCTION**

### **1.1 The Policy**

- 1.1.1 This document states Swindon Borough Council's policy on the regulation of sex establishments.
- 1.1.2 This Policy was consulted upon between,,,,,,,,,,,,, and approved on ,,,,,,,,,,
- 1.1.3 Consultation was carried out with local residents, relevant trade organisations, the Chief Officer of Police and other relevant organisations.
- 1.1.4 In developing this Policy Statement, we took into account the legal requirements of the 1982 Act and our duties under:-
- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
  - (b) The Regulators Compliance Code (set out under the legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
  - (c) The Provisions of Services Regulations 2009 to ensure requirements are:
    - (i) Non-discriminatory
    - (ii) Justified by an overriding reason relating to the public interest
    - (iii) Proportionate to that public interest objective
    - (iv) Clear and unambiguous
    - (v) Objective
    - (vi) Made public in advance, and
    - (vii) Transparent and accessible.
- 1.1.5 This Policy should be read in conjunction with, and without prejudice to, other existing National and European Union legislation, such as the Human Rights Act 1998 and the Disability Discrimination Act 1995.

### **1.2 The Law**

- 1.2.1 The Local Government (Miscellaneous Provisions) Act 1982 introduced a licensing regime to control "sex establishments". Swindon Borough Council adopted Schedule 3 of the Act with effect from 1<sup>st</sup> January 1983. This meant that the Council controlled and regulated the operation of "sex shops" and "sex cinemas" within the Borough from this date.
- 1.2.2 The Local Government (Miscellaneous Provisions) Act 1982 was amended by the Policing and Crime Act 2009 to extend the licensing regime to include "sexual entertainment venues" within the definition of sex establishments. Swindon Borough Council adopted the amended provisions of Schedule 3 with effect from..... This meant that the Council now controls and regulates all types of sex establishment – sex shops, sex cinemas and sexual entertainment venues.
- 1.2.3 A list of definitions of the key terms used throughout the legislation and this Policy can be found at **Annex A** to this Policy.

- 1.2.4 No sex establishment can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will restrict how that premises may trade.
- 1.2.5 The Council does not take any moral stand in adopting this Policy. The Council recognises that Parliament has made it lawful to operate Sex Establishments, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

## **2. LICENCE APPLICATIONS**

### **2.1 Right to Waiver**

- 2.1.1 Swindon Borough Council may, upon application, waive the requirement for a licence in any case where it considers that to require a licence would be unreasonable or inappropriate.
- 2.1.2 Each application for a waiver will be considered on its own merits, however, any establishment that would normally require licensing under the provisions of the Act is unlikely to be granted a waiver other than in exceptional circumstances.
- 2.1.3 A waiver may be for such period as the Council think fit. Where the Council grant an application for a waiver, it will give the applicant for the waiver notice that they have granted the application.
- 2.1.4 The Council may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

### **2.2 Application Details**

- 2.2.1 The applicant will be required to make their application in accordance with Clause 10, Schedule 3, of the Act.
- 2.2.2 To apply for the grant of a new sex establishment licence, an applicant must submit:-
- A completed application form;
  - A plan to the scale of 1:100 of the premises to which the application relates showing (inter alia) all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.
  - A site plan scale 1:1250.
  - Drawings showing the front elevation as existing and as proposed to a scale of (1:50).
- 2.2.3 All applications must be accompanied by the relevant fee. In the event of an application being refused, the application fee may be refunded less an appropriate charge for the administrative process undertaken in determining the application, including any hearing before the Licensing Committee.

### **2.3 Consultation Arrangements - Public**

- 2.3.1 The applicant must advertise any application for grant of a new licence or renewal, transfer or variation of an existing licence in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

### 2.3.2 This states that:-

- An applicant for the grant, renewal or transfer of a licence shall give public notice of the application.
- Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area
- The publication shall not be later than 7 days after the date of the application.
- Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
- Every notice which relates to premises shall identify the premises
- Every such notice which relates to a vehicle, vessel or stall shall specify where it is to be used as a sex establishment.
- A notice shall be in such form as the appropriate authority may prescribe. (The form prescribed by Swindon Borough Council for such notices is shown at **Annex B** to this Policy)

## 2.4 Consultation Arrangements – Relevant Bodies

2.4.1 The Council will also notify all applications for grant, renewal, transfer or variation of a licence to the following bodies who may comment on or object to the application within 28 days of the date of the application:-

- Chief Officer of Police
- Local Safeguarding Children Board
- Fire Safety Officer
- Trading Standards
- Planning Authority
- Relevant Town / Parish Council

## 2.5 Objections

2.5.1 When considering an application for the grant, renewal, variation or transfer of a Sex Establishment Licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.

2.5.2 Any person can object to an application but the objection should be relevant either to the **mandatory grounds** for refusal set in **Section 3.3** or to the **discretionary grounds for refusal** set out in **section 3.4** below.

2.5.3 Objections should not be made on moral grounds or values. Any decision to refuse a licence will be relevant to one or more of the grounds in **3.3 and 3.4** below.

2.5.4 Objectors must give notice of their objection in writing, stating the general terms of the objections.

2.5.5 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

## **2.6 Variation of a Licence**

2.6.1 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

2.6.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

## **2.7 Renewal of a Licence**

2.7.1 The holder of a Sex Establishment Licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.

2.7.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## **2.8 Transfer of a Licence**

2.8.1 A person may apply for the transfer of a licence at any time.

2.8.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

### **3. DETERMINATION OF APPLICATIONS**

#### **3.1 Decision Making – Delegation of Functions**

- 3.1.1 Decisions relating to Sex Establishment licensing will be delegated in accordance with the table of delegated functions shown at **Annex C**.

#### **3.2 General Principles**

- 3.2.1 In determining an application relating to a sex establishment licence the Council will assess the application on its merits having regard to the content of this Policy, the relevant legislation and any relevant guidance that may be issued from time to time.
- 3.2.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing Committee may authorise a departure from the policy if it feels it appropriate for a specific application.
- 3.2.3 In determining an application for the grant, renewal, transfer or variation of a licence, the Council will have regard to any representations that it has received that are relevant to the grounds set out in **3.3 and 3.4**.
- 3.2.4 The Council will consider granting licences of 12 months duration or for a shorter term if deemed appropriate.

#### **3.3 Mandatory Refusal of Applications**

- 3.3.1 A licence under the Act cannot be granted —
- to a person under the age of 18; or
  - to a person who is for the time being disqualified having had a licence revoked in the past 12 months; or
  - to a person, other than a body corporate, who is not resident in an European Economic Area state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
  - to a body corporate which is not incorporated in an European Economic Area state; or
  - to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

#### **3.4 Discretionary Refusal of Applications**

- 3.4.1 The Council may refuse an application for grant or renewal of a licence on one or more of the grounds specified below:-
- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the

benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

- (c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality (nil may be an appropriate number);
- (d) that the grant or renewal of the licence would be inappropriate, having regard—
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.4.2 The Council may refuse an application for the transfer of a licence on either or both of the grounds specified below:-

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

### **3.5 Applicant Suitability**

3.5.1 In determining applicant suitability for the grant of a new licence, renewal of a licence, or the transfer of an existing licence, the Council will take the following into account:

- Previous relevant knowledge and experience of the applicant;
- Any evidence of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other District or Borough;
- Any report about the applicant and management of the Premises received from objectors.

3.5.2 In particular the Council will liaise closely with the Police and any other relevant appropriate agencies in determining the fitness of the applicant.

3.5.3 Whilst every application will be considered on its merits, the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent relevant criminal convictions.

### **3.6 Location of the Premises**

3.6.1 In accordance with relevant case law, the Council shall decide on the suitability of a particular locality for a sex establishment as a matter of fact to be determined by the particular circumstances of each case and not by the prescription of boundaries as stated on a map.



- 3.6.2 The Council is mindful of its power to determine that no sex establishments should be located in a particular locality.
- 3.6.2 In determining whether the proposed location of a sex establishment is appropriate, the Council will have regard to all of the relevant circumstances including the following:-
- The general character of the relevant locality
  - The proximity of residential premises
  - The proximity of any places of public religious worship
  - The proximity of any schools or other educational establishments
  - The proximity of any playing fields and play areas
  - The proximity of any leisure centres or swimming pools
  - The proximity of any libraries or other public buildings
  - The proximity of any youth clubs
  - The proximity of any other licensed sex establishments
  - The proximity of any premises authorised under the Licensing Act 2003 for the sale or supply of alcohol for consumption on the premises.

#### **4. POWER TO PRESCRIBE STANDARD CONDITIONS**

- 4.1 Schedule 3 Section 13 of the Act provides a power for the Council to specify Standard Conditions in relation to sex establishment licences.
- 4.2 The Council's Standard Conditions for sex shops and sex cinemas are detailed in **Annex D** of this Policy. The Council's Standard Conditions for sexual entertainment venues are detailed at **Annex E** of this Policy.
- 4.3 All licences will be granted, renewed, transferred or varied subject to these Standard Conditions unless expressly excluded, varied or added to by a Licensing Committee.

#### **5. HEARINGS**

- 5.1 Where the Council is required to determine an application by reference to a Licensing Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 5.3 Hearings will be carried out in accordance with the Council's agreed procedure for Licensing Hearings, which is shown at **Annex F**.
- 5.4 The Committee will normally communicate their decision at the end of the hearing and all parties will also receive written confirmation of the decision taken by the Committee.

## **6 OPERATION AND MANAGEMENT OF PREMISES**

- 6.1.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions and health and safety regulations.
- 6.1.2 In terms of the management of licensed Premises, the Council strongly encourages where possible and appropriate, that licensees:
- a) Work with statutory agencies such as the Police, and the Council in order to create and maintain a safe environment, both within licensed Premises and in the environs around them;
  - b) Particularly those licence holders whose Premises are located in areas with high levels of recorded crime, develop crime prevention strategies in consultation with the Police and the Council.
  - c) In terms of the management of licensed Premises, the Council strongly encourages and where possible and appropriate all licensees to develop strategies and procedures to increase access for disabled people to the Premises.
  - d) In terms of the employment of staff in licensed Premises, the Council requires that all relevant staff be appropriately trained in areas such as health and safety, first aid, and fire precautions.

## **7. ENFORCEMENT**

### **7.1 General**

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.
- 7.1.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Corporate Enforcement Policy. This has been drafted with reference to the Statutory Regulator's Compliance Code.
- 7.1.3 The responsibility for the overall supervision of sex establishment licensing lies with the relevant Corporate Head of Service.

### **7.2 Offences**

- 7.2.1 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that schedule and include:
- Knowingly causing or permitting the use of any premises as Sex Establishment without a licence;
  - Being the holder of a licence, knowingly employing a person in a Sex Establishment who is disqualified from holding a licence;

- Being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
- Being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
- Being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 years to enter the establishment;
- Being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

7.2.2 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.

7.2.3 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.

## **8. REVOCATION OF LICENCES**

8.1 The Council may, after giving the holder of a licence an opportunity of appearing before and being heard by them, at any time revoke the licence on any of the following grounds:-

- (a) that one of the mandatory grounds for refusing to grant a licence exists and has come to light since the grant of the licence.
- (b) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (c) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself

8.2 The Council will consider whether or not to revoke a licence upon a request to do so from the Police or at the recommendation of the relevant Corporate Head of Service following representations from any other person or body.

**9. AMENDMENTS TO THIS POLICY**

- 9.1 Any significant amendment to this policy will only be implemented after further consultation with the trade and the public. All such amendments to this Policy will be undertaken in accordance with the Council's Constitution.
- 9.2 For the purpose of this section, any significant amendment is defined as one that:
- a) is likely to have a significant financial effect on licence holders, or
  - b) is likely to have a significant procedural effect on licence holders, or
  - c) is likely to have a significant effect on the community.

## **ANNEX A - KEY DEFINITIONS**

<b>TERM</b>	<b>DEFINITION</b>
the Act	Local Government (Miscellaneous Provisions) Act 1982
Authorised Officer	any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
the Council	Swindon Borough Council
he, his	all references to 'he' or 'his' also include 'she' or 'hers'
Relevant Corporate Head of Service	the current post-holder with responsibility for the relevant Service Area( or any nominated Deputy) as set out in the Council's Constitution and Scheme of Delegation
Licence Holder	a person who holds a Sex Establishment Licence under the Act
this Policy	Swindon Borough Council's Sex Establishment Licensing Policy
Premises	A building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a Sex Establishment Licence granted under the Act
Sex Establishment	<p>As defined in Schedule 3 of the Act (as amended)</p> <p>A sex establishment means a sex shop, sex cinema or sexual entertainment venue as defined below in extracts from the Act.</p>
Sex Cinema	<p>As defined in Schedule 3 of the Act (as amended)</p> <p>3. —</p> <p>(1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which—</p> <p>(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage—</p> <p>(i) sexual activity; or</p> <p>(ii) acts of force or restraint which are associated with sexual activity; or</p> <p>(b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,</p> <p>but does not include a dwelling-house to which the public is not admitted.</p> <p>(2) No premises shall be treated as a sex cinema by reason only—</p> <p>(a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (which the meaning of section 136 of that Act), of their use in accordance with that authorisation; or</p> <p>(b) of their use for an exhibition to which section 6 of that</p>

Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

Sex Shop

As defined in Schedule 3 of the Act, as amended

4. —

(1) In this Schedule “sex shop” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating—

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

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

(3) In this Schedule “sex article” means—

- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging—
  - (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies—

- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- (b) to any recording of vision or sound, which—
  - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
  - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sexual Entertainment  
Venue

As defined in Schedule 3 of the Act (as amended)

2A

(1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph “relevant entertainment” means—

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally

for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(3) The following are not sexual entertainment venues for the purposes of this Schedule—

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
  - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
  - (ii) no such occasion has lasted for more than 24 hours; and
  - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

“audience” includes an audience of one;

“display of nudity” means—

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

- (a) the relevant entertainment; or
- (b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

**ANNEX B - FORM OF PUBLIC NOTICE**

**Local Government (Miscellaneous Provisions) Act 1982**

**Schedule 3**

**NOTICE OF APPLICATION FOR GRANT / RENEWAL/ VARIATION / TRANSFER  
OF A SEX ESTABLISHMENT LICENCE**

Name/s of Applicant/s	
Postal address of premises including name of the premises and post code (where possible) or a description to enable the location to be identified.	
Summary of application (hours of trading, type of licence, etc):	
<p><b>NOTICE IS HEREBY GIVEN</b> that an application has been made to Swindon Borough Council for a licence to use the above premises as a sex establishment.</p> <p>Copies of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a licence) and of the application may be inspected at Swindon Borough Council, Council Offices, Wat Tyler House, Beckhampton Street Swindon SN1 2JH between 9.00 am and 4.00 pm (Monday to Friday except public holidays).</p> <p>Any objections in respect of the above application must be made in writing – email acceptable- <a href="mailto:licensing@swindon.gov.uk">licensing@swindon.gov.uk</a> to the council at the above address by</p> <p style="text-align: center;">_____ (28 days after the date of the application)</p> <p>It is an offence knowingly or recklessly to make a false statement in connection with an application punishable on summary conviction by a maximum fine of £5,000.</p>	



**ANNEX C - TABLE OF DELEGATED FUNCTIONS**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Officers</b>
Application for a new sex establishment licence	In all cases	
Application for variation of a sex establishment licence	In all cases	
Application for transfer of a sex establishment licence	Where objections are received	In all other cases
Application for renewal of a sex establishment licence	Where objections are received	In all other cases
Application for waiver from the requirement for a licence	In all cases	
Setting of all fees in relation to sex establishment licences		All cases
Consideration of the revocation of a sex establishment licence	In all cases	

## **ANNEX D**

### **STANDARD CONDITIONS**

#### **APPLICABLE TO LICENCES FOR SEX SHOPS AND SEX CINEMAS**

##### **Definition**

1. In these conditions save when the context otherwise requires the following expressions shall have the following meanings:-
  - (i) "Sex Establishment" "Sex Cinema" "Sex Shop" and "Sex Article" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
  - (ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building, or part of a building which is the subject of a Licence for a Sex Establishment granted under the said Third Schedule.
  - (iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
  - (iv) "Approved" means approved by the Council in writing.
  - (v) "The Council" means Swindon Borough Council.
  - (vi) "Film" shall have the meaning ascribed to it in the Films Acts 1960 – 1980.

##### **General**

2. In the event of a conflict between these Regulations and any special conditions contained in a Licence relating to a Sex Establishment the special conditions shall prevail.
3. The grant of a Licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
4. The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof.

##### **Conduct and Management of Sex Establishments**

5. Where the Licensee is a body corporate or an unincorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
6. The Licensee, or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom details (including photographs) have been supplied to and approved in writing

by the Council, shall be in charge of and upon the Premises during the whole time they are open to the public.

7. The name of the person responsible for the management of a Sex Establishment shall be the Licensee or a Manager approved by the Council and shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.
8. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence, and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised Officers of the Council.
9. The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
10. The Licensee shall maintain good order in the Premises.
11. No person under the age of 18 shall be admitted to the Premises or employed in the business of a Sex Establishment.
12. The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by the Council.
13. No part of the Premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling.
14. Neither the Licensee nor any employee or to the person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the Premises.
15. The Licensee shall comply with all statutory provisions and any regulations made thereunder.
16. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council, indicating his name and that he is an employee.
17. The copy of the Licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

#### Use

18. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
19. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.

20. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
21. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

#### Goods Available in Sex Establishments

22. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
23. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.
24. No film or video film shall be exhibited sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
25. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling in matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

#### External Appearance

26. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:-
  - (i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any condition of a Licence granted by the Council.
  - (ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
27. The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises invisible to passers-by.
28. Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

## State Condition and Layout of the Premises

29. The Premises shall be maintained in a good repair and condition.
30. Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
31. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-
  - (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".
  - (ii) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "private".
  - (iii) Save in the case of an emergency no access shall be permitted through the Premises to any unlicensed premises adjoining or adjacent.
32. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
33. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
34. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
35. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting, or layout of the Premises shall not be made except with the prior approval of the Council.
36. All parts of the Premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

## Safety

37. The Licensee shall take all reasonable precautions for the safety of the public and employees.
38. The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.
39. The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

## **ANNEX E**

### **STANDARD CONDITIONS**

#### **APPLICABLE TO LICENCES FOR SEXUAL ENTERTAINMENT VENUES**

##### **CONDITIONS APPLICABLE TO ENTERTAINMENTS INVOLVING NUDITY, SEMI-NUDITY OR TRANSPARENT CLOTHING**

1. Only activities which have previously been agreed in writing by the Licensing Authority shall take place
2. The agreed activities shall take place only in designated areas approved by the Licensing Authority
3. Any individual employed on the Premises to conduct a security activity (within the meaning of schedule 2 of the Private security Industry Authority) must be licensed by the Security Industry Authority
4. Dressing rooms will be provided for entertainers and access to these will be restricted by management in accordance with approved arrangements – before, during and after the entertainment
5. The entertainment will be provided only by the entertainers and no members of the audience shall be permitted to participate
6. There must not be any contact by the performer with the patron immediately before, during and immediately after the performance of striptease except:
  - (a) the leading of a patron hand in hand to and from a chair or to and from a designated dance area
  - (b) the simple handshake greeting
  - (c) the placing of monetary notes or dance vouchers into the hand or garter worn by the performer
  - (d) the customary kiss on the cheek of the patron by the dancer at the conclusion of the performance
  - (e) if the contact is accidental
7. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden
8. Entertainers or performers not performing must not be in a licensed area in a state of undress
9. A clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating “No persons under the age of 18 years will be admitted.
10. No entertainers under the age of eighteen shall take part in the entertainment, and an adequate record must be maintained of the names, addresses and dates of birth of all performers including adequate identity checks

11. No person under the age of eighteen will be allowed on the premises where the entertainment is taking place
12. The entertainment shall under no circumstances be visible to members of the public from outside the premises
13. Any external advertising at the premises shall be in a form acceptable to the Council
14. The licensee or a nominated manager shall be present on the premises at all times whilst the entertainment is taking place
15. A nominated person shall be present to oversee the activities of performers
16. A register shall be maintained and kept on the premises and be available for inspection at any time by police or officers of the Licensing Authority at all times, to clearly record the identity of the licensee(s) on duty, the day and times of start and finish of the duty, and the record shall be retained for a period of not less than 12 months after the last entry in the register

#### CONDITIONS APPLICABLE TO TABLE DANCING

1. No audience participation shall be permitted
2. There must not be any contact by the performer with the patron immediately before, during and immediately after the performance of striptease except:
  - (a) the leading of a patron hand in hand to and from a chair or to and from a designated dance area
  - (b) the simple handshake greeting
  - (c) the placing of monetary notes or dance vouchers into the hand or garter worn by the performer
  - (d) the customary kiss on the cheek of the patron by the dancer at the conclusion of the performance
  - (e) if the contact is accidental
3.
  - (a) A CCTV system shall cover all areas where dancing will take place including any dancing booths provided. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping.
  - (b) Tape recordings shall be made available to an authorised council officer or a police officer together with facilities for viewing
  - (c) The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours' notice

4. Whilst dancing takes place at least two trained door supervisors shall be employed in those parts of the premises used for dancing, unless otherwise agreed by the Licensing Authority and the Police
5. A code of conduct for dancers shall be produced by the licensee together with a disciplinary procedure for breaches of the code which shall be implemented if approved in writing by the Council. The code of conduct for dancers shall prohibit activities that might be thought to lead to prostitution or other unlawful activities. No amendments shall be made to the code or disciplinary procedure without the prior written consent of the Council
6. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.
7. In relation to points 5 and 6 above, these procedures and rules must be produced for inspection by the Licensing Authority and the Police within 14 days of issue of the licence.



## **SWINDON BOROUGH COUNCIL**

### **Licensing Committee**

#### Procedure at meetings

1. The Chairman will briefly explain the procedure to members of the public
2. The Licensing Officer will open the hearing with an outline of the relevant details of the application
3. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Committee
4. The Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Again opportunities to ask questions will be afforded to all of those present.
5. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
6. At the conclusion of the hearing, the stage at which the Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information, or clarification, all parties at the hearing must be invited to return.
7. When the Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence.

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# Street Lighting and Traffic Signals Review

**Cabinet**

**Date: 5 September 2012**

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Author: Cabinet Member for Leisure and Strategic Transport  
Head of Highways and Transport

Wards: All Wards

Locality Affected: All Locality Areas

Parishes Affected: All Parish Areas

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## **1. Purpose and Reasons**

- 1.1 This report has been prepared in response to a Motion (113) approved at Council on the 23rd of February 2012.

“This Council welcomes the decision by the Administration to end the streetlight switch off trial scheme.

This Council believes that this decision is a reflection of the Administration's willingness to listen to and engage with ward members and the general public.

This Council requests that the Cabinet Member for Council Transformation, Sustainability, Strategic Planning and Transport note the success of making the traffic lights at Mannington roundabout only operate part time and develop a programme to convert other traffic lights at similar junctions. This programme should be presented to Cabinet within 6 months.”

- 1.2 This report also provides an update on the Traffic Signal Review originally approved by Cabinet in April 2011.

## **2. Recommendations**

Cabinet is recommended to:

- 2.1 Reaffirm that there are no plans to conduct street light switch-off trials in the future.
- 2.2 Agree that in recognition of the benefits of the reduced off-peak delays to traffic and public support for the scheme, the part-time operation of the traffic signals at Mannington should continue but still on a trial basis until a full 12 month review of driver behaviour is available for analysis in March 2013.
- 2.3 Note that the Traffic Signal Review Stage 1 of all roundabouts, junctions and pedestrian crossings controlled by traffic signals in Swindon is now complete and that future decisions on individual signal installations arising from the review will be undertaken through the Local Transport Plan (LTP3) implementation Plan process.

Further information on the subject of this report can be obtained from Robert Sanders 466391, [bsanders@swindon.gov.uk](mailto:bsanders@swindon.gov.uk).

# Street Lighting and Traffic Signals Review

**Cabinet**

**Date: 5 September 2012**

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- 2.4 Authorise the Head of Highways and Transport to undertake a trial of Pedestrian Countdown Timers in Swindon, subject to approval by the Department for Transport,
- 2.5 Reaffirm that work on the Bruce Street Bridges and Meads roundabouts to improve junction efficiency and reduce delays has been prioritised within LTP3.
- 2.6 Advise the Council of the recommendations set out above in response to the Council Motion of the 23<sup>rd</sup> February 2012.

## **3. Detail**

### Street Lighting Trial

- 3.1 In July 2011 the Council conducted a trial switch-off of 433 street lights across the Borough with the aim of reducing light pollution, reducing energy wastage and reducing cost. In March 2012 the trial was terminated following a motion to Council at its meeting of 12th January 2012, (Minute 96 refers), and the subsequent decision by Cabinet to reverse the budget saving from switching off some street lights during non-peak times at its meeting of 15<sup>th</sup> February 2012. (Minute 85 2011/12). As a result of this decision, there are no plans to conduct street light switch-off trials in the future. However, Officers are currently looking into a range of technical solutions that will enable energy costs to be reduced.

### Mannington Roundabout - part time signal trial.

- 3.2 The trial of part time signals at Mannington began on the 15<sup>th</sup> of November 2011 and the first phase ran until the 2<sup>nd</sup> of February 2012. During that time, the site was subject to detailed monitoring of traffic flows, delays, conflicts and injury accidents. Full details of the outcome of this work are contained in the Trial Study Report – Mannington Roundabout Part-Time Trial, Halcrow 26<sup>th</sup> June 2012.
- 3.3 The Trial Study Report of this first phase concluded that the part-time signal strategy provides benefits in terms of reduced off-peak delays to traffic, which is supported by the public feedback we have received. However, following an analysis of the limited amount of injury accident data available for the phase one trial period and the indication that it gave of more injuries during part time working than during full time working, it also recommended that at full road safety review is carried out. This will need to consider a 12 months injury accident, but as the validation and updating of the shared injury accident database by Wiltshire Police generally takes 2 months, the data will not be available until March 2013.
- 3.4 An interim update of the available injury accident data (currently available to 30/05/2012) shows that in an equal period before the commencement of part time operation there was one serious and one slight injury at this junction and in the same period since commencement of part time operation there have been three slight injuries. Detailed analysis is required over a longer period to allow for when construction works were in progress and for drivers to become familiar with the part-time signals.

Further information on the subject of this report can be obtained from Robert Sanders 466391, bsanders@swindon.gov.uk.

# Street Lighting and Traffic Signals Review

Cabinet

Date: 5 September 2012

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- 3.5 The Trial included Road Safety Audits that recommended a number of minor changes to signing and carriageway marking, additional high friction surfacing and a review of the forward visibility on the circulatory carriageway of the roundabout (presently restricted by the high mound on the central island). The estimate of the cost of the additional works will be considered as part of the full 12 month review.

## The Swindon Traffic Signal Review.

- 3.6 The Stage 1 of this two stage Review is now complete. It considered all roundabouts, junctions and pedestrian crossings in Swindon that are controlled by traffic signals.
- 3.7 The full review process and its outcomes are contained in the Halcrow report Swindon Traffic Signal Review Stage 1.

Stage 1 assigned sites to the following four categories:

- 3.7.1 Category 1 - possible removal /switch off of traffic signals subject to outcome of full investigation and costing at Stage 2.
- 3.7.2 Category 2 - improved operation subject to outcome of full investigation and costing at Stage 2.
- 3.7.3 Category 3 - retain current signals but optimise times to ensure efficiency.
- 3.7.4 Category 4 – those sites already being investigated as part of another scheme.
- 3.8 The selection of sites for progression to Stage 2 will be made through the LTP3 Implementation Plan Process. Stage 2 will consider the costs, benefits and risks.
- 3.8.1 Category 1 signals under consideration are:
- Cricklade Road/Chapel Street
  - Polaris Way Bus Gate
  - Queens Drive Frobisher Drive
  - Wroughton Park and Ride bus entrance
- 3.8.2 There is also an opportunity to trial Pedestrian Countdown Timers at one of the six sites identified in Stage 1 in consultation and with the approval of the Department for Transport.
- 3.9 The Meads Roundabout and Bruce Street Bridges junctions on Great Western Way are already subject to investigation as part of an approved scheme and the findings of the Traffic Signals Review can be considered as part of this work.

Further information on the subject of this report can be obtained from Robert Sanders 466391, bsanders@swindon.gov.uk.

# Street Lighting and Traffic Signals Review

Cabinet

Date: 5 September 2012

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## 4. Alternative Options

- 4.1 Any alternative options for those sites selected for the Stage 2 review will be considered in detail.

## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 5.1 The Stage 2 reviews will be funded from the LTP3 budget. Schemes arising from Stage 2 will be subject to their own business case and funded either from LTP3 or, where appropriate, Section 106 funding.

### Legal and Human Rights Implications

- 5.2 Legal and human rights legislation has been considered in the preparation of this report and its recommendations are considered to be compatible with convention rights. In accordance with the principle of proportionality, any interference with the convention rights of individuals is justified by the overall benefit to the community. Any inconvenience that may result from the introduction of any proposal would be outweighed by the overall environmental and road safety benefits provided.

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

- 5.3 Sustainability – the intention of the Traffic Signal Review is to improve junction efficiency and reduce delays but will consider the needs of Public Transport and of walking and cycling.

### Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.4 One Swindon Priority: I like where I live - there will be targeted improvements of our roads

### Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment has not been completed for this report. This is because it simply proposes that further investigations are carried out into potential changes to the operation of traffic signals at certain locations. A Diversity Impact Assessment will be carried out as part of this further level of investigation.

### Risk Management

- 5.6 Risk to the Council's reputation arising from not reviewing traffic signal operation.
- 5.7 Possibility of an unexpected outcome to public consultation on specific proposals.

Further information on the subject of this report can be obtained from Robert Sanders 466391, [bsanders@swindon.gov.uk](mailto:bsanders@swindon.gov.uk).

# Street Lighting and Traffic Signals Review

Cabinet

Date: 5 September 2012

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## **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 Trial Study Report – Mannington Roundabout Part-Time Trial, Halcrow, June 2012
- 7.2 Swindon Traffic Signal Review Stage 1 Halcrow, December 2011

## **8. Appendices**

None

## **9. Key Decision/Decision in Forward Plan**

This is not a Key Decision and is included in the Cabinet Forward Plan for September 2012.

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### CABINET

**WEDNESDAY, 11 JULY 2012**

**PRESENT:-** Councillors Roderick Bluh (Chair), David Renard (Vice-Chair), Mark Edwards, Fionuala Foley, Dale Heenan, Russell Holland, Brian Mattock, Garry Perkins, Vera Tomlinson and Keith Williams.

Councillor Mark Dempsey attended the meeting in respect of Minutes 17, 20, 22, 23 and 27. Councillor Stan Pajak attended the meeting in respect of Minutes 16, 17, 19 and 28. Councillor Julian Price attended the meeting in respect of Minutes 24 and 27. Councillor Rochelle Russell attended the meeting in respect of Minutes 17, 19 and 26. Councillor Bob (Robert) Wright attended the meeting in respect of Minutes 16, 17, 19, 22, 23, 26, 27 and 28.

#### **11. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting.

#### **12. Exempt Items - Exclusion of Press and Public**

Resolved – That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in Agenda Item No. 19 of the Notice of the Meeting on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned. (Minute 28 refers.)

#### **13. Stronger Together - Accommodation**

The Chair advised that this item had been withdrawn. He explained that as the result of the receipt of a letter earlier in the day from Unison expressing the trade union's concerns at proposals contained within the Stronger Together Accommodation report and the lack of formal consultation that had taken place with the trade union and with staff on the issue, he had decided to defer consideration of the item to enable appropriate consultation to take place and for the concerns raised to be considered. The report would be submitted to a future meeting of the Cabinet.

#### **14. Minutes**

Resolved – That the minutes of the meeting held on 11<sup>th</sup> June 2012 be confirmed and signed as a correct record.

#### **15. Public Question Time**

The following questions were asked in accordance with Standing Order 28 –

##### Questioner

Ms Karyse Day, Chiseldon.

Question

In view of the consistent refusal of Swindon Primary Care Trust, and the Joint Director of Public Health, to meet with Swindon Link representatives to discuss the commissioning of complementary and alternative medicine services would the Council agree to request its Health Overview and Scrutiny Committee to review the Primary Care Trust's failure to involve and engage patients in its decision not to commission such services to meet the health and equality needs of Swindon residents, and to demonstrate how it has responded to the public in relation to the commissioning decisions it has made?

Response

The Chair thanked Ms Day for her question. The Chair and the Cabinet Member for Health and Adult Social Care responded at the meeting.

Questioner

Mr Colin McEwen, South Marston Parish Council.

Question

Will the Cabinet note that the strict definition of a "strategic site" as requiring 850 housing units, as proposed by the draft Community Infrastructure Levy Regulations (Agenda Item 12) appears to prevent proper funding of complex and locally sensitive developments?

Response

The Chair thanked Mr McEwen for his question. The Chair and the Cabinet Member for Strategic Planning and Sustainability responded at the meeting. Councillor Dale Heenan, Cabinet Member for Strategic Planning and Sustainability, agreed to provide a further written response to Mr McEwen on his question and comments.

**16. Adoption of the Corporate Strategy 2012**

The Leader of the Council, the Board Director, Transformation and Strategic Projects and the Head of Strategy and Innovation submitted a joint report concerning the preparation of the Council's Corporate Strategy and setting out the progress made to date and details of the proposed priorities and strategies to underpin the Strategy and of the plans being developed support them.

The Chair referred to the significance of the emerging Corporate Strategy for the future of the Council and the way it would respond to the challenges it faced and the outcomes desired by local residents.

Councillor Fionuala Foley, Cabinet Member for Streetsmart and Corporate Services, proposed that the second bullet point in paragraph 3.9 of the joint report should be changed for subsequent reports to more accurately reflect the role of Streetsmart as the Council's "client" rather than to refer to its "contractor". She believed this would help residents and partners to clarify where responsibility rested.

Councillor Bob Wright welcomed the strategy but commented that in his view the emerging strategy currently reflected little "hope and happiness" in its tone. He believed that this was an important element of any vision and strategy and that it

would also be a key factor in encouraging engagement with local communities and harder to reach groups such as young people with such a strategy.

The Chair noted and supported Councillor Wright's comments and advised that his observations would be taken into account in the future work to be undertaken to develop the strategy.

Councillor Stan Pajak welcomed the report and the progress made in developing the Strategy. He was particularly pleased to see it was being developed as a "partnership" document. He saw it as a key tool to promote Swindon and to set out the response to the challenges that it faced in the future around funding and demand for services. He hoped that through a partnership approach this would avoid the duplication of service provision and enable the most effective use of the limited resources available to benefit local communities.

The Chair welcomed the comments of Councillors and those of Cabinet colleagues. He emphasised the significance of the work already undertaken by the Council through Stronger Together and the importance of the strategy to take that forward.

Resolved – (1) That the purpose and scope of the Council's Corporate Strategy, as stated in paragraphs 3.1, 3.2, and 5.1 of the joint report, be approved.

(2) That approval be given to Part One of the Council's Corporate Strategy as referred to in the joint report, in the form of:

- The most important challenges and opportunities identified in paragraph 3.5;
- The Priorities listed in paragraphs 3.6 and 3.7; and
- The Strategies listed in paragraphs 3.9 (as amended) to 3.13.

(3) That the Head of Strategy and Innovation be authorised to work with Councillors and officers to develop the measures of success and more detailed strategies as the basis for Part Two of the Council's Corporate Strategy for consideration by the Cabinet at its meeting on 5<sup>th</sup> September 2012.

(4) That it be noted that the Council's complete Corporate Strategy will be submitted to the Cabinet for consideration prior to being presented to full Council for adoption on 20<sup>th</sup> September 2012.

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **17. Budget Management 2012/13 and Budget Strategy 2013/14 and Beyond**

The Cabinet Member for Finance and the Board Director, Finance, Revenues, Benefits and Property submitted a joint report setting out the current forecast outturn position of the Council's Revenue Budget as at the end of May 2012, the medium-term financial context for the Council's Budget, and proposed guidelines for setting the 2013/14 Budget and Medium Term Resourcing Plan for 2016/17.

Councillor Mark Edwards, Cabinet Member for Finance, introduced the report and highlighted the projected position for the outturn of the Council's Budget, at year end. He referred to the reasons why there was a projected overspend in spending on Children's services and the actions that were being taken to address this. He commented on the continuing challenges the Council would face as it moved forward into the next and future Financial Years, and on the steps it would need to

take and the strategies it would need to implement to address these challenges and to continue to deliver high quality services to local residents. Whilst the careful management of the Council's finances had placed it in a strong and robust position there remained considerable risk and uncertainty for the Council's finances in the short and medium term as a result of changes in local government funding and, in particular, the impact of the implementation of the Government's changes in Housing finance, Benefits and Business rates.

Councillor Bob Wright referred to the changes in Housing finance and the interest rate associated with the Council's debt charges. He commented on the impact of the implementation of the Government's Welfare and Benefits changes on the demand for Council housing and on its support for the health and wellbeing of local residents.

The Chair noted Councillor Wright's comments and that the Council and residents would be faced with significant challenges.

Councillor Stan Pajak commented on the changes to Housing finance and Benefits and to the implications of these for the Council. He asked for clarification on the issue of the oversupply in the sheltered housing sector and the steps to be taken to address this.

Councillor Russell Holland, Cabinet Member for One Swindon, Localities and Housing, responded to Councillor Pajak's comments and explained that consultation was being undertaken on the possible amendment of the eligibility criteria for sheltered housing, by considering slightly lowering the age limit.

Councillor Mark Dempsey referred to the importance of engaging and listening to local communities, but queried the proposed spending on the "Big Conversation". He wondered if it would not be better to use this funding to reduce the impact of the service reductions that were taking place elsewhere.

The Chair noted Councillor Dempsey's comments and explained the significance of the "Big Conversation". It was not just a budget consultation exercise. He would arrange for Councillor Dempsey to receive a written breakdown of the costs associated with the project.

Councillor Rochelle Russell commented on the success of the "Life" project in Swindon and the significance of this approach for the future.

The Chair noted that the significance of Swindon's "Life" project was nationally recognised. He believed that it established an approach that would be refined and adopted across the Council to deliver both a more effective outcome to residents and reduced costs for the Council and its partners. He reiterated the challenges facing the Council and its finances. However, he believed the action the Council was taking and the strategies proposed within the report would equip it well to respond to those challenges.

Resolved – (1) That the projected out-turn position of the Council's Revenue Budget for 2012/13, as set out in Table 1 and Appendices 1 and 2 of the joint report, be noted.

(2) That the one-off allocation of £97,000 from earmarked reserves to fund a more engaging Budget Setting process for 2013/14 by increasing the understanding

of, and participation in, local decision making under Stronger Together be approved.

(3) That the one-off allocation of up to £200,000 to fund work associated with the implementation of major Housing and Council Tax Benefit changes, the introduction of the national universal credits system and a local welfare fund to be met from Government Grant and one-off specific reserves, be approved.

(4) That the one-off allocation of £36,000 from earmarked reserves to fund essential improvements to the Capita One Information Technology system to improve the flow of information and reduce duplication in the handling of data between the Children and Families Referral Team and other teams, be approved.

(5) That the Revenue Budget virements, as set out in Appendix 3 to the joint report, be approved.

(6) That the challenging financial context for the Council for 2013/14 and beyond and, in particular, the new risks that will be faced around future funding be noted.

(7) That the proposed strategies, as set out in Table 2 to the joint report, to address the 2013/14 Budget, be endorsed and Council officers undertake further work in these areas.

(8) That the 2013/14 Budget assumptions, as set out in Appendix 4 to the joint report, the key issues to be considered in developing a Housing Revenue Account Medium Term Financial Plan, the position on Housing Revenue Account Reserve balances, and the key issues facing the Dedicated Schools Grant, be noted.

The reasons for the decision and alternative options are as set out in the report to the meeting.

#### **18. Capital Programme 2011/12 Out-turn, Capital Programme 2012/13 and Treasury Management Performance 2011/12**

The Cabinet Member for Finance and the Board Director, Finance, Revenues, Benefits and Property submitted a joint report concerning (a) the outturn position of the Council's Capital Budget for 2011/12, (b) the Council's Capital Programme for 2012/13, and (c) the Council's Treasury Management performance for 2011/12.

Councillor Mark Edwards, Cabinet Member for Finance, introduced the report and highlighted the outturn position of the Council's Capital Budget and its linkage to the achievement of the Capital Programme for 2012/13. He commented on the use of Council borrowing to fund Capital works and on the challenges the Council faced. He referred to the need for decisions on Capital spending and for Capital projects to be based on robust review and monitoring and to be appropriate to meet the requirements of Swindon and its residents.

Resolved – (1) That the 2011/12 Capital Out-turn position the Capital Programme for 2012/13 and the 2011/12 Treasury Management performance and Prudential Indicators, as set out in the joint report, be noted.

(2) That the new Capital Programme schemes, as set out in paragraph 4.2 of the joint report, be approved.

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **19. Additional Primary School Places in Swindon Town Centre**

The Cabinet Member for Children's Services, the Board Director, Commissioning and the Head of Commissioning, Economy and Attainment submitted a joint report concerning the provision of additional primary school places in Swindon Town Centre, and setting out (a) the outcome of the consultation on the three potential school sites reported to the Cabinet in December 2011, (b) alternative options put forward by St Joseph's Catholic College and the White Horse Federation during the consultation exercise, and (c) proposals for further consultation on a location for the additional school places from September 2014.

Councillor David Renard, Cabinet Member for Children's Services, commented on the background to the report and highlighted the need for additional school places in Swindon Town Centre. He referred to the outcome of the consultation exercise and to the new suggested options that had arisen. He explained the reasons for the preferred options put forward in the joint report and why he believed these were the most appropriate to meet the increasing demand for primary places.

Councillor Stan Pajak, Eastcot Ward Councillor, supported the recommendations within the report. He noted that at the consultation meeting he had attended the majority attending were residents living adjacent to possible sites and not parents affected by the shortage of school places. He wondered if more could be done to involve this group in the process in order that a more balanced response could be received.

Councillor Bob Wright, Central Ward Councillor, referred to the consultation that had taken place within the local area and locality and the strong support within the community for the option put forward by St Joseph's College. He referred to the advantages of this option for local residents, the school community and for the Council's finances.

Councillor Rochelle Russell asked whether any proposals had come forward for a "free school" in Swindon.

Councillor David Renard, Cabinet Member for Children's Services, thanked Councillors for their comments. He advised that there had been no approaches made to the Council regarding "free schools" at the primary level. However, discussions were taking place with Commonweal Academy regarding a possible "free school" "sixth form" provision.

Resolved – That, for the reasons set out in paragraph 3.16 of the joint report, the Head of Commissioning, Economy and Attainment be authorised to undertake further wide spread consultation and a detailed financial appraisal on the proposals to provide an additional two forms of entry (60 reception places) by providing a new school at the County Road Depot site or by an expansion of St Joseph's Catholic College to a 4-19 school.

The reasons for the decision and alternative options are as set out in the report to the meeting.



The Cabinet Member for Children's Services, the Board Director, Commissioning and the Head of Commissioning, Economy and Attainment submitted a joint report concerning the provision of additional primary school places in North Swindon, and setting out (a) the outcome of a feasibility study commissioned for the provision of an additional two forms of entry (60 reception places) in North Swindon from September 2014, and (b) proposals for undertaking a public consultation on two options set out in the joint report.

Councillor David Renard, Cabinet Member for Children's Services, commented on the background to the report and highlighted the continuing need for additional school places in North Swindon. He referred to the outcome of the feasibility study and to the difficulty of identifying solutions. He explained the reasons for the options presented in the joint report and the consultation that would be undertaken on these.

Councillor Renard reported that he had received earlier in the day the following comment from Haydon Wick Parish Council regarding the proposal "Haydon Wick Parish Council supports the need for more primary school places but the site at Mouldon Hill is inappropriate due to it being a serious flood plain and not on a safe walking route for the majority of housing." He noted the comments and advised that these would be taken into account as part of the proposed consultation and incorporated into the review of the options available.

Councillor Mark Dempsey referred to the continuing and pressing demand for school places in North Swindon. He asked what consideration had been given to the future provision of secondary school places in the area. He also noted that a new primary school was included in the plans for the Tadpole Farm development and wondered if this could be used to offset some of the pressure for places elsewhere in North Swindon.

Councillor Renard thanked Councillor Dempsey for his comments and questions. Whilst there was no immediate pressure on secondary school places in North Swindon it was planned to submit a report on long-term planning of secondary school places to the Cabinet in autumn 2012. The school provision planned for the Tadpole Farm development would reflect the demands likely to arise from that development and it therefore was unlikely to be able to respond to the current pressures occurring elsewhere in North Swindon.

Resolved – (1) That the results of the feasibility study for an additional two forms of entry (60 reception places) from September 2014 in North Swindon, be noted.

(2) That the Board Director, Commissioning be authorised to conduct wide spread consultation on the two options for an additional two forms of entry (60 reception places) from September 2014 in North Swindon as follows:

- Expansion of Orchid Vale Primary School and provision of a new one form entry (30 reception places) school on land to the west of Thamesdown Drive at Taw Hill.
- Provision of a new two form entry (60 reception places) school on land to the west of Thamesdown Drive at Taw Hill, Swindon.

The reasons for the decision and alternative options are as set out in the

report to the meeting.

**21. One Swindon - Annual Report - First Year  
(Minute for Confirmation)**

The Cabinet Member for One Swindon, Localities and Housing and the Board Director, Localities submitted a joint report setting out the One Swindon Annual Report for July 2012. A joint supplementary report was circulated at the meeting setting out further changes to the Annual Report (Appendix 1) following a One Swindon Board meeting held on the 3<sup>rd</sup> July 2012.

Councillor Russell Holland, Cabinet Member for One Swindon, Localities and Housing, explained that the Annual Report set out the work undertaken by the One Swindon partners in the first twelve months since the programme was approved by the Council (Minute 97 2011/12 refers), and commented on the future plans to expand on the impact of One Swindon.

Resolved – (1) That the first One Swindon Annual Report, as set out at Appendix One to the supplementary joint report, be noted and referred to the Council for approval.

(2) That the Board Director Localities, in consultation with the Leader of the Council, and the Cabinet Member for One Swindon, Localities and Housing, be authorised to develop a set of objectives for the second year for endorsement by Cabinet and the One Swindon Board.

The reasons for the decision and alternative options are as set out in the report to the meeting.

**22. A Community Infrastructure Levy for Swindon  
(Minute for Confirmation)**

The Cabinet Member for Strategic Planning and Sustainability and the Head of Planning submitted a joint report concerning the requirement for the Council to prepare a Community Infrastructure Levy to secure financial contributions from new development to fund essential infrastructure.

Councillor Dale Heenan, Cabinet Member for Strategic Planning and Sustainability, advised that recent legislative changes had made it more difficult for the Council to secure developer contributions to mitigate the impact of new development through Section 106 Planning Obligations. He believed that there were now clear Planning and financial benefits for the Council to implement a Community Infrastructure Levy for the Borough to fund essential infrastructure. He referred to the work that had been undertaken to prepare the Swindon Community Infrastructure Levy Preliminary Draft Charging Schedule and to how the Levy would be implemented and used. He emphasised that this was the charging element of the Community Infrastructure Levy and that the “Delivery Plan”, that would also be a very key element, was to follow.

Councillor Mark Dempsey referred to the Haydon 3 Section 106 Agreement and to how he hoped that the Community Infrastructure Levy would enable funding to be spent in the areas directly affected by the development concerned and would take account of the wishes and requirements of local communities.



Councillor Bob Wright enquired how the levels set within the Charging Levy had been identified. He commented on the Council's wish to encourage small business development and to whether this priority was reflected in the Charging schedule. He believed it would be useful if briefings on Section 106 and the Community Infrastructure Levy could be included in the Member Development programme.

The Chair noted Councillor Dempsey's comments and explained the background to the renegotiation of the Haydon 3 Section 106 Planning Agreement and its intention to offset infrastructure costs associated with the impact of the development on the Borough.

Councillor Heenan explained that the Charging Schedule was subject to independent review and validation and that was how levels had been arrived at. He advised that many of the issues raised by Councillors and Cabinet colleagues would be addressed and considered when the Delivery Plan element of the Levy came forward. Briefings had already been held for Councillors on Section 106 and the Community Infrastructure Levy, but he was happy to see these repeated. They would be open, as previously, to all Members.

Resolved – (1) That the Council be recommended to approve the Swindon Community Infrastructure Levy Preliminary Draft Charging Schedule as set out in Appendix 1 to the joint report of the Cabinet Member for Strategic Planning and Sustainability and the Head of Planning.

(2) That the Head of Planning be authorised to publish the Swindon Community Infrastructure Levy Preliminary Draft Charging Schedule for public consultation, in accordance with the process and procedures set out in paragraph 2.19 of the joint report.

(3) That the Head of Planning, in consultation with the Director of Law and Democratic Services and the Cabinet Member for Strategic Planning and Sustainability, be authorised to make minor factual or typographical amendments to the Community Infrastructure Levy Preliminary Draft Charging Schedule prior to consultation.

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **23. Towards a University in Swindon**

The Cabinet Member for Children's Services, the Board Director, Commissioning and the Head of Commissioning, Economy and Attainment submitted a joint report concerning the progress made in establishing a Swindon Higher Education Strategy Project Group to develop a new higher education strategy for Swindon. (Minute 93 2011/12 refers.)

Councillor David Renard, Cabinet Member for Children's Services, commented on the background to the report and highlighted the progress that had been made in establishing the partnership Project Group. He drew attention to the Project Group's objectives and that it intended to submit a draft strategy and outline business case to the Cabinet in December 2012.

Councillor Mark Dempsey welcomed the report. He was disappointed by the lack of a Labour Group representative on the proposed Project Group and he asked

if this might be considered. He enquired what resources were going to be made available to support the Project Group and its work.

Councillor Renard noted Councillor Dempsey's comments and confirmed he would give the issue of representation consideration. He believed the skills and knowledge that each partner would bring to the Project Group were the only resources needed at this stage to bring the project forward.

Councillor Bob Wright referred to the successful University Technical College bid and to the latest site plans, He commented on the link to any future university provision.

Councillor Dale Heenan, Cabinet Member for Strategic Planning and Sustainability, referred to the importance of a partnership, team approach and a clear strategy. He believed these would be central to delivering a university for Swindon at some stage in the future. He cautioned that the provision of a university would not be a quick process and that the role of the partnership Project Group would be key.

Resolved – That the progress made to date be noted and the objectives set out in the terms of reference of the Swindon Higher Education Strategy Project Group, as referred to in paragraph 3.4 of the joint report, be approved.

(Councillor Russell Holland, Cabinet Member for One Swindon, Localities and Housing, made a personal declaration of interest in respect of the above item as he was a member of the Governing Body of New College, Swindon.)

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **24. Swindon Local Transport Plan - Implementation Plan 2012/13 - 2014/15**

The Cabinet Member for Leisure and Strategic Transport and the Board Director, Service Delivery, submitted a joint report concerning the proposed Local Transport Plan Implementation Plan for 2012/13 to 2014/15, and the Local Transport Plan Capital Programme budget apportionment for 2012/13.

Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport, referred to the Council's Local Transport Plan (LPT3) adopted by the Council in April 2011. He explained that the LTP programme was subject to an annual report to the Cabinet to ensure transparency in the apportionment of the funding and to aid the delivery of the programme. He highlighted the main features of the Implementation Plan for 2012/13 - 2014/15. He explained how flexibility was built into the Plan to enable schemes to be brought forward or delayed if circumstances required this.

Councillor Julian Price commented on the Plan. He asked whether consideration had been given to linking it to other Local Transport Plans in order that Swindon could be seen in the wider context as a "Travel to Area". He referred to the removal of speed cameras in Swindon and asked if there were any plans to return to such provision? He noted the intentions regarding workplace travel plans and wondered if consideration had been given to sports or events travel plans, for example associated with Swindon Town Football Club? He asked for clarification on

the proposed orbital bus route and whether this was a Town Centre orbital route or around Swindon route?

Councillor Williams responded to Councillor Price's questions and comments and advised that he would be happy to speak to Councillor Price in more detail on these issues following the meeting.

Resolved – (1) That the Local Transport Plan (LTP) Implementation Plan for 2012/13 to 2014/15, as set out in Appendix 3 to the joint report, be approved.

(2) That the Local Transport Plan Capital Programme budget categories and total spend for 2012/13, as detailed in Tables 3 to 6 of the Implementation Plan, be approved.

(3) That, further to the decisions in (1) and (2) above, the Head of Highways and Transport, in consultation with the Cabinet Member for Leisure and Strategic Transport and the Cabinet Member for StreetSmart and Corporate Services, be authorised to:

- prioritise schemes in accordance with One Swindon priorities,
- approve scheme progression in accordance with the updated Protocol (originally approved by the Cabinet in July 2010),
- vary allocations between different budget categories,
- approve variations in scheme costs, and
- add / substitute schemes, provided expenditure is contained within the approved total budget.

(Councillors Keith Williams Cabinet Member for Leisure and Strategic Transport, and Councillor Fionuala Foley, Cabinet Member for Streetsmart and Corporate Services, made personal declarations of interest in respect of the above item as they were Council appointed Non-Executive Directors on the Board of Thamesdown Transport Ltd.)

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **25. Debt Management**

The Cabinet Member for Finance, the Board Director, Finance, Revenues, Benefits and Property and the Head of Revenues and Benefits submitted a joint report concerning the performance by the Council and its partners in relation to debt management and the collection rates for Council Tax and Business Rates in 2011/12.

Councillor Mark Edwards, Cabinet Member for Finance, introduced the report and referred to the excellent performance of the Council and its partners across a number of collection and debt management activities.

The Head of Revenues and Benefits explained the detail of the report and highlighted the benchmarking undertaken with other local authorities and Swindon's continued successful performance in comparison with national performance targets and indicators.

Councillor Edwards referred to the Council's continued excellent performance rates at a time of difficult economic conditions, and to the way in which it not only successfully collected the debts, but did so with compassion where it was required

in order to assist vulnerable residents.

Resolved – (1) That the Debt Management performance be noted, in particular that (i) Council Tax collection was maintained in 2011/12, (ii) the collection of overpaid Benefits, miscellaneous incomes and Business Improvement District charges improved, (iii) collection rates for Housing, Car Parking penalty charge and Business Rates reduced, (iv) Swindon collection rates remain either top quartile or above average compared to other unitary authorities, and (v) Council Tax arrears of £1.3 million owed from previous financial years was collected in 2011/12.

(2) That the Revenues and Benefits and Housing teams, and the Council's partner Capita, be congratulated on their performance in Debt Management and Collection Rates for 2011/12.

(The Chair left the meeting during the consideration of this item. Councillor David Renard, Vice-Chair, took the Chair for the remainder of the meeting.)

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **26. Review of Education Transport Appeals Procedure**

The Cabinet Member for Children's Services, the Board Director, Commissioning and the Head of Commissioning, Economy and Attainment submitted a joint report concerning the outcome of the review requested by the Cabinet on the Transport Appeals Process, specifically whether the Council should restore the ability of parents to personally address the School Transport Appeals Sub Committee, and for the decision to be implemented in September 2012 (Minute 104 2011/12 refers.)

Councillor David Renard, Cabinet Member for Children's Services, commented on the background to the report and the Council motion, which had resulted in the review. He highlighted the response received to the consultation undertaken. He expressed his support for the approach recommended in the joint report.

Councillor Rochelle Russell expressed her support for allowing appellants the opportunity to address the Appeals Sub-Committee. She referred to her experience as both a member of the Sub-Committee and as, in the past, an appellant. She asked for clarification to be provided on who would be responsible for determining that "exceptional circumstances" would apply in any particular case.

Councillor Bob Wright expressed his support for allowing appellants to address the Sub-Committee. He explained that much of his constituency work involved providing help to residents to fill in important forms. Many of his constituents found this difficult whilst they could clearly express themselves in a face-to-face situation.

Councillor Renard noted the views expressed and reiterated his reasons for supporting the review's recommendations.

Resolved – (1) That the results of the review, including the consultation, of the Education Transport Appeals Procedure be noted, and the existing Transport Appeals process be retained that considers written case papers only without the presence of the local authority or the parent / carer, unless there are exceptional

circumstances where, because of specific medical reasons, the claimant is unable to present a written case, or where English is not the appellants first language and they do not have a good command of written English.

(2) That the requirement for all members of the Transport Appeals Sub-Committee to be trained in the detail of the Council's Transport Policy and its implementation before taking up his or her responsibilities as a member of the Committee, be endorsed.

(3) That the decisions referred to in (1) and (2) above be implemented in the Transport Policy for September 2012 and 2013.

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **27. Train Services for the Future - Update on Great Western Main Line Rail Issues**

The Cabinet Member for Leisure and Strategic Transport and the Board Director, Commissioning presented a joint report setting out the work undertaken since February 2012 to progress Swindon Borough Council's priorities on rail, particularly in respect of the Great Western Main Line. (Minute 94 2011/12 refers.)

Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport, commented on the work being undertaken to seek to influence decisions being taken on rail issues affecting Swindon and to work with Bristol City Council and Cardiff Council to promote the Great Western Main Line Corridor.

Councillor Mark Dempsey commented on the serious impact of high rail fares both for local commuters and for the growth of the Swindon economy. He enquired what action had been taken to work with local MPs to lobby the Government on the issue.

Councillor Julian Price acknowledged the concerns over fares but highlighted there were other significant benefits that could result from improved rail services. He referred to the establishment of rail halts in commuter and new development areas where this was possible. This would have a significant effect on Swindon's traffic problems. He enquired why Swindon was seeking to work only with Bristol and Cardiff on such issues.

Councillor Bob Wright referred to the disparity in charging bands implemented by the rail companies. In particular that it was cheaper to buy a ticket to Didcot and then from Didcot to London than to buy a ticket from Swindon to London. This, in his, view was a completely unacceptable situation.

Councillor Williams thanked Councillors and Cabinet colleagues for their comments. Despite the Council's best efforts Network Rail remained unconvinced and unsupportive of establishing commuter halts. He commented that in respect of new developments he believed that rapid bus transit offered a more flexible answer than a fixed rail based solution. He explained that the Council had entered into a memorandum of understanding with Bristol and Cardiff Councils in view of a number of mutual interests around their position on the Great Western Main Line / M4 corridor.

Councillor Garry Perkins, Cabinet Member for Regeneration and Culture, commented on the meetings that had previously taken place with the local Members of Parliament and Government Ministers on the rail fares issue and that he was sure this lobbying would continue.

Resolved – (1) That the work undertaken since February 2012 to progress Swindon Borough Council's priorities on rail, be noted.

(2) That the Board Director, Commissioning be authorised to undertake further co-ordinated lobbying on the matters of economic development through the Memorandum of Understanding between Bristol City Council, Cardiff County Council and Swindon Borough Council and the joint working of officers, Councillors and local Members of Parliament towards the same objectives.

(3) That the Leader of the Council, along with the Swindon Members of Parliament, be requested to continue to raise the matter of the current level of fares to and from Swindon rail station with the Department for Transport at every appropriate opportunity, in order to maximise the advantage for Swindon residents and businesses of a cheaper rate of rail travel in the future.

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **28. Strategic Acquisition of Buildings and Land at Regent Street and Morley Street, Swindon Town Centre**

The Cabinet Member for Regeneration and Culture, the Head of Commissioning, Economy and Attainment, and the Board Director, Finance, Revenues, Benefits and Property submitted a joint report concerning the strategic acquisition of buildings and land at Regent Street, Temple Street, and Morley Street, Swindon Town Centre.

Councillor Garry Perkins, Cabinet Member for Regeneration and Culture, explained that an opportunity had arisen for the Council to undertake the purchase of a number of strategic properties that would help pave the way for a future regeneration opportunity centred on the Granville Street Car Park, with links to both Regent Street and the Brunel Centre. He detailed the properties involved and referred to the financial implications for the Council of seeking their acquisition. He reported that, unfortunately, the Council had been unsuccessful in an auction bid to acquire a parcel of land at Morley Street, Swindon, as referred to in the report.

Councillor Stan Pajak and Councillor Bob Wright commented on issues surrounding the acquisition of the sites and their use in the short-term.

Resolved – (1) That the Board Director Finance, Revenues, Benefits and Property, in consultation with the Cabinet Member for Finance, be authorised to secure the purchase of the property in Regent Street, Swindon, identified as shaded area "A" on the plan attached as Appendix 1 to the joint report, on terms required by the Director of Law and Democratic Services and Head of Property Assets to protect the interests of the Council, using Prudential Borrowing as described in paragraph 3.5 of the joint report.

(2) That the Board Director Finance, Revenues, Benefits and Property, in consultation with the Cabinet Member for Finance, be authorised to secure the purchase of the property in Temple Street, Swindon, identified as shaded area "B" on the plan attached as Appendix 1 to the joint report, on such terms as required by the Director of Law and Democratic Services and Head of Property Assets to



protect the interests of the Council, and on the basis that the property is to be demolished as soon as practicable thereafter and the site converted into a pocket park, subject to planning consent being obtained.

(3) That further to the decision in (2) above, the Board Director Finance, Revenues, Benefits and Property make available a total budget of no greater than £1.75m for the purchase and all works, with funding as detailed in paragraph 3.13 of the joint report.

(4) That it be noted that the Council was unsuccessful in its bid at a recent auction of land at Morley Street, Swindon, as identified as shaded area "D" on the plan attached as Appendix 1 to the joint report.

(5) That it be noted that the Head of Property Assets, Council officers and Forward Swindon Ltd. will continue to monitor opportunities for acquisitions in the area immediately surrounding the Granville Street Car Park and to seek Cabinet approval to proceed to purchase as they arise.

The reasons for the decision and alternative options are as set out in the report to the meeting.

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## **CABINET**

**WEDNESDAY, 5 SEPTEMBER 2012**

**PRESENT:-** Councillors Roderick Bluh (Chair), David Renard (Vice-Chair), Fionuala Foley, Dale Heenan, Russell Holland, Brian Mattock, Garry Perkins, Vera Tomlinson and Keith Williams.

An apology for absence was received from Councillor Mark Edwards.

Councillor Jim Grant attended the meeting in respect of minutes 34 and 37.  
Councillor Steve Wakefield attended the meeting in respect of minutes 33, 34, 36, 39, 40, 41, 42 and 43.

### **29. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting.

Councillor Fionuala Foley, Cabinet Member for Streetsmart and Corporate Services, made a personal declaration of interest in respect of Agenda item 6 (Introduction of Deregulatory Planning Measures to Promote Business Growth) as she was associated with a family business that owned property at a site identified in the report.

Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport and Councillor Fionuala Foley, Cabinet Member for Streetsmart and Corporate Services, made personal declarations of interest in respect of Agenda item 13 (Local Sustainable Transport Fund Programme) as they were Council appointed non-executive Directors of Thamesdown Transport Ltd.

### **30. Minutes**

Resolved – That the minutes of the meeting held on 11<sup>th</sup> July 2012 be confirmed and signed as a correct record.

### **31. Public Question Time**

The following questions were asked in accordance with Standing Order 28 –

#### Questioner

Mr Brian Cockbill, Stratton St Margaret.

#### Question

1. How much money is owed to the Council by:-

(a) Forefront Estates Ltd or/and the Director(s) in respect of Council Tax and all work carried out on the Mechanics' Institute, and

(b) Digital City (UK) Ltd or/and the Council's partner(s) and/or all Directors associated with the Wi-Fi enterprise?

(c) How much money in each of (a) and (b) above been written off as bad debt(s) as

not being recoverable or for any other reason?

(d) What steps have the Council made to date to recover the amounts at

(a) and (b) above? And

(e) Is there any risk that payment for any of these amounts will not be achieved because of the Limitation Act or any other legislation or legal loophole?

2. As Council Leader do you accept that you have a duty to see that all Officers and Cabinet members fulfil -

(a) every decision made by Council and

(b) any undertaking made by them to members of the public?

If, and when, such a failure(s) occur what sanctions are you or the Council prepared to use including instituting Disciplinary action or reducing Responsibility Allowances?

3. Is there any truth in the rumour that the Thamesdown Transport Service No. 20 is to be stopped? This bus serves the Great Western Hospital for residents of Central, Gorse Hill and Pinehurst, Penhill and Upper Stratton, St Margaret and South Marston, Covingham and Dorcan and Liden, Eldene and Park South Wards. Are Members representing these areas to be ignored by the Council-owned transport undertaking and Council Transport Officers until the last possible moment, as happened last year?

### Response

The Chair thanked Mr Cockbill for his questions and comments and advised that a response had been prepared to his first two questions and circulated. The Chair and the Cabinet Member for Leisure and Strategic Transport responded at the meeting to Mr Cockbill's third question.

Mr Cockbill asked a supplementary question concerning accumulated interest owed by Forefront Estates Ltd. to the Council and the responsibility for and ownership of the fencing, erected by the former Thamesdown Borough Council, that surrounded the Mechanics' Institute?

The Chair responded at the meeting to Mr Cockbill's supplementary question and advised that if Mr Cockbill could provide more detail of his questions in writing he would arrange for a written response to be provided.

Mr Cockbill asked a further supplementary question regarding the costs of preparing the Digital City (UK) Ltd. accounts?

The Chair and the Board Director, Finance, Revenues, Benefits and Property responded at the meeting to the supplementary question.

Mr Cockbill asked a supplementary question seeking clarity of the response provided to his second question. The Chair responded at the meeting and advised that he would be happy to meet with Mr Cockbill to address any specific concerns /cases that Mr Cockbill wished to discuss.

### Questioner

Mrs. Kareen Boyd, Hesketh Crescent, Swindon (on behalf of Mr Colin Doubleday).

### Question

Mrs. Boyd, on behalf of Mr Doubleday, asked a series of questions regarding-

- (a) The establishment, choice of location, and the costs and process associated with the moving of an Electricity Substation built adjacent to the new Croft School?
- (b) The costs associated with refurbishing and moving the building used as the temporary East Wichel School, and where the building was currently located?

### Response

The Chair thanked Mrs Boyd for her questions on behalf of Mr Doubleday. The Chair and Councillor David Renard, Cabinet Member for Children's Services, responded at the meeting. The Chair advised that he would provide a fuller written response if Mrs Boyd could clarify the details of her questions in writing.

### Questioner

Mrs. Kareen Boyd, Hesketh Crescent, Swindon.

### Question

Mrs. Boyd asked a series of questions regarding -

- (a) The Capital Programme Monitoring report (Agenda Item 10) and an explanation of the reasons for the variance between the agreed budget for the new Croft School and the current total scheme projected cost?
- (b) Clarification on the detailed costs of the groundworks associated with the Croft School and the other construction costs.
- (c) Clarity on whether Classroom Solutions would be involved in works associated with the proposed expansion of Even Swindon, Haydonleigh and St Francis Primary Schools, and an explanation of the costs associated with these projects when compared with the Croft School.

### Response

The Chair thanked Mrs Boyd for her questions. The Chair, Councillor David Renard, Cabinet Member for Children's Services, and the Board Director, Finance, Revenues, Benefits and Property responded at the meeting. The Chair advised that he would provide a fuller written response if Mrs Boyd could clarify the details of her questions in writing.

### Questioner

Mrs. Carole Bent, Marlborough Lane, Swindon.

### Question

Mrs. Bent asked a series of questions regarding -

- (a) The environmental and health implications for local residents of an Electricity Substation built adjacent to the new Croft School?
- (b) The condition of hoardings surrounding the Croft School Site and whether their appearance would be improved in the near future?
- (c) The appointment and selection process for the Independent Person to support the work of the Council's Standards Committee?
- (d) The proposed response by the Council to an incident that had recently occurred on the Croft School site involving a Council employee?

### Response

The Chair thanked Mrs Bent for her questions. The Chair and the Chief Executive responded at the meeting.

## **32. Local Government Ombudsman's Annual Letter 2011/12 (Minute for Confirmation)**

The Leader of the Council and the Director of Law and Democratic Services submitted a joint report setting out the Local Government Ombudsman's Annual Letter and Summary of Statistics for Swindon for 2011/12.

The Chair welcomed the contents of the Local Government Ombudsman's Annual Review and noted that there had been no cases of maladministration involving the Council in 2011/12. He highlighted that there had again been a reduction in the total number of complaints investigated and in the Council's response times to Ombudsman enquiries.

Resolved – That the Council be recommended to –

(a) Welcome and note the Local Government Ombudsman's Annual Review for Swindon for the year ending 31<sup>st</sup> March 2012, that stated that the Local Government Ombudsman had no concern regarding the Council's response times and that there were no issues arising from the complaints investigated that she wished to bring to the attention of the Council;

(b) Note that

- the Annual Statistics indicate that the total number of enquiries and complaints received by the Local Government Ombudsman reduced slightly in the year ending 31<sup>st</sup> March 2012;
- the average time taken by the Council to respond to the Local Government Ombudsman's initial inquiry has also reduced for the year ended 31<sup>st</sup> March 2012;

(c) Request that the Board Director, Transformation and Strategic Projects and all relevant Heads of Service take further steps to continue the trend identified in paragraphs 2.3 and 2.4 of the joint report;

(d) Request that the Induction process for staff (both SBC and partners) should include information on the role of the Local Government Ombudsman and emphasise the importance for all staff to adhere to set procedures.

The reasons for the decision and alternative options are as set out in the report to the meeting.

## **33. Introduction of Deregulatory Planning Measures to Promote Business Growth**

The Cabinet Member for Strategic Planning and Sustainability and the Head of Planning submitted a joint report concerning a proposal to assist local businesses to "cut through" the national red tape and bureaucracy of the Planning system through the innovative use of Local Development Orders.

Councillor Dale Heenan, Cabinet Member for Strategic Planning and Sustainability, referred to the frustration caused to many local businesses by the complexity of the current Planning process, and to how the use of Local Development Orders could assist in "freeing up" the system. He explained the

background to Local Development Orders and how they worked in practice. Whilst decisions on Local Development Orders would rest with the Planning Committee, the identification of potential strategic locations in support of the Council's emerging Economic Strategy was an area for the Cabinet's involvement, particularly in view of the link to the potential establishment of local Swindon Enterprise Zones. He referred to the different ways in which the Council was seeking to work with local businesses to develop and build the local economy.

Councillor Steve Wakefield referred to the proposals and hoped that steps could be taken to ensure that any relaxation in the Planning process did not result in uses that would be detrimental to the environment and / or have a negative impact for local communities.

Councillor Heenan thanked Cabinet colleagues and Councillor Wakefield for his comments and explained how the process would work and the Planning controls that would continue to protect local residents from inappropriate uses.

Resolved – (1) That the Cabinet Member for Strategic Planning and Sustainability, in consultation with the Cabinet Member for Regeneration and Culture and the Head of Planning, be authorised to assess the scope to introduce a series of Local Development Orders at key locations, employment sites and business parks in the Borough.

(2) That it be noted that the introduction of Local Development Orders is the first task after an Enterprise Zone is designated and that by implementing Local Development Orders, Swindon will have a head start over rival authorities in bidding for future Enterprise Zone status.

(3) That the Head of Planning, Head of Commissioning, Economy and Attainment and Board Director of Finance, Revenues, Benefits and Property, in the context of the Draft Economic Strategy, be requested to report back to the Cabinet within six months on the benefits of establishing a Swindon Borough Council version of Enterprise Zones in the Borough, the use of Neighbourhood Development Orders, and the potential use and impact of localisation of business rates from April 2013 to promote Business growth and job creation.

(4) That the joint report of the Cabinet Member for Strategic Planning and Sustainability and the Head of Planning be referred to the Planning Committee so that its content can be considered and noted.

(Councillor Fionuala Foley, Cabinet Member for Streetsmart and Corporate Services, made a personal declaration of interest in respect of the above item as she was associated with a family business that owned property at a site identified in the report.)

The reasons for the decision and alternative options are as set out in the report to the meeting.

#### **34. Neighbourhood Planning Protocol**

The Cabinet Member for Strategic Planning and Sustainability and the Head of Planning submitted a joint report concerning a proposed Neighbourhood Planning Protocol to assist parish and town councils and "neighbourhood forums" to prepare Neighbourhood Plans, and setting out the level of support that the Council will be able to offer to them.

Councillor Dale Heenan, Cabinet Member for Strategic Planning and Sustainability, advised that the Localism Act 2011 introduced new neighbourhood planning provisions that came into force in April 2012. He commented on Neighbourhood Plans and who could prepare them, and on how they fitted into the wider Planning process. The Act and its associated Regulations placed various duties and responsibilities on the Council in relation to neighbourhood planning, and a Neighbourhood Planning Protocol had been developed. This aimed to assist parish and town councils and “neighbourhood forums” to prepare Neighbourhood Plans and also described the support available to them from the Borough Council.

Councillor Steve Wakefield commented on the proposed Protocol and enquired whether it would be possible to provide greater clarification within the document on the resources that would be available from the Council.

Councillor Jim Grant, Leader of the Opposition, welcomed the involvement of local communities in planning their neighbourhoods. He emphasised the need to engage with communities to encourage their involvement in the process.

Councillor Heenan thanked Councillors for their contributions. The resources available from the Council would to a great extent be dependent on the capacity of the Planning Team involved and this would depend on the number and complexity of plans that were forthcoming. This was difficult to predict in advance. He referred to the role that the localities could play in communicating the process.

Resolved – (1) That the draft Neighbourhood Planning Protocol attached as Appendix 1 to the joint report be approved for consultation in accordance with the arrangements detailed in paragraphs 4.1 to 4.3 of the report.

(2) That the Head of Planning and the Director of Law and Democratic Services be authorised to make minor changes to the content of the Neighbourhood Planning Protocol, in consultation with the Cabinet Member for Strategic Planning and Sustainability, as appropriate prior to publication for consultation.

(3) That the Head of Planning, in consultation with the Cabinet Member for Strategic Planning and Sustainability and the Director of Law and Democratic Services, be authorised to deal with matters relating to applications for designation of Neighbourhood Areas and Neighbourhood Forums, including determination and publication of the applications.

The reasons for the decision and alternative options are as set out in the report to the meeting.

### **35. Adoption of the Corporate Strategy 2012/13**

The Leader of the Council, the Board Director, Transformation and Strategic Projects and the Head of Strategy and Innovation submitted a joint report concerning the progress made since the last meeting in the preparation of the Council's Corporate Strategy.

The Leader of the Council commented on the progress made and the importance of the emerging strategy to the Council, and clarified that the report related to the Municipal Year 2012/13. He stressed the significance of the contribution of Members and officers to the planning process and that it was important that sufficient time was made available to enable this to happen.

Resolved – (1) That the Head of Strategy and Innovation be authorised to



work with Members and officers to continue to develop the measures of success and the more detailed plans to deliver the strategies as the basis for Part Two of the Corporate Strategy for consideration by the Cabinet on 17<sup>th</sup> October 2012.

(2) That it be noted that the Council's complete Corporate Strategy will be presented to full Council for adoption on 8th November 2012.

The reasons for the decision and alternative options are as set out in the report to the meeting.

### **36. Military Covenant - Motion at Council (Minute for Confirmation)**

The Chief Executive and the Leader of the Council submitted a joint report responding to a Motion arising from the Council meeting on 29<sup>th</sup> March 2012 that called on the adoption by the Council of a Military Covenant.

The Chair advised that a Military Covenant, or an Armed Forces Community Covenant, as it was more formally known, was a statement of mutual support between a civilian community and the serving members, veterans and families of the armed forces community. The joint report explained how the Council was able to work with its partners to support the principles of the Covenant and to support serving and former members of the military and their families. It also set out the proposed arrangements for the formal signing of the covenant. He hoped that all Councillors, the Council's partners and the local community would all support this covenant and its aims.

Councillor Steve Wakefield welcomed the proposal. He advised that the Council had long sought to support the Armed Forces and provided the example of a Council motion that he had proposed in January 2007 in support of access to Housing and that the Council had approved (Minute 103 2006/07).

Councillor Jim Grant, Leader of the Opposition, advised that he and his political group fully supported the entering into of the proposed covenant.

Resolved –That the Council be recommended that –

- (a) Swindon Borough Council enters into an Armed Forces Community Covenant by way of the signing of a covenant agreement at the Royal Yeomanry Freedom event to be held on Sunday 21<sup>st</sup> October 2012 at the Civic Offices, Swindon.
- (b) The Council's participation in the Armed Forces Community Covenant reflects the commitments set out in paragraph 3.6 of the joint report.
- (c) The Director of Law and Democratic Services, in consultation with the Leader of the Council, Board Directors and other partner organisations be authorised to prepare and finalise the detail of the Armed Forces Community Covenant to be signed on 21<sup>st</sup> October 2012.
- (d) The Mayor, the Leader of the Council and the Leader of the Opposition and Minority Group be authorised to sign the Covenant on behalf of the Council.

The reasons for the decision and alternative options are as set out in the report to the meeting.

### **37. Budget Management 2012/13**

The Cabinet Member for Finance and the Board Director, Finance,

Revenues, Benefits and Property submitted a joint report setting out the current forecast outturn position of the Council's Revenue Budget as at the end of June 2012.

The Board Director, Finance, Revenues, Benefits and Property, in the absence of Councillor Mark Edwards, Cabinet Member for Finance, explained the contents of the report and highlighted the projected position for the outturn of the Council's Budget, at year end. He referred to the actions being taken to manage spending within Adult Social Care and Children's services and the demand pressures that these services continued to face. He commented on the Adult Social Care Demand Enquiry and to what it was hoped this would achieve. He referred to a bid made to the European Regional Development Fund to access funds to promote economic growth and explained the match funding required from the Council should the bid succeed.

Councillor Brian Mattock, Cabinet Member for Health and Adult Social Care, expressed his appreciation for the work being undertaken by all the officers involved in managing the Adult Social Care Budget and in the Adult Social Care Demand Enquiry. Unlike many local authorities across the country, Swindon was controlling its budget and it was hoped that through initiatives such as the Adult Social Care Demand Enquiry this would continue.

Councillor David Renard, Cabinet Member for Children's Services, and the Board Director, Commissioning explained the reasons for the overspend in the Children's Services budget and the steps that were being taken to minimise this. However, as a result of the impact of legislative changes on responsibilities around Looked After Children they believed it likely that pressures in this area would continue.

Councillor Jim Grant, Leader of the Opposition, referred to the contents of the report and supported the need for all parties to work together, particularly in respect of Adult Social Care, to protect services to vulnerable people.

Resolved – (1) That the projected out-turn position of the Council's Revenue Budget for 2012/13, as set out in Table 1 and Appendices 1 and 2 of the joint report, be noted.

(2) That it be noted that the Adult Social Care service is currently operating within budget.

(3) That the work that officers are undertaking to manage demand pressures within the Adult Social Care service be endorsed, and that a further update be provided to the Cabinet in Autumn 2012.

(4) That, should the Council be successful in its bid to the European Regional Development Fund to secure a share of £5m of available resources for the South West of England to fund work associated with promoting economic growth within the region, the Council will put forward up to £400,000 of match funding, to be met from existing one-off reserves or the Corporate Contingency Fund, over a 24 month period from January 2013 to December 2015.

(5) That the Revenue Budget virements, as set out in Appendix 3 to the joint report, be approved.

(6) That the Cabinet express its appreciation to all those in the Council's officer team involved in managing the Adult Social Care Budget and in the Adult Social Care Demand Enquiry for their valuable work.



The reasons for the decision and alternative options are as set out in the report to the meeting.

### **38. Capital Programme Monitoring - 1st Quarter 2012/13**

The Cabinet Member for Finance and the Board Director, Finance, Revenues, Benefits and Property submitted a joint report concerning the projected outturn position of the Council's Capital Budget for 2012/13 as at the end of June 2012.

The Board Director, Finance, Revenues, Benefits and Property, in the absence of Councillor Mark Edwards, Cabinet Member for Finance, explained the projected outturn position of the Council's Capital Budget for 2012/13, and referred to proposed changes to the current Capital Programme and to the reasons these were necessary.

Resolved – (1) That the projected Capital Out-turn position of the Capital Programme for 2012/13, as set out in the joint report, be noted.

(2) That the changes to Capital Programme schemes, as set out in paragraphs 4.2 to 4.8 of the joint report, be approved.

The reasons for the decision and alternative options are as set out in the report to the meeting.

### **39. Capital Building Projects - Partnership Framework Agreements**

The Cabinet Member for Regeneration and Culture, the Cabinet Member for Finance and the Board Director, Commissioning submitted a joint report concerning a proposal to review the previous decision to create a "Swindon Partnership Framework Agreement" for tendering non-housing related building construction and refurbishment projects (Minute 53, 2011/12 refers) and to continue tendering for the delivery of non-housing related building construction and refurbishment projects on the basis of existing agreed criteria.

Councillor Gary Perkins, Cabinet Member for Regeneration and Culture, explained current economic conditions, their effect on the supply market and the potential for this to impact on the viability and stability of any partnership framework. Therefore, it was not felt appropriate to move forward to introduce a Framework Agreement at this time. He advised that the Council since the last report to Cabinet had tendered a significant number of projects applying a combination of agreed criteria and this has proved very successful in stimulating the supply base and improving value for money. It was proposed that this approach should continue to be taken until market conditions changed.

Councillor Steve Wakefield commented on the report and expressed his hope that there would be assurances that value for money was being achieved by the Council.

Councillor Perkins thanked Councillor Wakefield for his comments and explained how through the ability to benchmark locally assurances could be provided that best value was being achieved.

Resolved – (1) That the key findings resulting from research and analysis undertaken over the previous 6 months into the implications of the creation of a

“Swindon Partnership Framework Agreement” for tendering non-housing related building construction and refurbishment projects, be noted.

(2) That the Head of Commercial Services, in consultation with the Cabinet Member for Finance, the Director of Law and Democratic Services, and the Head of Design and Architecture, be authorised to continue tendering for the delivery of non-housing related building construction and refurbishment projects on the basis as set out in paragraph 3.6 of the joint report.

The reasons for the decision and alternative options are as set out in the report to the meeting.

#### **40. Recycling Improvements**

The Cabinet Member for Streetsmart and Corporate Services and the Head of Public Protection and Streetsmart submitted a joint report concerning the proposed implementation of an action plan setting out potential improvements to the Council’s waste and recycling service to improve the current recycling rate of 50%.

Councillor Fionuala Foley, Cabinet Member for Streetsmart and Corporate Services, explained that the joint report and action plan responded to a Motion arising from the Council meeting on 22<sup>nd</sup> November 2011. She highlighted the success of the Council’s Recycling Service to date and referred in detail to the various elements of the Action Plan, to the associated schemes and initiatives, and to what it sought to achieve.

Councillor Steve Wakefield referred to the content of the report and the proposed Action Plan. He noted the proposals for the replacement of recycling boxes and commented on how Councillors through localities and ward surgeries could become more involved in the initiative and in the promotion of recycling generally. He referred to the significant amount of waste generated by business that was not recycled. He believed that the Government should do more to encourage the recycling of commercial waste and the limiting of unnecessary packaging. He wondered if it would be possible to include more information with the annual Council Tax Bill on the amount that Council Tax payers saved on their bills by recycling and avoiding sending waste to landfill.

Councillor Foley thanked Councillor Wakefield for his comments and advised that she and the officers would look into these matters. She commented on the importance of communication to increasing the level of recycling. She fully supported the view that more should be done nationally to cut down on unnecessary packaging.

**Resolved** – (1) That the Council’s ambitions to go beyond its 50% recycling and composting rate and reach 60% be noted.

(2) That in order to move towards the position of a 60% recycling and composting rate, the action plan outlined in Appendix 1 to the joint report be approved, and the Head of Public Protection and Streetsmart be authorised to implement those actions in the timescales identified in the Action Plan.

The reasons for the decision and alternative options are as set out in the report to the meeting.

#### **41. Local Sustainable Transport Fund Programme**

The Cabinet Member for Leisure and Strategic Transport and the Head of Commissioning, Economy and Attainment submitted a joint report concerning the detailed scheme proposals associated with the Local Sustainable Transport Fund for 2012/13, and seeking approval for the Programme Budget apportionment for 2012/13 and a protocol for agreeing and progressing individual schemes.

Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport, referred to Swindon's successful bid to the Department for Transport that had enabled access to £4.47m of funding over the period 2011-2015, to support the Swindon Workplace Initiative for Transport project. This project, linked to the Council's Local Transport Plan 2011/26, supported the regeneration of Swindon Town Centre and would implement a package of measures targeted on changing the travel behaviours of car commuting employees. He commented on the success of the project to date and highlighted initiatives contained within the Year Two Implementation Plan. He advised that there had been a typographical error in the Appendix to the report and that the figure "(£000)" should not have been used in the heading for tables 6, 7, 9, 10, 12, 13, 15 and 16.

Councillor Steve Wakefield commented on the investment in cycleways in the programme. He hoped that existing routes could also receive investment to bring them to the high standard of some of the newer routes. He also hoped that there would be investment in the routes surrounding the new Oasis leisure facility. He believed the higher the standard of the route the more people would be encouraged to cycle.

Resolved – (1) That the Local Sustainable Transport Fund Programme Budget categories and allocations for 2012/13, as detailed in the Implementation Plan attached as Appendix 1 to the joint report, be approved for inclusion in the Council's Revenue Budget and Capital Programme.

(2) That, where delivery risks arise that will put in jeopardy the Council's ability to benefit in full from the Local Sustainable Transport Fund annual grant allocation, the Head of Highways and Transport Delivery, in consultation with the Cabinet Member for Leisure and Strategic Transport and Board Directors, be authorised, within the parameters of the implementation plan and Local Sustainable Transport Fund bid document, to prioritise schemes and add or substitute schemes relevant to the Package Elements.

(Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport and Councillor Fionuala Foley, Cabinet Member for Streetsmart and Corporate Services, made personal declarations of interest in respect of the above item as they were Council appointed non-executive Directors of Thamesdown Transport Ltd.)

The reasons for the decision and alternative options are as set out in the report to the meeting.

#### **42. Proposals for the Permanent Expansion of Haydonleigh and Even Swindon Primary Schools**

The Cabinet Member for Children's Services, the Board Director, Commissioning and the Head of Commissioning, Economy and Attainment

submitted a joint report concerning the outcome of the consultations on proposals to permanently expand Haydonleigh and Even Swindon Primary Schools from September 2013.

Councillor David Renard, Cabinet Member for Children's Services, referred to the proposals to seek the permanent expansion of Haydonleigh and Even Swindon Primary Schools as a result on the current and predicted pressure for school places in those areas. He commented on the consultation that had been carried out and on the response received to the consultation exercises. He believed that taking into account the outcome of the consultation and the officers' responses to the issues raised the proposed expansion of the schools should move forward to the next stage of the decision-making process.

The Chair advised that he had received comments on the proposal for Even Swindon Primary School from Councillor Kevin Small who was unable to attend the meeting. Councillor Small was supportive of the expansion of the School but had concerns regarding a number of highways and similar issues associated with a larger school. The Chair noted that such issues would be addressed as part of the Planning process and should not be affected by a move forward to the next stage of the decision-making process.

Councillor Steve Wakefield referred to the proposals for Even Swindon Primary School. He welcomed any provision that enabled children to attend their local school. However, he shared Councillor Small's concerns regarding a number of highways and parking issues that he hoped would be addressed if the scheme progressed. He was supportive of moving forward to the next stage of the process.

Resolved – (1) That the outcome of the consultations on the proposed permanent expansions of Haydonleigh and Even Swindon Primary Schools to 3 forms of entry from September 2013, be noted.

(2) That the Board Director, Commissioning be authorised to conduct statutory consultation on the proposed permanent expansions of Haydonleigh and Even Swindon Primary Schools to 3 forms of entry from September 2013.

The reasons for the decision and alternative options are as set out in the report to the meeting.

#### **43. Street Lighting and Traffic Signals Review (Minute for Confirmation)**

The Cabinet Member for Leisure and Strategic Transport and the Head of Highways and Transport submitted a joint report that responded to Council motions regarding street lighting and traffic signalled junctions (Minute 113 of the Council 2011/12, Minute 96 of the Council 2011/12 and Minute 73 of the Council 2010/11) and provided an update on the progress of outcomes of the Traffic Signal Review approved by the Cabinet in April 2011 (Minute 109 2010/11 refers).

Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport, referred to the background to the joint report and highlighted the outcomes of the trials conducted to date. He commented on how proposals for schemes identified from the outcomes of the Swindon Traffic Signal Review would be progressed.

Councillor Steve Wakefield commented that there had been a mixed reaction from local residents to the changes made to the Mannington Roundabout, but there was overall support for the new arrangements. He was supportive of completing the trial and analysing the results. He wondered if the review could be extended to include neighbouring roundabouts such as that at Meads.

Resolved – (1) That it be reaffirmed that there are no plans to conduct street light switch-off trials in the future.

(2) That, in recognition of the benefits of the reduced off-peak delays to traffic and public support for the scheme, the part-time operation of the traffic signals at Mannington, Swindon, continues but it remain on a trial basis until a full 12 month review of driver behaviour is available for analysis in March 2013.

(3) That it be noted that the Traffic Signal Review Stage 1 of all roundabouts, junctions and pedestrian crossings controlled by traffic signals in Swindon is now complete and that future decisions on individual signal installations arising from the Review will be undertaken through the agreed Local Transport Plan (LTP3) Implementation Plan process.

(4) That, subject to approval by the Department for Transport, the Head of Highways and Transport be authorised to undertake a trial of Pedestrian Countdown Timers in Swindon.

(5) That it be noted that work on Bruce Street Bridges and the Meads Roundabouts, Swindon, to improve junction efficiency and reduce delays has been prioritised within the Local Transport Plan (LTP3).

(6) That the Council be advised of the recommendations set out above in response to the Council Motion of the 23rd February 2012.

The reasons for the decision and alternative options are as set out in the report to the meeting.

#### **44. Stronger Together - Accommodation**

The Cabinet Member for Finance and the Board Director, Finance, Revenues Benefits and Property submitted a joint report concerning proposed changes in Council office accommodation, involving the vacation of Sanford House and the optimisation of space in Wat Tyler House and across the Civic Campus.

The Board Director, Finance, Revenues Benefits and Property, on behalf of Councillor Mark Edwards, Cabinet Member for Finance, highlighted the proposals contained in the joint report and explained that they aimed to strengthen and improve collaborative working and increase the efficient use of office space making accommodation “fit for purpose” for the new Stronger Together staffing structure.

Resolved – That the Board Director Finance, Revenues, Benefits and Property be authorised to:-

- undertake works in Wat Tyler House to enable staff to be located to reflect the Council’s new organisational structure,
- provide a central area for Board Directors within Wat Tyler West,
- relocate all Capita staff from Wat Tyler House-West 1<sup>st</sup> floor to Clarence House 1<sup>st</sup> floor after refurbishment work has been carried out,
- relocate all staff from Sanford House into Wat Tyler House-West,
- demolish Hut 7, Hut 8 and the old part of the Civic Annex on the Civic Campus,
- relocate the staff refreshment facility, prayer room and Unison office, currently located in Hut 8, into the newer part of the Civic Annex, along

with the print room currently located in the older part of the Civic Annex.

The reasons for the decision and alternative options are as set out in the report to the meeting.

## Notice of Decisions Made

**Decision Maker:** Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport

**Subject** Proposed amendment to Cycle Track Order - Walcot Pumping Station, South View Avenue, Swindon

**Decision(s): -** Subject to the owner obtaining planning permission and complying with any associated conditions for the re-development of the former Walcot Pumping Station site, the Swindon Borough Council (Borough of Thamesdown (Restriction of use of Cycle Track (Consolidation) Order 1979) Amendment No.1 2012, be approved and implemented by the Head of Highways and Transport.

The objections and responses received in respect of the advertised public notice be noted and the Head of Highways and Transport respond to the objectors on the basis of the decision above.

**Consultation:** The Shadow / Group Spokespersons - Councillor Mark Dempsey (Labour) and Councillor Stan Pajak (Liberal Democrat) and (the former) Walcot and Park North Councillors were consulted on the contents of the Decision Note.

Councillors Steve Allsopp, Abdul Amin and Mark Dempsey shared the concerns identified by the residents and do not support the proposed amendments to the Cycle Track Order. No other comments were received by the response deadline.

**Date of Publication:** Thursday 19<sup>th</sup> July 2012

**Date for Receipt of Requests for Call-in** Thursday 26<sup>th</sup> July 2012

For more details on the subject of the Decision or for a copy of the Decision Note (report) please contact: Tim Price, on Direct Dial Telephone Number 01793 466254, or Email: [tprice@swindon.gov.uk](mailto:tprice@swindon.gov.uk).

Or from Ian Willcox, Committee and Member Services Manager, Direct Dial: 01793 463601 or Email [iwillcox@swindon.gov.uk](mailto:iwillcox@swindon.gov.uk)

The Decision Note (report) sets out the background to, and reasons for, the decisions referred to in the Notice above. Details of the alternative options put forward for consideration (if any) are also recorded in the Decision Note (report). Any alternative options considered that did not appear in the initial report will be recorded as part of the above Notice of Decisions. The Decision Note is available via the following link on the Council's website =

<http://ww5.swindon.gov.uk/moderngov/mgListPlanItems.aspx?PlanId=440&RP=285&J=3>



## Notice of Decisions Made

<b>Decision Maker:</b>	<b>Councillor Russell Holland, Cabinet Member for One Swindon, Localities and Housing and Councillor Mark Edwards, Cabinet Member for Finance</b>
<b>Subject</b>	<b>Changes to Right to Buy and Use of Receipts</b>
<b>Decision(s): -</b>	The Head of Housing Services in consultation with the Chief Executive will, under delegated authority (Paragraph 354 of the Council's Constitution, Part 8 Scheme of Delegations and Designations of Proper Officers) be authorised to enter into an agreement with the Secretary of State for Department of Communities and Local Government (CLG) by 27th June 2012 to retain additional right to buy receipts to fund the provision of replacement housing stock. .
<b>Consultation:</b>	The Shadow / Group Spokespersons - Councillors Steve Allsopp and Des Moffatt (Labour) and Councillors Stan Pajak and David Wood (Liberal Democrat)) were consulted on the contents of the Decision Note. Councillors Allsopp, Moffatt and Pajak supported the proposals and no further adverse comments or requests for Cabinet consideration were received within the time allowed for responses.
<b>Date of Publication:</b>	Thursday 26 <sup>th</sup> July 2012
<b>Date for Receipt of Requests for Call-in</b>	Thursday 2 <sup>nd</sup> August 2012

For more details on the subject of the Decision or for a copy of the) Decision Note (report) please contact: - Gerry O'Connor, Head of Housing Property, telephone 463452 or email [go'connor@swindon.gov.uk](mailto:go'connor@swindon.gov.uk).

Or from Ian Willcox, Committee and Member Services Manager, Direct Dial: 01793 463601 or Email [iwillcox@swindon.gov.uk](mailto:iwillcox@swindon.gov.uk)

The Decision Note (report) sets out the background to, and reasons for, the decisions referred to in the Notice above. Details of the alternative options put forward for consideration (if any) are also recorded in the Decision Note (report). Any alternative options considered that did not appear in the initial report will be recorded as part of the above Notice of Decisions. The Decision Note is available via the following link on the Council's website =  
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## Notice of Decisions Made

**Decision Maker:** Councillor Keith Williams, Cabinet Member for Leisure and Strategic Transport  
**Subject** Consideration of Objections- Torun Way Bus Gate (Prohibition of Driving) Order 2011  
**Decision(s): -** The objections and responses received in respect of the advertised Public Notice for the Torun Way Bus Gate be noted.

The Head of Highways and Transport's proposal to implement the Traffic Regulation Order to prohibit the use of the Torun Way Bus Gate by other vehicles as advertised, be approved.

The Head of Highway and Transport to authorised to notify the objectors accordingly.

**Consultation:** The Shadow / Group Spokespersons - Councillor Mark Dempsey (Labour) and Councillor Stan Pajak (Liberal Democrat), and Priory Vale Ward Councillors were consulted on the contents of the Decision Note. Councillors Dempsey, Edwards, Elliot, Faramarzi and Pajak supported the proposals. No adverse comments or requests for Cabinet consideration were received.

**Date of Publication:** Thursday 16<sup>th</sup> August 2012

**Date for Receipt of Requests for Call-in** Thursday 23<sup>rd</sup> August 2012

For more details on the subject of the Decision or for a copy of the) Decision Note (report) please contact: -  
Robert Sanders Tel: (01793) 466391 Email: [bsanders@swindon.gov.uk](mailto:bsanders@swindon.gov.uk).

Or from Ian Willcox, Committee and Member Services Manager, Direct Dial: 01793 463601 or Email [iwillcox@swindon.gov.uk](mailto:iwillcox@swindon.gov.uk)

The Decision Note (report) sets out the background to, and reasons for, the decisions referred to in the Notice above. Details of the alternative options put forward for consideration (if any) are also recorded in the Decision Note (report). Any alternative options considered that did not appear in the initial report will be recorded as part of the above Notice of Decisions. The Decision Note is available via the following link on the Council's website =  
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