

# Public Document Pack



All Members of the Council

My Ref: LCS-DLDS-DS-C-022  
Your Ref:

Contact: Karen Robson  
Tel: 0191 4332129

Date: 9 December 2015

## NOTICE OF COUNCIL MEETING

You are summoned to attend a meeting of Gateshead Metropolitan Borough Council to be held in the Council Chamber - Civic Centre, at **2.30 pm** on **Thursday, 17 December 2015** to transact the following business:-

1. **To confirm the minutes of the meeting held 12 November 2015** (Pages 1 - 6)
2. **Official Announcements**  
*(announcements may be made by the Mayor, Leader of the Council or the Chief Executive)*
3. **Petitions**  
*(to receive any petitions submitted under Council Procedure Rule 10)*
4. **Questions from Members of the Public**  
*(to consider any questions submitted under Council Procedure Rule 7)*

## RECOMMENDATIONS FROM CABINET

5. **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015** (Pages 7 - 24)
6. **Street Trading and Markets Policy and Guidance** (Pages 25 - 56)

7. **A Vision for Leisure Services and implementation of changes in the Service resulting from the Marketing and Pricing Strategy** (Pages 57 - 66)
8. **Gambling Statement of Principles 2016 - 2019** (Pages 67 - 114)
9. **Statement of Licensing Policy 2016 - 2021** (Pages 115 - 160)
10. **Local Council Tax Support Scheme 2016/17** (Pages 161 - 168)
11. **Calendar of Meetings 2016/17** (Pages 169 - 190)
12. **Community Asset Transfer - Revised Policy and Procedure** (Pages 191 - 214)
13. **Senior Management Arrangements** (Pages 215 - 216)
14. **Report from the Cabinet** (Pages 217 - 222)

#### **MOTIONS AND QUESTIONS**

15. **Notice of Motion** (Pages 223 - 226)

*(to consider any notices of motion submitted in accordance with Council Procedure Rule 9.1)*

16. **Questions**

*(to deal with any questions submitted in accordance with Council Procedure Rule 8.1)*



**Jane Robinson**  
Chief Executive



**COUNCIL MEETING**

**17 DECEMBER 2015**

**GATESHEAD METROPOLITAN BOROUGH COUNCIL**

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**Jane Robinson, Chief Executive**

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## **MINUTES OF COUNCIL MEETING – 12 NOVEMBER 2015**

**MEMBERS PRESENT:**

**THE MAYOR (COUNCILLOR A GEDDES) IN THE CHAIR**

**COUNCILLORS:** J Adams, R Beadle, M Brain, M Charlton, B Clelland, B Coates, P Craig, S Craig, D Davidson, W Dick, C Donovan, A Douglas, J Eagle, K Ferdinand, M Gannon, B Goldsworthy, M Goldsworthy, M Graham, T Graham, JS Green, L Green, G Haley, M Hall, J Hamilton, S Hawkins, M Henry, F Hindle, M Hood, H Hughes, J Lee, P Maughan, K McCartney, J McElroy, E McMaster, M McNestry, P Mole, B Oliphant, M Ord, P Ronan, S Ronchetti, J Simpson, A Thompson, L Twist, J Wallace, N Weatherley and A Wheeler

**APOLOGIES COUNCILLORS:**

J Adams, C Bradley, L Caffrey, S Dickie, P Dillon, K Dodds, M Foy, P Foy, J Graham, J Green, L Holmes, J McClurey, C McHatton, C McHugh, C Ord, D Robson, C Simcox and K Wood

Reverend Brigitta Steele from the Methodist Church in Dunston gave the opening address.

### **CL/52 MINUTES**

**COUNCIL RESOLVED -** That the minutes of the Council Meeting held on 24 September 2015 be approved.

### **CL/53 BRITISH ASSOCIATION FOR SUPPORTED EMPLOYMENT (BASE) AWARDS**

The Mayor announced that at the National BASE Awards 2015, Sarah Bastow from the Council's Adult Social Care and Independent Living Service was successful in winning the 'Practitioner of the year' award. The award recognised Sarah's influential role within the Council's Adult Social Care 'in house' provider service of GATES and her work had enabled 28 people with disabilities to secure paid employment in the last 18 months.

In recognition of this achievement, the Mayor presented Sarah with her award.

## **CL/54          CUSTOMER SERVICE EXCELLENCE ACCREDITATION**

The Mayor announced that the Council's Waste Services and Grounds Maintenance Team had been awarded Customer Service Excellence accreditation. The accreditation acknowledges the work the service has put into its customer care and sends a strong message to Gateshead residents and potential commercial customers that customer care is taken very seriously.

The Mayor presented the award to Philip Hindmarsh and Kerri Brook from the Waste Services and Grounds Maintenance team in recognition of this achievement.

## **CL/55          FLEET SAFETY AWARDS 2015**

The Mayor announced that the national road safety Charity Brake had recognised the Council's contribution to road safety with two awards at the annual Fleet Safety Awards:

Eco Fleet Award – this was awarded for the Council's work to cut fuel; bills, reduce carbon emissions and improve driver behaviour

Company Driver Safety Award (small fleet) – this was awarded for the Council's improved driver training programme, its driver risk assessment procedures and a number of safety initiatives that have been put in place to contribute to fleet safety

In addition, the Fleet News Commercial Fleet Awards awarded Graham Telfer, the Council's Fleet Manager was successful in winning the Fleet Manager of the year award

The Mayor presented the awards to Duncan Cairns, Steven Hayles and Graham Telfer in recognition of these achievements.

## **CL/56          ROYAL TOWN PLANNING INSTITUTE AWARDS FOR PLANNING EXCELLENCE**

The Mayor announced that at the recent RTPI Awards for Planning Excellence, Gateshead and Newcastle Councils won a prestigious award for their innovative joint planning initiative for the Joint Core Strategy and Urban Core Plan.

The Mayor presented the award to Clive Gowlett, Chris Carr, Grant Rainey, Gayle Wilson and Neil Wilkinson from Spatial Planning in recognition of this achievement.

## **CL/57          PRESENTATION BY ABIGAIL POSGSON, DIRECTOR OF SAGE GATESHEAD**

Council were provided with a presentation by Abigail Pogson, Managing Director of Sage Gateshead. The presentation provided an update on the work of Sage Gateshead.

## **CL/58          QUESTIONS FROM MEMBERS OF THE PUBLIC**

There were no questions submitted

**CL/59          DIGITAL GATESHEAD**

Consideration was given to a report seeking approval of Digital Gateshead 2015 – 2020, the Council's five year strategy to develop and implement digital public services.

COUNCIL RESOLVED – That the Digital Gateshead 2015 – 2020 Strategy be approved

**CL/60          VISION 2030 REFRESH**

Consideration was given to a report seeking approval of a refreshed Vision 2030, Gateshead's Sustainable Community Strategy.

COUNCIL RESOLVED - That the refreshed Vision 2030 document as outlined in Appendix 2 of the report be approved

**CL/61          ROUTINE HIGHWAY INSPECTION AND MAINTENANCE – REVIEW OF POLICY**

Consideration was given to a report seeking approval of revised policy for routine highway inspections and maintenance.

COUNCIL RESOLVED - That the revised policy for routine highway inspection and repair as outline in Appendix 2 of the report be approved

**CL/62          REVIEW OF THE ROLE OF DIRECTOR OF PUBLIC HEALTH AND OF COMMISSIONING SERVICES, CARE, WELLBEING AND LEARNING**

Consideration was given to a report seeking approval of the consolidation of commissioning functions across the Care, Wellbeing and Learning Service group into an integrated commissioning unit to be overseen by the Director of Public Health. The report also sought approval to associated changes to the senior management structure within the Group.

COUNCIL RESOLVED - i) That the transfer of the commissioning of children's and adults' services to the Director of Public Health from 1 December 2015 be approved

ii) That the Director of Public Health be authorised to make the necessary interim management arrangements for the commissioning of children's and adults' and public health services, pending the formal establishment of an integrated commissioning unit and the commencement in post of the new Director of Public Health

iii) That the deletion from the Council's senior management structure of the posts of Service Director, Children's

Commissioning and Service Director, Business Development & Commissioning be approved

iv) That the Strategic Director, Care, Wellbeing & Learning be authorised to make the necessary interim management arrangements for those functions and staff within the Children's Commissioning and Business Development & Commissioning Services not transferring to the Director of Public Health, pending a further report to Cabinet and Council recommending a revised service group structure

v) That the proposal to commence recruitment to the post of Director of Public Health to allow for a suitable period of handover between the retiring and new Director

### **CL/63            REVIEW OF THE COUNCIL'S CONSTITUTION**

Consideration was given to a report seeking approval of proposed changes to the Council's Constitution.

COUNCIL RESOLVED - That the proposed changes to the Council's Constitution as set out in Appendix 2 of the report be approved subject to the following amendments:

a) Article 16.01

Insert the following wording at the end of (i):  
"following consultation with the Leader of the Council and the Leader of the Opposition".

b) Schedule 2 – Non-Executive Functions – Delegations to Managers – Service Director, Development and Public Protection

The proposed change at paragraph (7)(i) being reviewed after 12 months; and

The deletion of the word "no" before the word "significant" in the reasons given for the proposed changes at paragraphs (7) h and i

### **CL/64            CAPITAL PROGRAMME AND PRUDENTIAL INDICATORS 2015/16 – SECOND QUARTER REVIEW**

Consideration was given to a report informing of the latest position on the 2015/16 capital programme and Prudential Indicators at the end of the second quarter to 30 September 2015.

- COUNCIL RESOLVED -
- i) That all variations to the 2015/16 Capital Programme as detailed in Appendix 2 of the report be agreed as the revised programme
  - ii) That the financing of the revised programme be agreed
  - iii) That it confirms that the capital expenditure and capital financing requirement indicators have been revised in line with the revised budget and that none of the approved Prudential Indicators set for 2015/16 have been breached

**CL/65      REPORT FROM THE CABINET**

The Leader of the Council reported on a number of key issues currently affecting the Council.

COUNCIL RESOLVED - That the report be noted.

**CL/66      NOTICE OF MOTION**

There were no motions submitted

**CL/67      QUESTIONS**

There were no questions submitted

*(NB: Copies of all reports referred to in these Minutes are available from the Minute File)*

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**Mayor**

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**COUNCIL MEETING**

**17 December 2015**

## **THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015 – PENALTY CHARGE POLICY**

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**Jane Robinson, Chief Executive**

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### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of the level of penalty and penalty framework for works which need to be undertaken for compliance with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
2. The Council, at its meeting on 12 November 2015, approved a number of amendments to the Council Constitution. This included granting delegated authority to the Strategic Director, Communities and Environment (and officers under his control) to exercise powers from 1 October 2015 to ensure that all private sector rented properties would have working smoke alarms, and in some cases carbon monoxide alarms, in accordance with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
3. The Local Housing Authority is the enforcing body for this statutory requirement and is required to serve remedial notes on those landlords in breach of their duty to comply. Where a landlord fails to comply with the remedial notice, the Authority must, if the necessary consent is given by the occupier of the premises, arrange for remedial action to be taken by undertaking works in default. It may also require the landlord to pay a civil penalty charge of up to £5000.
4. The Local Authority is required to prepare and publish a statement of principles which it proposes to follow in determining the amount of penalty charge that will apply.
5. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

5. It is recommended that Council:
  - i) approve the Statement of Principles and the level of penalty and penalty framework as set out in Appendix 2 of the attached report
  - ii) approve the proposed enforcement procedure and arrangements as set out in appendices 3 and 4 of the attached report
  - iii) agree that the penalty income will fund the administration and set up costs of discharging the Council's statutory duty

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**TITLE OF REPORT: The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 - Request for Delegated Enforcement Powers and Penalty Charge Policy**

**REPORT OF: Paul Dowling, Strategic Director, Communities & Environment**

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### **Purpose of the Report**

1. This report seeks approval for enforcement arrangements for the new legislative requirement from 1<sup>st</sup> October 2015 when all private sector landlords are required to ensure that working smoke alarms, and in some cases carbon monoxide alarms, are installed in privately rented properties in accordance with The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

### **Background**

2. In March 2015, the Government laid before Parliament The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 requiring all private sector landlords to ensure that working smoke alarms and in some cases carbon monoxide alarms are installed in privately rented properties. It is estimated that this will prevent 26 deaths and 670 injuries each year across England.
3. It is noted that people are four times more likely to die in a fire in the home if there is no working smoke alarm. These regulations come with strong support after a consultation into conditions in the private rented sector. The Regulations - made under section 150(1)-(6) and (10) of the Energy Act 2013 and paragraph 3(a) of Schedule 4 to the Housing Act 2004 - will, subject to Parliamentary approval, come into force on 1 October 2015.
4. The Regulations will require private landlords to ensure that there is a working smoke alarm installed on each storey of a privately rented home, a working carbon monoxide alarm is in place in each room containing a solid fuel burning combustion appliance and check that appropriate alarms are in working order at the start of each tenancy.
5. There are approximately 17,000 privately rented properties in Gateshead and it is known that through work undertaken within the Private Sector Housing Team through landlord licensing and property accreditation, approximately 2800 of these properties have had or currently have working smoke alarms installed. Data concerning the remaining private rented stock is limited. It is estimated that nationally 83% of properties in the private rented sector have one or more smoke alarms. If this were applied to Gateshead that would

equate to 2890 properties without any form of smoke alarms. It is unclear though whether those who have smoke alarms, would have working smoke alarms on each storey. It is estimated that there a small percentage of properties containing a solid fuel burning combustion appliance that would require a carbon monoxide alarm, although this number is increasing as the installation of wood burning stoves is increasing in popularity.

6. The Local Housing Authority is the enforcing body for this statutory requirement and is required to serve remedial notices on those landlords in breach of their duty to comply. In cases where a landlord fails to comply with a remedial notice, the Authority must, if the necessary consent is given by the occupier of the premises, arrange for remedial action to be taken by undertaking works in default. It may also require the landlord to pay a civil penalty charge of up to £5000.
7. The Local Authority is required to prepare and publish a statement of principles, which it proposes to follow in determining the amount of a penalty charge and this is set out in appendix 2. There is a right of appeal to the First-Tier Tribunal for any landlord who is required to pay a penalty charge.
8. It is recognised that housing teams, already dealing with the private rented sector, would be well placed to take on the responsibility of enforcement. There has been no resource allocated from Government for the undertaking of this new function. It is proposed that Officers from within the Private Sector Housing (PSH) Team should take on this responsibility as the Team are already well placed and responsible for regulating this sector and have strong partnerships with local landlords through their work.
9. Each of England's 46 fire and rescue authorities are expected to support landlords in their own areas to meet their new responsibilities with the provision of free alarms via one off grant funding from the government.
10. The PSH team is working with the Tyne and Wear Fire Authority to ensure that landlords are aware of the proposed regulations and to facilitate the distribution and fitting of smoke alarms and carbon monoxide detectors where they are required pre October 2015. The team is also working with the Communications Team to publicise the requirements to landlords and managing agents, resulting in subsequent signposting to the Fire Authority for alarms if required.
11. The conditions within licenses for Houses in Multiple Occupation and Selective Landlord Licensing will also be reviewed and revised to bring them in line with the new regulations. This will only apply to licenses granted on or after 1<sup>st</sup> October 2015.
12. The regulations exclude student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to health care provision.

## **Proposal**

13. That officers based in the Private Sector Housing Team will carry out the responsibility of enforcing the requirement for landlords to install smoke alarms and carbon monoxide detectors, following authorisation from the Strategic Director, Communities and Environment.

## **Recommendations**

14. Cabinet is recommended to:
  - (i) Approve the arrangements detailed in this report for the discharge of the Council's duty to implement and enforce the Regulations and that the Council be recommended to amend the Council's Constitution by giving the Strategic Director, Communities and Environment delegated authority to exercise the powers of the Council and to authorise officers under his control to exercise such powers under Parts 4-6 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
  - (ii) Approve the Statement of Principles and the level of penalty and penalty framework as set out in appendix 2 to the report.
  - (iii) Approve the proposed enforcement procedure and arrangements as set out in appendices 3 and 4 to the report.
  - (iv) Agree that the penalty income will fund the administration and set up costs of discharging the Council's statutory duty.

For the following reason

The Council has a duty to enforce the statutory requirement that smoke alarms and in some cases, carbon monoxide detectors are installed so that landlords operating within Gateshead are regulated correctly.

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**CONTACT:** Peter Wright ext 3910 / Rachel Crosby ext 2793

## Policy Context

1. The proposal referred to in this report supports Gateshead's long-term Sustainable Community Strategy: Vision 2030, and the Council Plan. The proposal also aligns with Objective 2 of Gateshead's Housing Strategy 2013-18 and complements the Council's wider regeneration and economic development objectives.
2. The aim of The Housing Strategy 2013 – 2018 is to help people access and sustain a good quality affordable home in a sustainable community. Objective 2 relates to Housing Standards and is intended to improve the quality, condition and management of housing so that all residents benefit from safe, healthy and well-managed homes with one of the key challenges being the improvement of the private rented sector.
3. Implementing this new legislation provides an additional tool in tackling rogue agents to assist in making Gateshead a safer and more attractive place to live, with high quality housing.

## Background

4. The new legislation is part of a wider effort to increase fire and carbon monoxide safety across the UK. Existing rules meant that owners of property built prior to June 1992 were not legally obliged to have smoke alarms installed. Smoke alarm coverage in privately rented accommodation stands at 83% and this is the lowest of any housing type. Between April 2013 and March 2014, 97 people died and 1900 were injured in domestic fires affecting properties where no smoke alarm was present. These statistics highlight why the Government has been so keen to redress the imbalance between protection levels for private tenants versus the rest of the housing sector.
5. In Gateshead to date there are approximately 17,000 privately rented properties, with this number continuing to grow. The Private Sector Housing (PSH) team deal with an average of 700 requests for service each year from residents concerning private property conditions, many of which are without adequate smoke and carbon monoxide detection. The team already request improved smoke detection in privately rented properties through the property accreditation scheme and landlord licensing, ensuring to date that at least 2800 properties have had, or currently have working smoke detection. The new legislation will allow officers to now insist on the installation of working smoke alarms and carbon monoxide detectors in non-accredited or non-licensed properties. In 2014 there was a fatality in Gateshead, which was the tragic outcome of a fire in a property where there was inadequate smoke detection installed. The requirements of the new legislation may have prevented this outcome.

## **Legal Implications**

6. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 requires all private sector landlords to ensure that working smoke alarms and in some cases carbon monoxide alarms are installed in privately rented properties. It further requires that Local Authorities enforce compliance with this requirement.
7. The Council is therefore required to discharge the enforcement functions referred to in this report. It is also empowered to serve a remedial notice requesting appropriate action to ensure compliance, including the issuing of a penalty charge for non-compliance and the undertaking of works in default, where it has reasonable grounds to believe that a landlord is in breach of his/her duties. The proposed arrangements detailed in this report therefore discharge the Councils requirements under the above legislation.

## **Delegated Powers to the Strategic Director Communities and Environment**

8. In order for the requirement for private landlords to provide smoke and carbon monoxide alarms, there needs to be a process for ensuring compliance and for there to be a fair and effective penalty where the requirement is not met. The Regulations make provision for the Local Housing Authority (LHA) to be the enforcer.
9. The Private Sector Housing Team within Communities and Environment have a strong working relationship with agents and landlords, with there being currently over 650 landlords registered as members of the Gateshead Private Landlords Association which is facilitated within the team. Other functions undertaken by the team locate them at the forefront of working in partnership with landlords and agents such as selective landlord licensing, accreditation and enforcement of property conditions through existing powers. In terms of housing conditions and rogue landlords the existing range of powers will continue to be used for those that fail to provide good quality accommodation and where certain properties and tenants can disrupt a local community.

## **Enforcement**

10. Enforcement needs to be proportionate and the approach taken is designed to be cost effective by imposing a penalty greater than the actual cost of installing alarms and minimising the impact on the courts and tribunal.
11. The Regulations place a duty on a LHA, when it has reasonable grounds to believe that the landlord is in breach of their duties under Regulation 4(1), to serve a remedial notice within 21 days of becoming aware of the offence. The notice must specify the premises, specify the duties that the LHA believes the landlord is failing or has failed to comply and specify the remedial action the LHA considers should be taken within a 28 day period. The Landlord must

then undertake the remedial action specified in the notice within the specified time or they will be in breach of their duty.

12. The recipient of the remedial notice to has a right to make written representations against the notice within 28 days.
13. The proposed administration and enforcement process, for discharging the Councils statutory duty as dictated by the Regulations can be found in appendix 3.

### **Works in Default**

14. If the landlord does not comply with the remedial notice and the LHA has reasonable grounds to believe that the landlord is in breach of their duties under Regulation 6(1), the LHA must, if the necessary consent is given from the occupier of the premises, arrange for an authorised person to take the remedial action specified in the notice within 28 days.

### **Penalty Charges**

15. In addition, where a LHA is satisfied on the balance of probabilities that a landlord on whom it has served a remedial notice is in breach of his duty under regulation 6(1), the authority may require the landlord to pay a penalty charge of such an amount the authority may determine. The amount of the penalty charge must not exceed £5000 and is in the form of a penalty charge notice, served within six weeks beginning with the date on which the authority is first satisfied under paragraph (1).
16. Unpaid penalty charges may be recovered on the order of a court, as if payable under a court order. The Council's chief finance officer would sign a certificate that would be submitted to the courts, confirming that the penalty charge had not been received by the date specified.
17. Sums received by the Council under a penalty charge may be used by the authority for any of its functions.
18. There is a right of appeal for an agent against any penalty to the First-tier Tribunal. The appeal must be made within 28 days of the day on which the final notice was sent. If an appeal is lodged the penalty cannot be enforced until the appeal is disposed of. The Tribunal may quash, confirm or vary the penalty charge notice, but may not increase the amount of the penalty charge.

### **Proposal for Penalties**

19. This section sets out the proposed penalty framework, to be applied whenever the Council decides the penalty to be imposed on individual cases. There are specific procedures and a series of stages and timescales to follow before a penalty may be imposed as set out in appendices 3 and 4.



20. In addition, Paragraph 13 of the Regulations specifies that a LHA must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge. This statement is set out in appendix 2. It can be subject to review and revised when necessary. In determining the amount of penalty charge, a LHA must have regard to the statement of principles published at the time when the breach in question occurred.
21. It is the intention that the penalty set will be sufficient to meet the Council's administrative costs for discharging this statutory duty. In addition, it is intended that the penalties set under this framework, will act as an effective deterrent against non-compliance.

### **Consideration of Representations**

22. Following the service of a penalty charge notice, a landlord may, within 28 days beginning with the day on which the notice was served make written representations against the notice.
23. Where representations are received from a landlord the LHA must;
  - consider those representations, and
  - decide whether to confirm, vary or withdraw the penalty charge notice; and
  - serve notice of its decision to the landlord
24. Following its decision, the LHA is required to serve a further notice either confirming, varying or withdrawing the penalty charge notice.
25. In examining any representations received the following circumstances will be considered:
  - The size of the landlords portfolio
  - The effect of the imposition of a penalty
  - Exceptional personal hardship
  - Having other reasonable excuse for failing to comply with the regulations (not knowing about the regulations will not in itself usually amount to reasonable excuse).
  - The landlord is able to demonstrate they have taken all reasonable steps, other than legal proceedings, to comply with the duty.
26. In some cases, if the application of the intended financial penalty will not serve the strategic goal of improving housing and management standards within the private rented sector, the penalty may be varied or even withdrawn.
27. A landlord served with a notice confirming or varying a penalty charge notice may appeal to the First Tier Tribunal against the LHA's decision.

## Consultation

28. The Cabinet Members for Housing have been consulted on this report. Numerous methods of communication have been undertaken to advise landlords of their responsibilities, including making tenants aware of the new requirements to encourage contact with the team for any non-compliances. Information has been included in Council News, with links on the council website and alerts on social media. Extensive communications have also been exchanged with all 655 members of Gateshead Private Landlords Association via email alerts, information on the GPLA website, including reminder at recent training events.

## Alternative Options

29. The Council must make arrangements for the enforcement of these regulations. There are no viable alternative options to ensure the Council is able to exercise its full statutory enforcement duty.

## Implications of Recommended Option

### 30. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no major initial financial implications for the Council as the smoke and carbon monoxide detectors will be either provided by the Fire Authority via a grant from the Government or paid for by private sector landlords.

If a landlord fails to comply with the requirements of a remedial notice, the LHA has a duty to undertake work in default. Normal cost recovery mechanisms will be used and the costs can also be entered as a land charge on the property.

The cost of defending an action at a First Tier Tribunal (which is part of HM Court's service), could be in the region of £10,000 to £15,000 and costs could also be awarded against the Council. It is difficult to quantify what costs will be without knowing how many landlords may not comply with the requirements.

- b) **Human Resources Implications** – Existing staffing resources are to be utilised within the Communities and Environment Service to initially deliver these regulations. Resource implications will also be subject to review depending upon the number of landlords and properties that are non-compliant and the resulting workload for staff in addition to their normal statutory responsibilities.

Current capacity of the PSH Team will only allow for a reactive response initially when complaints are received from private sector tenants. If future capacity allows, hot spot areas may be targeted based on trends based on area and/or landlord history. Enforcement of

the new requirement will also be incorporated into the day to day functions of the team when officers are visiting properties.

**c) Property Implications - none anticipated**

- 31. Risk Management Implication –** There are currently 17,000 privately rented homes in Gateshead. Current capacity within the PSH Team will restrict the enforcement of the Regulations to a reactive basis to begin with, and will currently not allow for proactive monitoring and inspection of all 17,000 properties within the private rented sector.
- 32. Equality and Diversity Implications -** The new regulations would not discriminate against any residents in Gateshead under protected characteristics as they apply to all tenants in the privately rented properties covered by the Regulations. The new Regulations ensure that private sector tenants have equitable measures with regard to the smoke and carbon monoxide alarms as owners of newly built properties under Building Regulations.
- 33. Crime and Disorder Implications –** Whilst the monetary penalties for breaching requirements are civil rather than criminal in nature, the requirements will provide an additional means of dealing with rogue landlords who provide accommodation that does not meet the minimum legal standard.
- 34. Health Implications –** none anticipated
- 35. Sustainability Implications -** none anticipated
- 36. Human Rights Implications -** none anticipated
- 37. Area and Ward Implications -** Residents in all wards will benefit from the increased fire safety measures that the Regulations provide.

**Background Information**

- The Housing Strategy 2013-18
  - The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 ,
  - The Energy Act 2013
  - The Housing Act 2004

## **Appendix 2**

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

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

##### Introduction

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

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

##### Enforcement

Where the Local Housing Authority has reasonable grounds to believe that

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

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

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

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

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

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

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

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

#### Level of Penalty Charge

The Penalty Charge shall be set at £1,000 for the first offence but this will be reduced to £750 if paid within a 14 day period in accordance with Paragraph 9(2).

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

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

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

#### Recovery of Penalty Charge

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

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

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

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

## **APPENDIX 3**

Procedure for the enforcement of the requirement for landlords to provide working smoke alarms and carbon monoxide detectors.

### **INVESTIGATION**

Where information comes to the attention of the Private Sector Housing Team that there may be a non-compliance, or following identification of a non-compliance during a property inspection, an investigation will be conducted by an Officer within the team and a service request created. The Investigating Officer may be an Environmental Health Officer or a Technical Officer.

The investigation will commence in those cases where a complaint or information is received, with a visit to the property, to confirm the absence of smoke alarms and carbon monoxide detectors where appropriate. In addition non compliances may also relate to the disrepair of a prescribed alarm or the absence of checks to ensure a prescribed alarm is in proper working order. A property inspection in the course of an Officers day to day duties will already have uncovered any non-compliances.

When the Investigating Officer has completed their investigation and they are satisfied that there has been a non-compliance by the landlord of one or more duties under the regulations, they will proceed to serve a remedial notice. .

### **SERVICE OF REMEDIAL NOTICE**

A remedial notice must be served within 21 days beginning with the day on which the authority decides it has reasonable grounds that the landlord is in breach of one or more of his duties. The notice will be served on the landlord of the property.

The remedial notice must:

- a) Specify the premises to which the notice relates
- b) Specify the duty or duties that the LHA considers the landlord is failing or has failed to comply with;
- c) Specify the remedial action the LHA considers should be taken;
- d) Require the landlord to take the action within 28 days beginning with the day on which the notice is served;
- e) Explain that the landlord is entitled to make written representations against the notice within 28 days
- f) Specify the person to whom, and the address at which any representations may be sent; and
- g) Explain the effect of regulations 6,7 and 8, including the maximum penalty charge which a LHA may impose.

The remedial notice will be served by the Investigating Officer

### **DETERMINING THE LEVEL OF PENALTY**

Any enforcement by way of a fine imposed must be proportionate and cost effective. A graded response needs to be in place to protect the Council from legal challenge for fettering their discretion. The Regulations request that a LHA must prepare and

publish a statement of principles which it proposes to follow in determining the level of a penalty charge. The proposed statement of principles, Appendix 2, outlines the proposed penalty levels, which are based on the costs of undertaking works in default, administration costs and the amount of work that will be necessary to be undertaken by Officers.

## **REPRESENTATIONS & OBJECTIVES**

Following the service of a penalty charge notice, a Landlord may, within 28 days beginning with the day on which the notice was served, make written representations against the notice. Any representations received in response to a penalty will be considered on a case by case basis depending on the submission made and any circumstances prevailing, as described below.

Where representations are received from a landlord the LHA must;

- consider those representations, and
- decide whether to confirm, vary or withdraw the penalty charge notice; and
- serve notice of its decision to the landlord

Following its decision, further notice either confirming, varying or withdrawing the penalty charge notice will be served.

In examining any representations received the following circumstances will be considered.

- The size of the landlords portfolio
- The effect of the imposition of a penalty
- Exceptional personal hardship
- Having other reasonable excuse for failing to comply with the regulations (not knowing about the regulations will not itself usually amount to reasonable excuse).
- The landlord is able to demonstrate they have taken all reasonable steps, other than legal proceedings, to comply with the duty.

In some cases, if the application of the intended financial penalty will not serve the strategic goal of improving housing and management standards within the private rented sector, the penalty may be varied or even withdrawn. A landlord served with a notice confirming or varying a penalty charge notice may appeal to the First Tier Tribunal against the LHA's decision.

## **RIGHT OF APPEAL**

A landlord who is served with a notice under Regulation 10(2)(c) confirming or varying a penalty charge notice may appeal to the First Tier Tribunal against the LHA's decision. The grounds for that appeal are that-

1. the decision to confirm or vary the penalty charge notice was based on an error of fact;

2. the amount of penalty charge is unreasonable
3. the decision was unreasonable for any other reason.

Where a landlord does appeal, the operation of the penalty charge notice is suspended until the appeal is finally determined or withdrawn.

The First Tier Tribunal may:-

- ii. Quash the final notice
- iii. Confirm the final notice
- iv. Vary the final notice

But may not increase the amount of the penalty charge.

### **Recovering the penalty monies**

If the penalty charge is not paid within the specified time on the notice, the LHA may recover the charge on the order of the court, as if payable under a court order.

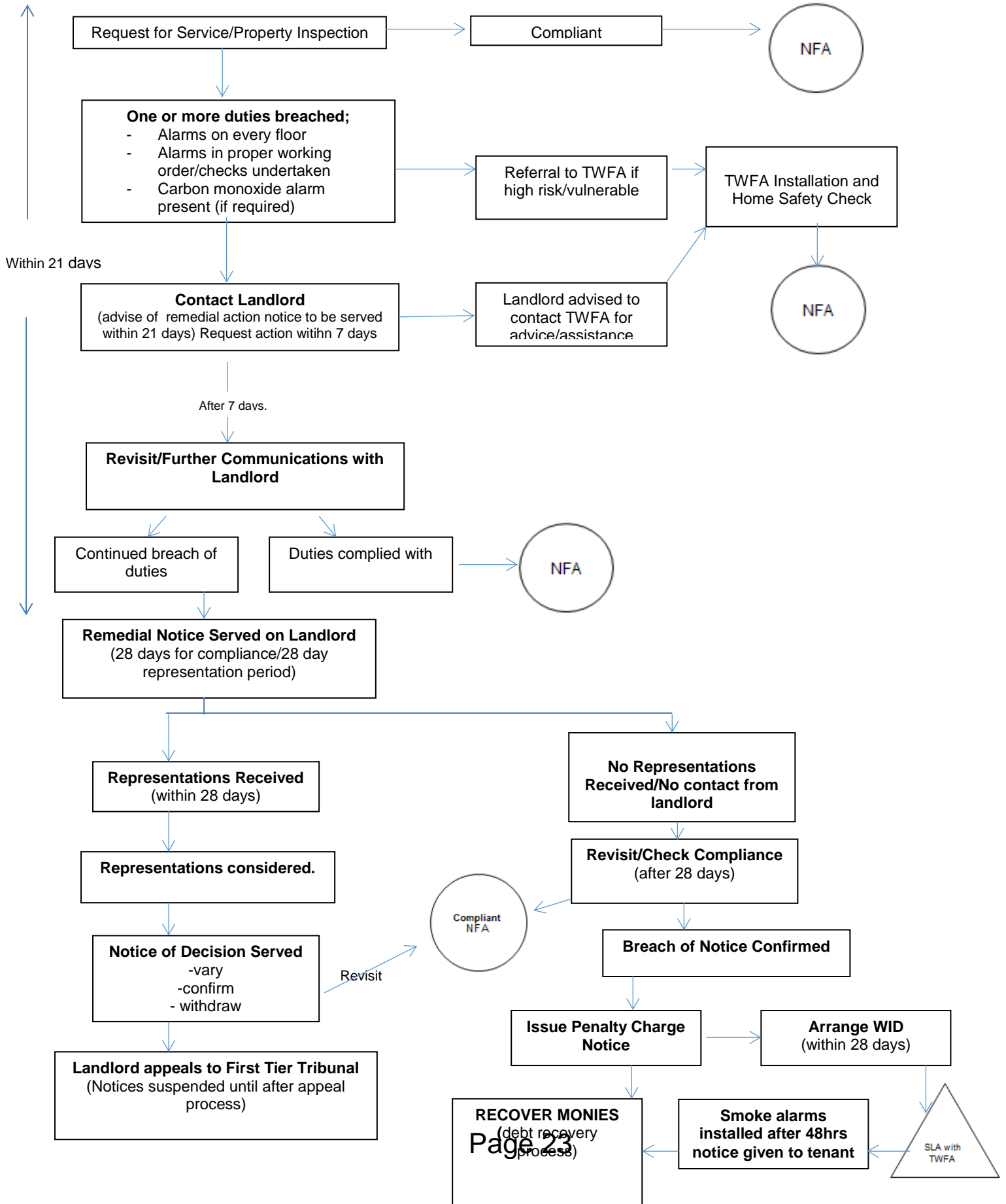
Where there is a failure to pay a penalty, the matter will be referred to the Service Director, Corporate Services and Governance.

Where it is decided to commence court proceedings to recover an unpaid penalty, a certificate confirming that the amount of penalty due has not been received, signed by the Chief Finance Officer is required.



# APPENDIX 4

## Gateshead Council Private Sector Housing Team The Smoke Control and Carbon Monoxide Alarm (England) Regulations 2015 - Enforcement Process



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**COUNCIL MEETING**

**17 December 2015**

## **STREET TRADING AND MARKETS POLICY AND GUIDANCE**

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**Jane Robinson, Chief Executive**

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### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of a revised Street Trading and Markets Policy and Guidance document and the consolidation of the existing market rights in the Borough and the adoption of Part III of the Food Act 1984 (as amended).
2. The Council has regulated street trading in the borough since 2007. Since this time, many changes have taken place in the borough including the transformation of the town centre and the adoption of a rural economic strategy.
3. A revised policy was drafted to reflect these changes and was subject to public consultation during the summer of 2015.
4. It is proposed that the Council exercises its power under Part III of the Food Act 1984 (as amended) to become a Market Authority and to formally establish markets under the Act. The proposed Street Trading and Markets Policy and Guidance is appended to this report.
5. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

6. It is recommended that Council:
  - i) exercises its power under Part III of the Food Act (as amended) to become a Market Authority
  - ii) amends the Council Constitution so that the Service Director, Development and Public Protection (Communities and Environment) has delegated power to formally establish markets under the Act as follows –

To insert the words “market and” prior to the words “street trading” at Paragraph 1(h) of Part 1 of Schedule 2; and

    - (a) To insert the following words after Paragraph 27 of Part 1 of Schedule 2 –

“(28) (Subject to the requirement that no market may be established without prior planning permission or Certificate of

Lawfulness of Existing Use or Development) to establish markets in the Borough under Part III of the Food Act 1984 upon such days, times and locations as may be appointed; at such frequency as may be appointed; and subject to such restriction on the number of stalls, type of stalls and nature of goods for sale as may be appointed”

iii) adopts the Street Trading and Markets Policy and Guidance attached at Appendix 4 of the attached report and agrees that it is published

**TITLE OF REPORT: Street Trading and Markets Policy and Guidance**

**REPORT OF: Paul Dowling, Strategic Director, Communities and Environment**

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### **Purpose of the Report**

1. The purpose of this report is for Cabinet to approve and recommend to Council a revised Street Trading and Markets Policy and Guidance document, and the consolidation of the existing market rights in the Borough by the adoption of Part III of the Food Act 1984 (as amended).

### **Background**

2. The Council has regulated street trading in the borough since 2007 through the adoption of Schedule 4 of the Local Government Miscellaneous Provisions Act 1982.
3. Since 2007 many changes have taken place in the borough including the transformation of the town centre and the adoption of a rural economy strategy. There has also been a renewed interest in the provision of markets. A revised policy was drafted to reflect these changes and was consulted on widely in the summer of 2015.
4. A Policy Advisory Group considered the draft policy and the consultation responses on 16 October 2015 and suggested amendments were incorporated into the final draft documents. A summary of the Group's Advice is attached at appendix 2.
5. A summary of the Policy and Guidance is attached at appendix 3 and the full Policy and Guidance is attached at appendix 4.

### **Proposal**

6. It is proposed that the Council exercises its power under Part III of the Food Act 1984 (as amended) to become a Market Authority and to formally establish markets under the Act.
7. It is proposed that the amended Street Trading and Markets Policy and Guidance is endorsed by Cabinet and recommended to Council for approval.

### **Recommendations**

8. Cabinet is asked to recommend the Council that:
  - (i) it exercises its power under Part III of the Food Act (as amended) to become a Market Authority;

- (ii) the Constitution be amended so that the Service Director of Development & Public Protection (Communities & Environment) has delegated power to formally establish markets under the Act as follows –
  - (a) To insert the words “market and” prior to the words “street trading” at Paragraph 1(h) of Part 1 of Schedule 2; and
  - (b) To insert the following words after Paragraph 27 of Part 1 of Schedule 2 –

“(28) (Subject to the requirement that no market may be established without prior planning permission or Certificate of Lawfulness of Existing Use or Development) to establish markets in the Borough under Part III of the Food Act 1984 upon such days, times and locations as may be appointed; at such frequency as may be appointed; and subject to such restriction on the number of stalls, type of stalls and nature of goods for sale as may be appointed”; and
- (iii) the attached Street Trading and Markets Policy and Guidance at appendix 4 be adopted and published.

For the following reasons:

- (i) To formally set out the Council’s framework for the management of street trading and markets in the borough.
- (ii) To regularise and consolidate the legal basis for holding markets in the borough.

## APPENDIX 1

### Policy Context

1. The Street Trading and Markets Policy contributes to Gateshead's Sustainable Community Strategy Vision 2030, which sets out an ambitious and aspirational vision for Gateshead. Vision 2030 aims to improve the wellbeing and equality of opportunity for everyone in Gateshead so that all residents and businesses can fulfil their potential. It focuses on people and place through 6 Big Ideas the aims of which are reflected in the vision and objectives of the policy.
2. The vision of the Street Trading and Markets Policy is to create a dynamic street trading and market experience that is diverse and vibrant adding to the economic, social and cultural fabric of Gateshead. The objectives for achieving this vision are:
  - preserving or enhancing the character of the area
  - promoting health and wellbeing
  - promoting economic prosperity
  - animating streets and spaces
  - promotion of public safety
  - prevention of public nuisance
  - promoting compliance with relevant legislation

### Background

3. The Council first began to regulate street trading in the borough in February 2007 through the adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 meaning that it is unlawful to street trade in the borough at all in defined geographical areas and outside of these areas without first obtaining Consent.
4. Consent is granted subject to a range of consultees being satisfied and subject to compliance with conditions of operation. There are currently approximately 40 consents issued across the borough.
5. Since 2007 there have been many significant changes in Gateshead including the transformation of the town centre and the development of the rural economy across the borough and the original policy needs to be updated to reflect these changes.
6. More recently there has been renewed interest in the provision of markets in many localities and the revised policy aims to incorporate a formal approach to regulating market trading, and thereby enable greater diversity of opportunity for trading in the borough.
7. In order that market trading may be regulated on a similar basis to individual street trading activities, it is proposed to regularise the rights to hold markets that are and may be held in the borough. The main ways in which the right to establish and hold a market can arise are:

- By historic grant (which may have been made by either the Crown or the Palatinate)
  - By local Act of Parliament (which would usually incorporate provisions of the Markets and Fairs Clauses Act 1847) or
  - Under the Food Act 1984 (as amended).
8. The benefits to having a market right established under one of these methods is that:
- it protects the market from rival markets being established which would interfere with the pre-existing market, within a distance of 6 2/3rds miles, including into neighbouring areas; and
  - it enables the Council to control the manner in which the markets are carried on and to charge traders so that the cost of administering and enforcing the regulatory framework is borne by those who seek to be regulated under it.
9. By exercising its power under Part III of the Food Act 1984 (as amended) to become a Market Authority and to formally establish markets under that Act, the Council will take into account the most up to date legislative framework with which to regulate market activity in the borough.
10. There would remain the requirement for those markets to comply with other regulatory regimes including planning and highways. The proposed delegated power to establish each market would only enable this to happen where each individual market had already obtained the necessary certificates and consents in this respect.

### **Consultation**

11. A draft policy and guidance document was circulated for public consultation between 27 July and 18 September 2015 and specifically to all existing Consent holders, to partner agencies and organisations and to all those with an interest in street trading and market provision in the borough.
12. Three responses to the consultation were received, and a Policy Advisory Group considered these on 16 October 2015. The Group gave advice for amendment to the draft policy and guidance to incorporate some of the feedback received from the consultees. The advice given by the Policy Advisory Group is attached in appendix 2.
13. The draft policy and guidance has been revised in accordance with the advice of the Policy Advisory Group.
14. The Cabinet Members for Environment and Economy have been consulted.



## **Alternative Options**

15. No alternative options are considered appropriate as the existing Street Trading Policy does not reflect the structural, cultural and economic changes in the borough since it was originally approved.

## **Implications of Recommended Options**

16. **Resources:**

a) **Financial Implications** – The Strategic Director, Corporate Resources, confirms that there are no additional financial implications arising from this report.

b) **Human Resources Implications** – There are no human resources implications from the recommended options.

c) **Property Implications** - There are no property implications from the recommended options

17. **Risk Management Implications** - There are no risk management implications from the recommended options.

18. **Equality and Diversity Implications** - An Equality Impact and Needs Assessment of the policy has indicated a neutral impact.

19. **Crime and Disorder Implications** – There are no crime and disorder implications from the recommended options.

20. **Health Implications** - One of the objectives of the revised policy is the promotion of health and wellbeing requiring that those engaged in street trading and the provision of markets should ensure that the health and wellbeing of residents and visitors is considered including the provision of quality products.

21. **Sustainability Implications** - There are no sustainability implications from the recommended options

22. **Human Rights Implications** - There are no human rights implications from the recommended options

23. **Area and Ward Implications** - This report affects all wards equally.

## **Background Information**

24. These documents that have been considered in preparation of the report:

- Local Government (Miscellaneous Provisions) Act 1982
- Food Act 1984
- Street Trading Policy (2007)

**Policy Advisory Group – 16 October 2015**

**Report to Cabinet**

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**Purpose of the Meeting**

The purpose of the meeting was to consider the responses to the recent public consultation on the draft Street Trading and Markets Policy and guidance and how the draft policy and guidance should be amended before returning to Cabinet with a final policy and guidance document for approval by Council.

Elaine Rudman, Environmental Health, Licensing & Enforcement Manager outlined the background to when the Council first began to regulate street trading. She also informed of the significant changes within the borough which need to be reflected within Council policy.

**Summary of Advice**

- It was felt that the current pricing structure for street trading Consents within the borough is reasonable but that there should be a review of the current level / structure of fees.
- It was agreed that where Part 3 of the policy currently sets out certain activities that are not 'street trading', this be moved to section Part 5 which sets out when a Consent is not required.
- It was agreed that psychoactive substances / legal highs be included in the list of items where permission will not normally be granted for sale.
- It was agreed to change the wording of the sections relating to community and charitable events setting out situations where a Consent would not normally be required, to:  
  
'community run and/or charitable events where they are supported by Ward Councillor(s), where the Licensing Team is notified in writing in advance of the event of the nature of the event and the intended street trading, and the number of intended traders'
- It was agreed that the policy be amended to reflect the unique nature of managed locations such as Trinity Square by allowing the location manager to apply for a Block Consent which will authorise street and market trading within the managed location in accordance with the conditions imposed by the Council.

- It was felt that where a response was received from Mr T Pickering, Centre Manager, Trinity Square - in relation to recognising the controls he would have in place for Trinity Square is addressed – this would be covered by the amendment to the policy for Block Consents (detailed above)
- It was agreed that the standard condition relating to the use of loud speakers, horns, flashing lights etc to minimise the noise and other disturbance from street traders be amended.

The Advisory Group also agreed that that a handbook for Councillors in relation to 'community events' would be useful.

**Chair:** Councillor B Clelland

**Members Present:** Councillors M Brain, S Dickie, F Hindle, M Hood, J McElroy and J Wallace

**Officers Present:** Elaine Rudman – Communities and Environment  
Karen Robson - Corporate Services and Governance

### **Executive Summary**

The Street Trading and Market Policy and Guidance aims to create a dynamic street trading and market experience that is diverse and vibrant adding to the economic, social and cultural fabric of Gateshead.

In order to achieve this vision the policy sets out the Council's framework for the management of street trading and markets, only permitting street trading and markets where the following objectives are promoted:

- Preservation or enhancement of the character of the area
- Promotion of health and wellbeing
- Promotion of economic prosperity
- Animation of streets and spaces
- Promotion of public safety
- Prevention of public nuisance
- Compliance with relevant legislation

The application and assessment process is laid out in detail together with specific provisions relating to trading at Council run events, the establishment of markets and the provision of street trading services and markets through Council contracts.

The policy defines geographical areas where street trading is prohibited, proposed fees for Street Trading and Market Consents and a number of Standard Conditions to be applied to Consents.



# STREET TRADING and MARKETS POLICY and GUIDANCE

First approved July 2008

Revised November 2014

Revised June 2015

Revised November 2015

## CONTENTS

	<b>Subject</b>	<b>Page</b>
<b>Part 1</b>	Introduction	2
<b>Part 2</b>	Definitions	2
<b>Part 3</b>	What is Street Trading?	2
<b>Part 4</b>	Street Trading Objectives	4
<b>Part 5</b>	When is a Street Trading Consent not required?	4
<b>Part 6</b>	Application Process <ul style="list-style-type: none"> <li>• Making an application</li> <li>• Application sent to Consultees</li> <li>• Objection(s)</li> </ul>	6
<b>Part 7</b>	Appeal against decision of Licensing Manager	9
<b>Part 8</b>	Duration of Consent	10
<b>Part 9</b>	Renewal of Consent	10
<b>Part 10</b>	Review of Consent	10
<b>Part 11</b>	Transfer of Consent	11
<b>Part 12</b>	Surrender of Consent	12
<b>Part 13</b>	Trading at Council run events	12
<b>Part 14</b>	Street Trading within Managed Locations	13
<b>Part 15</b>	Markets	13
<b>Part 16</b>	Council Contracts	13
<b>Part 17</b>	Conditions	13
<b>Part 18</b>	Complaints & Enforcement	14
<b>Part 19</b>	Further Information	15
<b>Appendix 1</b>	Prohibited Streets	16
<b>Appendix 2</b>	Fees	18
<b>Appendix 3</b>	Standard Conditions	19

## **Part 1 – Introduction**

This policy document sets out the Council’s approach to street trading and markets. It sets out the application process for markets and street trading which aims to ensure that the Council’s objectives for street trading and markets are met. This policy and guidance sets out Gateshead Council’s framework for the management of street trading and markets and will assist people who would like to trade from a street.

Gateshead Council recognises the valuable contribution that street trading and markets can make to the local culture and economy and the service that street traders provide to the residents of the Borough. The Council seeks to create a street trading and market environment that compliments premises based trading and improves the local environment. In accordance with Vision 2030 and reducing obesity levels the Council will favour applications from traders who sell food and produce which promote healthy living.

## **Part 2 - Definitions**

<i>Authorised Officer</i>	An officer of the Council authorised to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982 and/or the Food Act 1984.
<i>Street Trading Consent</i>	Document authorising the consent holder to trade on street(s) within the Borough.
<i>Market Consent</i>	Document authorising the consent holder to hold a market in a specified place and on specified dates and times within the Borough
<i>Consent Holder</i>	Legal person who has been granted (and retains) a valid consent.
<i>Consent Street</i>	Street in the Borough in which street trading is prohibited without a trader being in possession of a valid consent.
<i>Council</i>	Gateshead Metropolitan Borough Council.
<i>Market</i>	A concourse of multiple street traders trading in a specified marketplace on a street as defined below, on specified dates and times, the right to which has been created pursuant to the Food Act 1984
<i>Prohibited Street</i>	Street in the Borough in which street trading is prohibited.
<i>Street</i>	Road, footway or other area (or part of) to which the public have access without payment; and any service area as defined under <u>Section 329 Highways Act 1980</u> . <i>Please note – this may include private land.</i>
<i>Street trading</i>	Exposing and/or offering for sale, and/or selling any article or articles in any street as defined above.

### **Part 3 - What are Street Trading and Markets?**

#### **Street Trading**

Street trading is where a person sells, exposes or offers for sale any article (including a living thing) in a street. This can be done –

- individually, for instance from a stall, cart or an ice cream van; or
- as part of a market, where a number of people trade from the same place and at the same time.

Unless trading is as part of an approved market established under the provisions of Part III of the Food Act 1984 (as amended), a person will need a Street Trading Consent from the Council to carry out any of the following activities from a street in the Borough :

- Trading from mobile and static structures, including kiosks.
- Sale of food and drink.
- Ice-cream vans (static and mobile).
- Mobile artists and musicians who sell their recorded work on the street.
- Sale of Christmas trees and other festive items.
- Sale of Arts/Crafts.
- Sale of Jewellery.
- Sale of candles.
- Sale of balloons.

#### **Markets**

A concourse of multiple street traders trading in a specified marketplace on a street as defined below, on specified dates and times, the right to which has been created pursuant to the Food Act 1984

### **Part 4 - Street Trading and Markets Objectives**

The Council will only permit street trading and markets if the following objectives are promoted:

- *Preserving or enhancing the character of the area*  
An applicant should be sensitive to the character of the area in which they propose to trade. This may include the number of existing outlets (whether fixed or mobile) selling similar articles in the vicinity. It may also include consideration as to whether the area is appropriate for the proposed activities, in particular with regard to conservation areas and 'feature areas'.
- *Promoting health and wellbeing*  
An applicant should ensure that the health and wellbeing of residents and visitors is considered including the healthiness of the products sold and community interaction arising.
- *Promoting economic prosperity*



An applicant should ensure that vitality and vibrant activity is created or enhanced within Gateshead by improving and/or diversifying the shopping offer and experience within Gateshead, contributing to a competitive economy, and enhancing the independent retail offer including the provision of quality products.

- *Animating streets and spaces*  
An applicant should ensure that in appropriate locations that their offer can help animate streets and spaces, encourage footfall, dwell time, and spend in an area.
- *Promotion of Public Safety*  
An applicant should ensure that public safety is not threatened by their business activities and be able to demonstrate that their business does not present a danger to members of the public, including customers. Particular regard will be given to road safety, the potential for disorder and to avoiding the possibility of creating an obstruction, fire risk, unsafe practices or anti-social behaviour.
- *Prevention of Public Nuisance*  
An applicant should ensure that their activities do not result in a danger or nuisance, particularly to residents and businesses near their site. 'Nuisance' can include littering, noise, smells, etc.
- *Promoting compliance with relevant legislation*  
An applicant should be aware of all relevant legislation (Health & Safety, Food Hygiene, Highways/Road Traffic Act) and should ensure and be able to demonstrate that their business complies with all legal requirements that affect their activities.

#### **Part 5 - When is a Street Trading Consent not required?**

Under the Local Government (Miscellaneous Provisions) Act 1982 a Street Trading Consent is not required if you are:

- Trading in a charter market or a statutory market or fair (which is discussed in further detail below).
- A pedlar under the authority of a pedlar's certificate.
- A newsvendor.
- A roundsman.
- Trading at a premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
- Trading which is carried out at a premises used as a petrol filling station.
- Trading in a trunk road picnic area under the Highways Act 1980.
- Trading in a kiosk placed on a highway under the Highways Act 1980.
- Operating refreshment or recreational facilities under the Highways Act 1980;
- Undertaking a permitted street collection under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916.

Street trading does not include:

- The contractual sign up of gas, electricity or other domestic services.

- Subscriptions to motor breakdown organisations.
- Handing out promotional literature for goods, services or venues.
- Provision of services (eg mobile masseuse, hair & beauty services)
- Displaying goods in front of a shop where customers must enter the premises to make payment
- Trading at certain markets, as described below

Permission to trade in the street (whether by Street Trading Consent or Market Consent) will **not** normally be granted for the sale of age restricted products as follows –

- tobacco products
- psychoactive substances / legal highs
- alcohol and liqueur confectionery
- offensive weapons (knives and similar), crossbows and airguns
- adult fireworks, low hazard, low noise fireworks (party poppers and similar products) and Christmas crackers
- solvents, lighter refills containing butane and aerosol paint
- lottery tickets; and
- age restricted videos, DVDs, and Blu-Ray discs and video games

or any of the following items:

- Replica firearms and replica weapons.
- Articles that would typically be sold in sex shops.
- Animals.
- Motor vehicles.
- Tinned goods.
- Grocery provisions.
- Clothing.
- Second hand gas and electrical appliances

The suitability of goods to be sold will be determined on a case by case basis. The Council will be mindful of and take account of all relevant matters, including local shopping needs, diversity, balance and conflict with nearby commercial shops and street trading.

Applicants and Consent Holders should ensure that the articles being offered or exposed for sale are not of a nature that may cause offence and that the manner of offering or exposing the articles for sale is not of a nature that may cause offence.

As a matter of the Council policy a Street Trading Consent will usually **not** be required for the following activities:

- Community run and/or charitable events where they are supported by the Ward Councillor(s) and where the Licensing Team is notified in writing in advance of the event of the nature of the event and the intended street trading, and the number of intended traders.

- Sales of household (ie non-commercial) articles by householders on land within the curtilage of their property, for example garage sales.
- Goods from working farms or smallholdings sold at the premises where they were produced.
- Trading in privately run shopping centres with covered mall walkways such as the Metrocentre and Blaydon Precinct.
- Trading in Council buildings such as the Civic Centre where the trader has the written permission of the Council to trade from the building at the relevant time.
- Trading as part of a travelling fair where permission for the event has already been granted by Gateshead Council.
- Operators of statutory services whose trading is ancillary to its main activity e.g. Council enforcement officers who sell wheelie bins to persons found to be fly tipping.

Persons seeking to show that a Street Trading Consent is not required because the public do not have free access to the land will be expected to show how they prevent members of the public from gaining access to the land without payment. Measures that this Council would ordinarily expect to be in place include:

- Gates / barriers.
- Measures to ensure accurate counting of persons in attendance.
- Receipts for payment of entry fees (this may be tickets).
- Accounts showing money received for entry payments.

## **Part 6 –Application Process**

Within the Borough of Gateshead certain streets are designated ‘Prohibited Streets’ which means that street trading will not be permitted on any of these streets. Appendix 1 outlines which streets are ‘Prohibited Streets’. In regard to all other streets in the Borough, applicants can make an application for –

- a Street Trading Consent or
- a Market Consent (for approved market sites)

which will be considered in the first instance by the Council’s Licensing Section.

### *Making an application*

A person seeking to obtain or renew a consent from Gateshead Council must make an application to the Licensing Section. An application form can be obtained by contacting the Licensing Section on 0191 4333947 or by email [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk).

In respect of Street Trading Consents, the Local Government (Miscellaneous Provisions) Act 1982 requires that no person under the age of seventeen years shall be granted a consent and persons under the age of sixteen shall not be employed as an assistant.

Applications must be received by the Council’s Licensing Section not less than 20 working days prior to the proposed date of the Street Trading Consent or Market Consent coming into effect. A completed application form must be accompanied by:

- The specified fee (details outlined in Appendix 2). The fee must be paid in full with the application in cleared funds.
- Location plan setting out any fixed location (or in the case of Street Trading Consents for mobile trading, a list of all the streets) where the proposed trading is to take place. The plan should be 1:1250 scale and should show all residential and commercial premises in a 100m radius of the proposed site. The Licensing Section may require applicants to provide a further plan if necessary detailing the exact position of vans, carts, barrows etc on sites where necessary.
- Photographs of the van, cart, barrow, other vehicle or stall from which the trading is intended to take place clearly showing the front, side and rear views of the van, cart, etc, in colour and A4 in size.
- If requesting to trade from private land then the express permission, in writing, of the land owner must be provided to the Licensing Section with the application. (Should there be any confusion in regard to the actual legal ownership of the land it is the responsibility of the applicant to resolve this prior to applying for consent.)

Applications will not be deemed to have been accepted until they are complete and all relevant information, documentation and payment has been received by the Council.

If an applicant has not heard from the Licensing Section within 20 working days of making the application then they can conclude that tacit approval for the consent has been granted (please note however that tacit approval does not apply to Council run events – see part 13).

#### *Consultation*

The Licensing Section will send a copy of the application form and accompanying documentation to the following Consultees within five working days of receiving the application.

- Northumbria Police
- Tyne & Wear Fire and Rescue Service
- Ward Members
- Planning Authority
- Environmental Health
- Senior Enforcement Officer
- Senior Trading Standards Officer
- Transport Strategy
- Property Services
- Corporate Commissioning and Procurement Support
- Culture Communities and Volunteering Service
- Facilities Management, Leisure and Transport Services
- Waste Services and Grounds Maintenance

- Director of Public Health
- Economic and Housing Growth

In certain cases the Licensing Manager may consider it appropriate also to consult other consultees that are relevant to a specific application.

On receipt of the application the Licensing Section will put up an A4 yellow notice at the proposed site and advertise the application on the Council website which will allow any person to object. The notices will be on display and available for inspection for 5 working days.

Anyone wishing to object to the proposed street trading will have 5 working days to respond to the application, setting out relevant reasons why they believe that the application should be refused (with reasons/evidence provided).

*Along with the street trading and markets objectives, the following questions (which may involve a site assessment) will be assessed:*

*Highway safety Is the siting of the street trading likely to have an adverse effect on road safety, either as a result of the siting itself or from customers arriving, attending and/or leaving the site?*

*Parking Is there adequate parking available to staff and customers?*

*Obstruction Will the siting cause an obstruction to pedestrians or road users?*

*Sight lines Will the siting interfere with the line of sight of pedestrians or road users?*

*Loss of amenity Will there be a significant loss of amenity in the vicinity from the new siting?*

*Lighting If it is proposed that the activities will take place at night, is the siting adequately lit?*

*Relevant Restrictions Are there any relevant restrictions that would prevent the Consent being exercised at certain times or on certain dates, e.g. parking or waiting restrictions, or conflicting market rights?*

*Cart/barrow Is the cart, barrow, etc adequate for street trading activities, having regard to the siting, and the nature of the vehicle?*

*Other There may be other issues relevant to the individual site.*

#### *No Objections*

If the application is not opposed the Licensing Manager will issue a Consent as long as s/he is satisfied that:

- The street trading and market objectives will not be undermined by the proposed activity.
- The applicant has provided evidence of appropriate public and product liability insurance to cover a minimum value of £5,000,000.

- The appropriate fee has been paid in full.
- The applicant has been provided with, and has signed for, a copy of the standard conditions (Appendix 3) and has either agreed to adhere to these conditions at all times that the proposed trading will be carried on, or has agreed to adhere to the conditions subject to any dispensations and/or variations of the standard conditions as set out in their application.
- The application is not on a prohibited street
- The application is not within 400m of a school

#### *Objection(s)*

If the Licensing Section receives an objection(s) then it will be forwarded to the applicant for his/her comment. Any comments that the applicant may wish to make should be received by the Licensing Section within 5 working days of the applicant's receipt of the objection. Within 5 working days, the Senior Licensing Officer will provide a report to the Licensing Manager with a recommendation whether to grant the consent. This report will answer the questions set out above.

If, having regard to the issues set out in the Senior Licensing Officer's report, the Licensing Manager is satisfied that –

- The street trading objectives will not be undermined by the proposed activity.
- The applicant has provided evidence of appropriate public and product liability insurance to cover a minimum value of £5,000,000.
- The appropriate fee has been paid in full
- The applicant has been provided with, and has signed for, a copy of the standard conditions (Appendix 3) and agreed to adhere to these conditions at all times that the proposed trading will be carried on, or has agreed to adhere to the conditions subject to any dispensations and/or variations of the standard conditions as set out in their application

#### *Decision*

Where all the considerations above have been satisfied, consent may be given.

Where the applicant has proposed dispensation and/or variance from the standard conditions but the Licensing Manager is not satisfied that the Consent may be granted with any or all of those dispensation(s) and/or variation(s) then the Licensing Manager may grant the Consent subject instead to the standard conditions.

If however the Licensing Manager is not satisfied that the Consent may be granted, then the Licensing Manager will send the applicant a notice of intention to refuse their application, together with a copy of the Senior Licensing Officer's report setting out the grounds for concern.

If the applicant does not contact the Licensing Manager in writing to appeal the decision, within ten working days of receipt of the notice of intention to refuse their application, the fee will be returned to the applicant minus a £50 administration charge.

## **Part 7 - Appeal against decision of Licensing Manager**

If the Applicant wishes to appeal the decision of the Licensing Manager to refuse the application s/he can have the matter considered by the Council's Regulatory Sub-Committee. However, the applicant cannot trade during the appeal period. The Regulatory Sub-Committee will consider a report from the Licensing Manager setting out his/her reasons for refusing the application and the Sub-Committee will also invite the applicant and objector(s) to provide further evidence. After considering the evidence the Regulatory Sub-Committee may:

- Uphold the Licensing Manager's decision (i.e. refuse the application)
- Adjourn the hearing if it deems further enquiries are necessary in order to make a fully informed decision; or
- Grant the application and, if appropriate, add or vary the conditions to be attached to the Consent.

In deciding whether or not to grant the application the Regulatory Sub-Committee will only have regard to such factors as are relevant to ensuring the street trading and markets objectives are not compromised. The Regulatory Sub-Committee therefore cannot have regard to the impact that their decision may have on the applicant's livelihood.

There is no right of appeal under the Local Government (Miscellaneous Provisions) Act 1982 or the Food Act 1984 so an applicant cannot appeal if the Regulatory Sub-Committee's decides to refuse their application for a Street Trading Consent or Market Consent.

If an applicant wishes to challenge the Sub-Committee's decision they can apply to the High Court of Justice for Judicial Review, which must generally be done within three months of the date of decision. Should an applicant choose to do this they should seek independent legal advice. Also an applicant can complain to the Local Government Ombudsman on 0300 061 0614 or 0845 602 1983 or e-mail [advice@lgo.org.uk](mailto:advice@lgo.org.uk).

## **Part 8 - Duration of Consent**

The Council will issue Street Trading Consents for the following periods, which will permit street trading to take place during the specified period unless the consent is surrendered, suspended or revoked:

- Between 1 and 6 days
- 1 week
- Summer Season (1 May to 31 October)
- Winter Season (1 November to 30 April)
- 12 months

The Council will issue Market Consents for the following periods, which will permit market trading to take place on the days specified in the Market Consent unless it is surrendered, suspended or revoked:

- Between 1 and 6 days within a 12 month period (which may be consecutive days)
- On up to 12 occasions in a 12 month period (with no more than one market day each calendar month)
- On up to 52 occasions in a 12 month period (with no more than one market day each calendar week)

The fees for each consented period are outlined in Appendix 2.

There may be circumstances that require a Consent or a number of Consents to be suspended for a certain period, for instance in the vicinity of the route of the Great North Run on the day of the race. The Licensing Manager may, if necessary, suspend a Consent by written notice to the Consent Holder. The written notice of suspension will set out detailed reasons as to why it has been deemed necessary for the Consent to be suspended. Any suspension will not extend the Consent duration and cannot be appealed but the Consent Holder can apply for a Judicial Review and/or make a complaint to the Local Government Ombudsman as above,

### **Part 9 - Renewal of a Consent**

If a consent holder wishes to continue trading at the same venue after the expiry of their current Consent s/he must complete an application form at least 20 working days prior to the expiry of the current Consent and submit it to the Licensing Section together with the appropriate fee. The applicant will only have to provide a photograph of the cart/van/barrow/etc if its appearance has changed since the previous application, or if the applicant intends to use a different cart/van/barrow/etc to the one previously advised. While the Licensing Section will not routinely engage the consultation process at the time of renewal, applicants need to be aware that a review of their consent can be commenced at any time (see part 10); and where there appears to be good reason to consult with any or all of the Consultees regarding a renewal application – for instance if the character of the locality has changed since the current Consent was granted - then the Licensing Section may do so.

### **Part 10 – Review of Consent**

The review process is intended to enable the Council to take appropriate timely measures to ensure that activities taking place pursuant to Street trading Consents and Market Consents do not infringe or continue to infringe the street trading and markets objectives. The review process is intended to address the future conduct of the Consent Holder and can take place regardless of any other measures that may be open to the Council, Police or any other body or person. The review process can be instigated by anyone including Consultees and Ward Councillors at any time on the grounds that they believe that the Consent Holder may not be trading in accordance with the street trading and markets objectives.

An application to review a Street Trading Consent or Market Consent must be made to the Licensing Section in writing and be supported by relevant information and/or documentation. If the Senior Licensing Officer takes the view that the application is relevant to the street trading objectives then a review of the Street Trading Consent or Market Consent will be undertaken. Please note, however, that an application that is frivolous, vexatious or repetitive will not be considered to be relevant.



The Licensing Section will then investigate the concerns raised by the person bringing the review and will discuss these concerns with the Consent Holder. If appropriate the Senior Licensing Officer will hold a meeting with the person who has made the review and Consent Holder with a view to reaching an agreement on what steps can be taken to address the person's concerns. A report will then be prepared by the Senior Licensing Officer with a recommendation for the Licensing Manager.

The Licensing Manager will:

- Take no further action;
- Give the consent holder a written warning as to their future conduct;
- Impose additional conditions on the Consent;
- Suspend the Consent with immediate effect until such time as a specified thing has happened; and/or
- Revoke the Consent with immediate effect.

If the Consent is revoked by the Licensing Manager, the Consent Holder can appeal the decision to the Regulatory Sub-Committee. In these circumstances a Regulatory Sub-Committee hearing will take place and the Sub-Committee will consider all information presented to it and may:

- Continue with the revocation;
- Reinstate the Consent;
- Reinstate the Consent with a written warning; and/or
- Reinstate the Consent and vary and/or impose additional conditions.

The Consent Holder has no right of appeal to the Magistrates' Court but can apply for a Judicial Review and/or make a complaint to the Local Government Ombudsman as above.

### **Part 11 - Transfer of Consent**

A Street Trading Consent or Market Consent can be transferred from one person to another on approval from the Licensing Section but only on the provision that the location of the street trading remains the same. If a Consent Holder dies the next of kin can operate the Consent for up to 60 days before transfer. If the person to whom it is proposed to transfer the Consent has had a Consent with Gateshead Council revoked within the past five years then the Senior Licensing Officer has a discretion to refuse the transfer to that person.

### **Part 12 - Surrender of Consent**

If a Consent Holder no longer wishes to hold a Consent they can surrender it by returning it to the Licensing Section. The Council recognises that the surrender of a Consent will usually mean that fewer Council resources are utilised in its administration and enforcement than would be the case if the Consent ran its full duration. However, Consent Holders should also recognise that significant costs are incurred in the initial granting of the Consent and in dealing with the surrender. In every instance a sum set out in the Council's Fees and Charges will be retained by the Council as a contribution to the costs of both administering the grant of the Consent and its surrender. This means that where the fee paid for the Consent is less than this amount, no refund shall be given. However, where the fee paid for the Consent is more than this amount and there is more than 6

months left on the Consent, the Licensing Section will refund the remainder of the fee on a monthly pro rata basis minus the administration charge as above.

If a Consent Holder fails to exercise the Consent for a duration of more than 3 months then the Consent will be deemed to have been surrendered, and the Licensing Section will notify the Consent Holder in writing that the Consent is surrendered and they must return the Consent to the Licensing Section.

### **Part 13 - Trading at Council run events**

The Council organises a number of events throughout the year, such as fireworks displays and Spring shows. In order to ensure street trading at Council events remains safe any trader wishing to trade at or in the vicinity of such an event must first obtain the written agreement of the Council's Culture Team. A copy of this agreement must then form part of an application for Street Trading Consent and be forwarded to the Licensing Section. A Street Trading Consent must be obtained prior to any participation in the event (and any agreement by the Council to such participation is conditional upon obtaining Street Trading Consent). Tacit approval will not apply to Council run events. If a trader is caught trading at a Council run event without a Street Trading Consent they must cease trading and may face legal action.

If the Council runs an event in a place where a Consent Holder has consent to street trade from a static site, the Consent Holder may continue trading throughout the Council event unless the nature of the street trading conflicts with the nature of the Council run event, and in which case then the Licensing Manager may suspend the Consent on application from the Council's Culture team. The organisers of the event and the Consent Holder(s) are encouraged to discuss any potential conflicts in advance of making an application to try to reach agreement. Before deciding to suspend a Street Trading Consent for this reason, the Consent Holder will be notified by the Licensing Manager of the Culture team's application, and will be given the opportunity to respond. The Licensing Manager will then provide written reasons for their decision. As above, there is no right of appeal of such suspension but the Consent Holder can apply for a Judicial Review and/or make a complaint to the Local Government Ombudsman.

### **Part 14 – Street Trading within Managed Locations**

The application of street trading and market regulation can be distinguished between places that are not specifically managed and those that are, in which case there is inherently a greater degree of control the range of activities that take place in those locations.

Currently within the Borough, the Trinity Square development in Gateshead Town Centre is unique in terms of its mix of retail and leisure opportunities on both Council and privately owned land.

To facilitate street trading and market activity within managed locations such as Trinity Square and potentially others, the location manager may apply to the Council for a Block Consent which will authorise street and market trading within the managed location in accordance with the conditions imposed by the Council but on the provision that –

- the location manager will keep a record of –

- the names and addresses of all persons trading, including any company names and/or trading styles
- the dates and times that they are authorised to trade
- a description of the items for sale
- such record is to be made available for inspection and copying to any Authorised Officer of the Council and/or Police Officer upon request
- the location manager shall ensure that no one is permitted to street or market trade in the consented location without having first obtained all necessary licences, approvals, certificates, etc relevant to the specific activity and that all street or market trading is in accordance with this policy

Subject to the granting of a Block Consent to the location manager, persons seeking to trade in a managed location should obtain the permission of the relevant location manager.

### **Part 15 – Markets**

Gateshead Council can establish a markets throughout the Borough under the provisions of the Food Act 1984 (as amended).

Should an applicant wish to hold a market in the Borough, they are advised to contact the Licensing Section to discuss how approval may be obtained.

### **Part 16 – Council Contracts**

If an applicant wishes to tender for a Council contract in regard to providing street trading services, which may be –

- static street trading in a specific area (such as the Angel of the North or Saltwell Park) or
- holding a market at a specified location on specified days and times

they must first obtain the relevant Street Trading Consent or Market Consent from the Licensing Section. If an applicant obtains a Street Trading Consent or Market Consent but is then unsuccessful in obtaining the relevant Council contract they can immediately surrender their Consent and will be refunded the cost of the Consent minus a £50 administration charge by the Licensing Section.

If an applicant wishes to tender for a Council contract to provide street trading services they should contact the person from the relevant Council Department who is offering the contract for further information. Alternatively, the applicant can contact the Licensing Section for further assistance.

As unauthorised street trading is a criminal offence, purporting to trade under a Council contract without first obtaining the relevant Street Trading Consent or Market Consent will invalidate the Council contract and the trader may face legal action for illegal street trading.

### **Part 17 - Conditions**

There are a number of standard conditions listed in Appendix 3 which Consent Holders must adhere to. These conditions are applied to all Consents issued by the Council unless an applicant or Consent Holder specifically applies for one or more of the standard conditions not to apply.

Where an applicant or Consent Holder does not wish a standard condition(s) to apply to their Consent, or wishes to vary one or more of the standard conditions, they should apply in writing to the Licensing Manager. In the case of a person making an application for a Consent, this should be set out in their application.

Any proposed dispensation and/or variation of the standard conditions at the time of application will be included in the yellow notice displayed at the proposed site and on the Council website, and Consultees will be informed of the proposal. The Licensing Manager will have regard to any objections to the proposed dispensation and/or variance, and may grant the Consent with some or all of the dispensations and/or variations requested or without, i.e. with the standard conditions being applied.

Any proposed dispensation and/or variation of the standard conditions after a Consent has been granted will be subject to advertisement at the site of the street trading and consultation as set out above. Any objections will be considered as above, and the Licensing Manager will decide whether to amend the Consent as sought (in whole or in part).

If the proposed dispensation and/or variation of the standard conditions is not granted, the Consent Holder may appeal to the Regulatory Sub-Committee and a hearing will be scheduled. The Regulatory Sub-Committee will consider a report by the Licensing Manager and hear representations by the applicant/Consent Holder and/or any other relevant person.

The Regulatory Sub-Committee may decide to impose conditions as sought by the applicant/Consent Holder or any other conditions they see fit. Any conditions imposed will be proportionate to the circumstances they are intended to address and will ensure that they are:

- Relevant to the applicant/Consent Holder and the (proposed) street trading activity;
- Fairly and reasonably related to the scale and type of (proposed) street trading activity; and
- Reasonable in all other respects.

Conditions will not be imposed if:

- Complying with the condition(s) would mean it is impossible to comply with any statutory requirements.
- They do not relate to the activity of street trading.
- They unduly interfere with the applicant/Consent Holder's right to lawfully run their business as they see fit.

Duplication with other statutory or regulatory regimes will be avoided as far as possible. Each case will be assessed on its own individual merits.

### **Part 18 - Complaints & Enforcement**

The Council's Licensing Section will take the lead role in dealing with complaints from members of the public, Consultees, other Consent Holders, local businesses, Councillors and MPs. The Licensing Section will investigate complaints about unauthorised street and market trading, non-compliance

with condition(s), conduct of Consent Holders etc, and if it appears that there is cause for concern about the Consent Holder's conduct, the Licensing Manager will determine the appropriate action to take. Such action may include the revocation/suspension of the Consent and/or prosecution under the Local Government (Miscellaneous Provisions) Act 1982 or Food Act 1984 as appropriate. Consent Holders should note that if they are prosecuted for other offences in respect of their street trading activity (for instance health and safety offences, obstructing the highway or fraud) this will also be treated as a complaint and the Licensing Manager will determine what action is appropriate in respect of their Consent.

The Licensing Section will liaise and share information with Northumbria Police, Trading Standards, Environmental Health, Planning/Highways Enforcement and other enforcing authorities where appropriate. All investigations will be undertaken on a fair, transparent and consistent basis.

### **Part 19 - Further information**

Should you have any comments in regard to this policy and guidance please send them to the Licensing Section, Development & Public Protection, Gateshead Council, Civic Centre, Regent Street, Gateshead, NE81HH;

**Tel:** 0191 4334741

**E-mail:** [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)

The Council reserves the right to amend this policy and guidance and its appendices (including fees) from time to time, following proper consultation where appropriate. If you have a hard copy of this document, to ensure that it is current, please contact the Licensing Officer as above, or refer to the Council's website.

**Prohibited streets**

**Central Gateshead**

Ann Street

Arthur Street

Bensham Road (between High West Street and West Central Route)

Charles Street

Grahamsley Street

High Street

High West Street

Hopper Place

Hopper Street

Jackson Street

Lambton Street

Nelson Street

Nuns Lane

Regent Street

Regent Terrace and Back Regent Terrace

St Bedes' Drive

Swan Street

Swinburne Place

Swinburne Street

Ellison Walk

Trinity Steps

Walker Terrace

Back Walker Terrace

Warwick Street

West Street

**Within 400m of schools.**

## FEES

**Note these fees will be reviewed as part of the annual review of the Council's Fees and Charges**

The fee payable for a Consent will depend on the duration of the Consent sought. Street Trading Consent will normally be issued for one of the following periods:

- 1 day £25 per day (1-6 days)
- 1 week £100
- Summer Season (1 May to 31 October) £425
- Winter Season (1 November to 30 April) £425
- 12 months £750

Consents for markets with multiple traders will normally be issued for one of the following periods:

- Daily £25 per stall per day (1-6 market days)
- Up to monthly £100 per stall (7-12 market days)
- Up to weekly £425 per stall (13 – 52 market days)

## Block Consent

- Annual fee £1,620

If an application for a Consent is refused, the application fee will be refunded to the applicant less a charge of £50 as a payment towards the cost of processing the refused application. However, if the fee paid for the consent is £50 or less then no refund shall be given.

All fees are set to cover the cost of administration, monitoring and enforcement.

**ALL FEES MUST BE RECEIVED IN CLEARED FUNDS PRIOR TO CONSENT BEING ISSUED**

**STANDARD CONDITIONS**

1. Street Trading and markets shall be conducted in such a manner as not to cause:
  - (a) obstruction of the street or danger to persons using it. It should be noted by Consent Holders that the holding of a Street Trading Consent / Market Consent does not preclude the Highway Authority or the Police from taking action to remove any obstructions on the highways.
  - (b) nuisance or annoyance (whether to persons using the street or otherwise).
2. Consent Holders are prohibited from setting out their goods or advertising material on the surface of the carriageway or pavement.
3. A Consent Holder shall not street trade within the vicinity of any premises selling articles/goods of a similar nature.
4. Street Trading is restricted to the location indicated on the Consent. Mobile street trading within Consent Streets is restricted to a 1 hour duration, after which the van/cart/barrow or vehicle must be moved a minimum distance of 300 metres before street trading again, return is prohibited within 2 hours.
5. At the end of each street trading period the van/cart/barrow/stall shall be removed from the street trading location within one hour of the end of street trading time showed on the Consent.
6. The Street Trading Consent must be displayed at all times at the van/cart/barrow/etc's point of sale at all times when street trading takes place. The Consent must be produced on demand to a police officer or authorised officer of the Council.
7. The Consent Holder shall notify the Council's Licensing Section in writing within seven days of any changes affecting the Consent.
8. The Consent Holder shall street trade only in goods specified by the Consent.
9. The Consent is personal to the Consent Holder and can only be transferred to another person on approval by the Council.
10. The Consent Holder shall provide sufficient containers as may be necessary for the depositing of litter arising from his trade and ensure that the immediate vicinity of his van, car, barrow etc is kept free from litter at all times during which he is trading. All sites must be left free from litter and waste when trading has ceased.



11. All Street Trading units which are authorised for use in street trading during hours of darkness must be equipped with safe and adequate lighting for such operation.
12. Horns, chimes, or instruments of similar description shall not be sounded –
  - for longer than 12 seconds at a time
  - more than once every 2 minutes
  - more than once when the vehicle is stationary at a selling point
  - except on approach to or at a selling point
  - when in sight of another vehicle which is trading
  - when within 50 metres of schools, hospitals and places of worship
  - more than once every 2 hours in the same length of street
  - before 12:00hrs or after 19:00hrs.

The use of loud speakers, flashing lights or any instruments used to attract customers' attention other than in accordance with the above is not permitted.

13. Consent Holders must not damage in any way, either wilfully or by negligence, any part of the consent street including paved areas, signs, fencing etc.
14. No Street Trading shall be permitted during 18:00 to 06:00 hours.
15. The Consent Holder must maintain Public and Product Liability Insurance for a minimum sum of £5,000,000 for the duration of the Consent.
16. If the Consent Holder street trades from any Council land, he/she shall indemnify the Council from and against all loss, damage, costs, liabilities and claims howsoever arising from its use and occupation of the land.
17. A Consent Holder shall be no closer than 300 metres from another trader or retail shop.
18. Mobile street trading must not take place within 500 metres of any school, Academy or college.
19. Consent Holders must ensure that all employees wear tags/badges bearing their name and must keep a register of all assistants/employees including days/times worked. The register must be provided to a licensing officer on request.
20. Consent holders selling food are required to display their current Food Hygiene Rating at the point of sale.

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**COUNCIL MEETING**

**17 December 2015**

## **A VISION FOR LEISURE SERVICES AND IMPLEMENTATION OF CHANGES IN THE SERVICE RESULTING FROM THE MARKETING AND PRICING STRATEGY**

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**Jane Robinson, Chief Executive**

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### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of a vision for leisure services and the recommendations for changes to pricing, sales and marketing to help reduce the Council's financial contribution to Leisure Services and identify a sustainable business model for the future.
2. As part of the Fit for Future work stream 'Transformational Review of Leisure Services', the Council appointed Leisure-net Solutions and Max Associates to identify opportunities to help reduce the Council's financial contribution to Leisure Services.
3. Knight, Kavanagh and Page (KKP) were commissioned in September 2015 to carry out a full options appraisal for Leisure Services. This included a business review to identify how the service can operate more efficiently and sustainably. Work is ongoing and the attached report includes proposals arising from KKP's early findings.
4. The next stage of the work by KKP will identify options for delivery models for Leisure Services.
5. The proposed vision for leisure services is outlined in paragraphs 6 – 10 of the attached report.
6. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

7. It is recommended that Council:
  - i) notes the progress on the Transformational Challenge Review of Leisure Services in paragraphs 2 – 6 of the attached report
  - ii) agrees to a new vision for leisure services as identified in paragraph 7 of the attached report, which is based on customers, financial and business objectives and which in the period of the Council Plan (2020) is no longer directly subsidised by Gateshead Council, and is returning income to the Council to invest in Gateshead priorities

iii) agrees to the revisions in the pricing policy as set out at paragraph 10(i) – (vi) of the attached report

iv) agrees to a revised business development strategy as referenced in paragraph 10 (vii) – (ix) to increase income for the service

v) authorises the Strategic Director of Communities and Environment (in consultation with the Strategic Director of Corporate Finance and Strategic Director Corporate Services and Governance) to implement flexible pricing arrangements to increase income, as appropriate

**TITLE OF REPORT: A vision for leisure services and implementation of changes in the service resulting from the Marketing and Pricing Strategy**

**REPORT OF: Paul Dowling, Strategic Director Communities and Environment**

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**Purpose of the Report**

1. Cabinet is asked to approve a vision for leisure services and the recommendations for changes to pricing, sales and marketing to help reduce the Council's financial contribution to Leisure Services and identify a sustainable business model for the future.

**Background**

2. Cabinet approved the Transformational Challenge Review of Leisure Services at its meeting on 24 February 2015 (Minute No C160) which included the Council achieving a £950,000 saving from leisure services. Through the asset transfer of Dunston Activity Centre and Gateshead Indoor Bowling Centre (approved at Cabinet September 2015); changes at leisure facilities; additional income through increased charges; and changes to management of the service, the service will deliver in-year savings of £300,000 and £600,000 in a full year. Ongoing discussions with partners will deliver further savings from April 2016 and proposals in this report will yield additional income which will contribute towards a sustainable model for the delivery of Leisure Services in Gateshead.
3. As part of the Fit for Future work stream 'Transformational Review of Leisure Services', the Council appointed Leisure-net Solutions and Max Associates to review the membership and pricing strategy, which would help to identify opportunities to reduce the Council's financial contribution to Leisure Services. In addition, Leisure-net Solutions completed a marketing audit and a member survey. A summary of the findings can be found in Appendix 1.
4. Knight, Kavanagh and Page (KKP) were commissioned in September 2015 to carry out a full options appraisal for Leisure Services, which would include a business review to identify how the service can operate more efficiently and sustainably. This work is ongoing and this report includes proposals arising from KKP's early findings.
5. The next stage of the work by KKP will identify options for delivery models for Leisure Services – to ensure a sustainable leisure service in Gateshead for the future - which could include (i) an in house model (ii) a Trust model (iii) an ALMO or related model (iv) a partnership with the private sector / joint venture model. These options will be reported to Cabinet in early 2016.

## Proposal

### A Vision for Leisure Services

6. Following analysis of financial information, customer information, benchmarking and consultation with employees, it is recommended that a vision for leisure services is approved.

7. The following vision is proposed:

*A sport and leisure service which is sustainable and customer focused to ensure healthy, active Gateshead communities and delivers the Council's priorities of Live Well Gateshead and Live Love Gateshead. A service which integrates and connects to broader services and cultural offer so that residents can participate in a range of services for their wellbeing and leisure. A service which is driven by business and financial objectives, as well as customer satisfaction, retention and growth and maximises the use of its assets – buildings, employees, ICT and partners - to serve Gateshead residents and beyond. A service which in the period of the Council Plan (2020) is no longer directly subsidised by Gateshead Council, and is returning income to the Council to invest in Gateshead priorities.*

8. Approval of a vision for leisure services will set a framework for the options analysis for the future of leisure services identified in paragraph 5 above.

### Implementation of recommendations in the marketing and pricing strategy

9. In June, the Council appointed Leisure-net Solutions and Max Associates to review the membership and pricing strategy, to identify opportunities to increase income to Leisure Services. The key recommendations of this strategy are identified below and in Appendix 1.

10. This report seeks approval to implement changes to the current pricing policy with effect from 1 January 2016. These changes could support the Council to achieve an overall increase in gross income of up to £500,000. The proposed changes are:

- (i) Increase the joint GO membership price from £50.00 to £52.00 per month, a 4% increase
- (ii) Increase the eligibility age of concession from 60 years plus + to 65 years+. This will only apply to new customers and new or renewed active card users.
- (iii) Increase the concessionary price of Go Membership for students (with a NUS card) and 65+ years from £19.00 to £23.00, a 21% increase. Note those individuals on low income would be eligible for the £19.00 concession price. This will only apply to new customers.
- (iv) Consolidate the remaining concession categories and offer them all under one option at a fixed price of £19.00. This would mean that the Active Access concession would increase from £15.00 to £19.00. This would only apply to new customers.

- (v) Standardise the cost of purchasing an Active Card for residents and non – residents, accepting that customers may come from anywhere within the local area, to £10.00 for Gateshead residents and non residents. The current rate for residents is £10.00 and non residents is £20.00. This will place the Council’s Leisure Facilities as key competitors in the broader locality.
- (vi) Develop and implement a Business Development function within the service, from existing resources, including, the creation of a sales role to pilot a focused campaign to increase sales of memberships and use of leisure facilities to increase income.
- (vii) Implement a new Aquatics Plan which will result in changes to the swimming programme as part of the business development function. The changes will provide a significant increase in swimming lessons to secure a greater share in the market, respond to a clear demand and result in increased income to the Council. Further detail is provided in Paragraph 10 of Appendix 1.
- (viii) In addition to the Aquatics Business Plan, identify further business plans (through the business development function) to generate income, in relation to
- Health and fitness
  - Gymnastics and dryside courses
  - Marketing and promotion
  - Management information and data interrogation
  - Therapeutic services and pathways
  - Parties and functions
  - Schools
  - Personal trainers
  - Franchising.

## **Recommendation**

11. Cabinet is asked to:

(i) Recommend the Council to:

- a) Note the progress on the Transformational Challenge Review of Leisure Services in paragraphs 2 - 6 above;
- b) Agree to a new vision for leisure services as identified in paragraph 7 above, which is based on customers, financial and business objectives and which in the period of the Council Plan (2020) is no longer directly subsidised by Gateshead Council, and is returning income to the Council to invest in Gateshead priorities.
- c) Agree to the revisions in the pricing policy as set at paragraph 10 (i) – (vi) above
- d) Agree to a revised business development strategy as referenced in paragraph 10 (vii) – (ix) to increase income for the service.
- e) Authorise the Strategic Director of Communities and Environment (in consultation with Strategic Director of Corporate Finance, Strategic Director of

Corporate Services and Governance) to implement flexible pricing arrangements to increase income, as appropriate.

- (ii) Receive a report in 6-12 months which reviews the effectiveness of these new arrangements.

For the following reasons:

- (i) To ensure the maximum income is generated resulting in a reduction in the subsidy required to deliver the service
- (ii) To ensure greater access to all customers including Gateshead residents and customers from outside the borough
- (iii) To ensure the Council's leisure facilities are utilising the space available to optimum capacity;
- (iv) A vision of leisure based on business and financial objectives will help determine a delivery model which will result in the service not being subsidised by the Council and is delivering a profit.
- (v) To safeguard the continuation of existing services and to provide the opportunity for greater sustainability of community activities which contribute to the Council's priorities within the context of reduced resources.

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**CONTACT:** Lindsay Murray      extension: 2794



## Policy Context

1. Implementation of the Transformational Review of Leisure Services supports the overall vision for Gateshead as set out in Vision 2030 and the Council Plan. In particular sustaining an Active and Healthy Gateshead.

## Background

2. As part of the Fit for Future work stream 'Transformational Review of Leisure Services', the Council appointed Leisure-net Solutions and Max Associates to identify opportunities to help reduce the Council's financial contribution to Leisure Services.

### **Some of the key recommendations membership and pricing review are as follows;**

3. The Council assesses whether both members in joint memberships packages are regular users. If they both are, there may be opportunities to increase the joint price to £52.00 per month.
4. The Council considers the eligibility of concession members to potentially reduce the categories that the concessionary option is currently available to, particularly for 60+ and students.
5. If it is assessed that some of the current concession groups are using a mix of activities, it is recommended that a higher price is considered for those that could afford to pay for example students and over 60's. (Note those groups on low income would be eligible for the £19.00 concession price). Suggested price £23.00.
6. There is an opportunity to refine the remaining concession categories and offer them all under one option at a fixed price of £19.00.
7. Due to historical practices and average length of membership it is recommend that the 12 month minimum term continues.
8. There is an opportunity to implement a more rigorous sales system as identified within the other section of this report to increase sales and to concentrate on the adult standard options increase the yield to closer to the adult price of £23.75 (excluding VAT).
9. If the average yield was increased to £22 per member, this would equate to approximately £200,000 additional income per year. This could be achieved through the review of the concessions eligibility and an increase in the joint membership price.
10. Swimming income could be increased by between £330,000- £375,000 per annum (depending on price point) through additional lessons being offered during the existing swimming lesson times and maximising the pool layouts available. (There will be higher instructor costs.) This would bring the number of pupils in line with industry benchmarks. In order to achieve this the swimming lesson prices , may

need to be reviewed as they are higher than neighbouring competition and may be contributing to the lower number of pupils on the scheme. Introduction of the direct debit option should also assist in increasing uptake of swimming lessons.

11. On review of casual swimming prices the standard adult price could be increased marginally to £4.60 and the Active Card price to £3.50 - £3.60, to bring them in line with the prices at South Tyneside and Newcastle.

**Some of the key recommendations of the Member Survey are as follows;**

12. A Customer Service strategy and training is put in place across all sites to standardise service at a high level across the service offering; and
13. A regular way of monitoring the customer experience is introduced, along with a comprehensive customer feedback system to ensure customers feel listened to and engaged.

**Some of the key recommendations from the Marketing audit are as follows;**

14. Invest in a commercially focused sales team (customer advisors) at each facility and Sales Manager;
15. Invest in a commercially focused marketing team responsible for delivering marketing and communications plans. A “driver” is required to build and keep momentum going;
16. Write and deliver a membership sales and marketing strategy with a key focus on CRM/database management, cross selling, new health & fitness website, driving and converting enquiries, targeted sales systems and teams at each centre;

**Consultation**

17. All Cabinet Members have been consulted on this report. All councillors who have been consulted are supportive of this proposal.
18. The Trade Unions (Unison and GMB) have been consulted on this report. The Trade Unions do not object to the proposals.

**Alternative Options**

19. The final report from KPP, as referenced in paragraph 5 of the main report will present options and models for the future delivery of the leisure service.

**Implications of Recommended Option**

20. **Resources:**

- a) **Financial Implications** - The Strategic Director, Corporate Resources confirms that the changes in the pricing policy will generate additional income for the Council of up to £500,000 which will contribute towards the delivering the revenue budget.
- b) **Human Resources Implications** – There will be no human resource implications arising from these proposals.

- c) **Property Implications** – There are no direct implications on the leisure facilities as a result of the proposals in this report.
21. **Risk Management Implication** – There are no implications arising from this recommendation.
22. **Equality and Diversity Implications** – There are no direct implications arising as result of the proposals described in the report as all residents will still have the opportunity to access leisure facilities.
23. **Crime and Disorder Implications** – There are no direct implications arising as a result of this report
24. **Health Implications** - These are included in the Comprehensive Impact Assessments.
25. **Sustainability Implications** - The changes in the pricing policy and sales and marketing approach will increase income and therefore reduce the level of the Council's operational costs
26. **Human Rights Implications** - These will be included in the Comprehensive Impact Assessment.
27. **Area and Ward Implications** – the proposals affect facilities in the wards of Birtley, Pelaw and Heworth, Felling, Saltwell, Dunston and Teams and Blaydon covering all areas. As users of leisure facilities live across Gateshead, the proposals may have an impact on residents from all wards
28. **Background Information** – Minute Nos. C (2015)

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**COUNCIL MEETING**

**17 December 2015**

## **GAMBLING STATEMENT OF PRINCIPLES 2016 - 2019**

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**Jane Robinson, Chief Executive**

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### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of a Statement of Principles for 2016 – 2019 in accordance with the Gambling Act 2005.
2. Under the Gambling Act 2005 licensing authorities are required to prepare and publish every three years a Statement of Principles that they propose to apply when exercising their functions.
3. The proposed Statement of Gambling Principles (appended to this report) has been produced following a widespread public consultation that took place over a 12 week period between July and October 2015.
4. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

5. It is recommended that Council approve the adoption of the Gambling Statement of Principles and their publication in accordance with the requirements of the Gambling Act 2005

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**TITLE OF REPORT:            Gambling Statement of Principles 2016 - 2019**

**REPORT OF:                Paul Dowling, Strategic Director, Development and Enterprise**

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### **Purpose of the Report**

1.     The purpose of this report is for Cabinet to approve and recommend to Council a Statement of Principles for 2016 – 2019 in accordance with the Gambling Act 2005.

### **Background**

2.     Under the Gambling Act 2005 licensing authorities are required to prepare and publish every three years a Statement of Principles that they propose to apply when exercising their functions.
3.     The Act contains three licensing objectives, which underpin the functions that the Gambling Commission and Councils perform. These objectives are:
  - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way; and
  - protecting children and other vulnerable persons from being harmed or exploited by gambling;
4.     On the 14 July 2015 Cabinet gave approval for a widespread public consultation on a draft revised Statement of Principles. The consultation took place over a 12 week period between July and October 2015.
5.     The responses to the consultation were considered by a Policy Advisory Group on 18 November 2015 and advice was given as to how the draft statement should be amended. Notes from the meeting are attached in Appendix 2.
6.     An Executive Summary of the Statement of Principles is attached at Appendix 3 and the full document is attached at Appendix 4.

### **Proposal**

7.     Cabinet is asked to approve the amended statement and recommend it to Council.

### **Recommendations**

8.     Cabinet is asked to recommend the Council to approve the adoption of the Gambling Statement of Principles and their publication in accordance with the requirements of the Gambling Act 2005.

For the following reason:

To ensure that the Council's functions under the Gambling Act 2005 can be discharged effectively

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**CONTACT:** Elaine Rudman ext: 3911



### Policy Context

1. The adopting of a Gambling Statement of Principles will allow the Council to carry out its duties as a Licensing Authority under the Gambling Act 2005 and in accordance with guidance issued to local authorities by the Gambling Commission in September 2015. It contributes towards the refreshed Vision 2030, Gateshead's Sustainable Community strategy and the Council Plan.

### Background

2. The Gambling Act 2005 was implemented in September 2007. It transferred the responsibility for the licensing of gaming premises from the Magistrates to Local Authorities and introduced for the first time, a unified regulator for gambling, the Gambling Commission, replacing the Gaming Board for Great Britain.
3. Under the Act, the Council is responsible for issuing premises licences for premises such as casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres as well as permits for gaming machines in pubs, clubs and other alcohol licensed premises.
4. The Act contains three licensing objectives, which underpin the functions that the Gambling Commission and Councils perform. These objectives are:
  - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way; and
  - protecting children and other vulnerable persons from being harmed or exploited by gambling;
5. Licensing authorities are required to prepare and publish, every three years, a Statement of the Principles that they propose to apply when exercising their functions. In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. The first statement was published in January 2007, the second in January 2010 and the third in January 2013.

### Consultation

6. The Statement of Gambling Principles has been produced following a wide consultation process. A draft statement was produced in accordance with the requirements of the Guidance, and was circulated for public consultation during a 12 week period between 23 July and 16 October 2015.
7. Six responses to the consultation were received, and a Policy Advisory Group considered these on 18 November 2015. The Group gave advice for amendment to the draft statement and guidance to incorporate some of the feedback received from the consultees. The advice given by the Policy Advisory Group is attached in Appendix 2.
8. The draft statement has been revised in accordance with the advice of the Policy Advisory Group.

9. The Cabinet Members for Environment and Transport have been consulted.

### **Alternative Options**

10. No alternative options are considered appropriate as the Licensing Authority has a statutory duty under the Licensing Act 2003 to prepare and publish a statement of its principles at this time.

### **Implications of Recommended Option**

11. **Resources:**

a) **Financial Implications** – The Strategic Director, Corporate Resources, confirms that there are no additional financial implications arising from this report.

b) **Human Resources Implications** – There are no human resources implications from the recommended options.

c) **Property Implications** - There are no property implications from the recommended options

12. **Risk Management Implications** - There are no risk management implications from the recommended options.

13. **Equality and Diversity Implications** - an Equality Impact and Needs Assessment of the policy has indicated a neutral impact.

14. **Crime and Disorder Implications** – There are no crime and disorder implications from the recommended options.

15. **Health Implications** – There are no health implications from the recommended options. .

16. **Sustainability Implications** - There are no sustainability implications from the recommended options

17. **Human Rights Implications** - There are no human rights implications from the recommended options

18. **Area and Ward Implications** - This report affects all wards equally.

19. **Background Information**

Gambling Act 2005

Gambling Commission Guidance to Local Authorities September 2015

**Policy Advisory Group – 18 November 2015****Report to Cabinet**

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Purpose of the Meeting

The purpose of the meeting was to consider the responses to the recent public consultation on the draft Statement of Gambling Policy and how the draft policy should be amended before returning to Cabinet with the final policy for approval by Council.

Elaine Rudman, Environmental Health, Licensing & Enforcement Manager outlined the duty of Licensing Authorities to prepare and publish a statement of licensing policy every three years and confirmed that the next statutory period begins on 18 January 2016.

Summary of Advice:

- It was agreed that the policy should make reference to the requirement to carry out premises specific risk assessment and what the licensing authority expect.
- It was agreed that the policy should make reference to the Gaming Machines in Alcohol Licensed Premises Code of Practice.
- The Advisory Group agreed that the policy should expand the reference to compliance monitoring and enforcement and how that impacts on fee setting.
- It was agreed that the wording relating to family entertainment centres be amended.
- It was agreed that the policy should encourage effective test purchasing to tackle problems caused by Fixed Odds Betting Terminals (FOBTs).
- It was felt that the policy should encourage conditions to ensure there are adequate number of staff and require recording and reporting of incidents.
- It was also agreed that the policy should contain conditions to tackle problems caused by self serve betting terminals.
- The Advisory Group agreed that there should be reference to the fact that financial abuse is now a category of abuse under the Care Act 2014 and there should be an expectation that licence holders understand the principles of mental capacity.
- The Advisory Group felt that there should be reference to the roles of the Gateshead Safeguarding Adults and Community Safety Boards.
- Following the consultation response from William Hill it was agreed that the wording 'betting machines' be amended to 'fixed odds betting terminals'.
- In relation to the response from Association of British Bookmakers, opposing the use of the policy to prescribe the form of risk assessment, the Advisory Group considered it appropriate that the policy sets out expectations with regard to the risk assessment.

- The Advisory Group also considered the response from the Association of British Bookmakers opposing the reference to imposition of restrictions on advertising. However, it agreed that the intention of the policy is to prevent the display of gambling products that are aimed at or attractive to children; and agreed that replacing the words 'advertising' and 'advertised' with 'displaying' and 'displayed' would give clarity.
- The Advisory Group agreed that reference to proximity to certain location should not be a specific factor unless there is evidence of harm.

**Chair:** Councillor B Clelland

**Members Present:** Councillors M Hood and M Graham

**Officers Present:** Elaine Rudman – Communities and Environment  
Roselyn White – Corporate Services and Governance

**Draft Statement of Gambling Principles 2016 - 2019**

**Executive Summary**

Gateshead Council has a statutory duty to prepare publish, every three years, a Statement of the Principles that will be applied when exercising its functions under the Gambling Act 2005.

This Statement of Principles provides information and guidance to applicants, responsible authorities and interested parties on the overall approach that Gateshead Council will take to applications, compliance and enforcement under the Gambling Act 2005.

It sets out what this Licensing Authority expects of the people that it authorises to carry out Gambling activities in the Borough.

The Statement of Principles seeks to achieve the three licensing objectives of the Gambling Act 2005, namely –

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

and sets out the issues that are of particular relevance or concern within Gateshead and the approaches that the Licensing Authority would expect responsible licensees to take into account in order to promote these objectives.

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## **GAMBLING ACT 2005**

# **STATEMENT OF PRINCIPLES**

**18 Jan 2016 – 17 Jan 2019**

## Contents

<b>Description</b>	<b>Page</b>
Foreword	3
1. Introduction and Consultation	4
2. Strategic context	4
3. Legal context	5
4. Local context	6
5. Gambling Commission	7
6. Authorised activities	7
7. General statement of principles	8
8. Preventing gambling from being a source of crime or disorder	9
9. Ensuring gambling is conducted in a fair and open way	9
10. Protecting children and other vulnerable people from gambling	10
11. Meeting the licensing objectives	11
12. Premises licences	11
13. Responsible authorities	12
14. Interested parties	14
15. Conditions of licence	15
16. Casinos	16
17. Bingo	16
18. Betting	16
19. Tracks	17
20. Travelling fairs	17
21. Provisional statements	18
22. Lotteries	19
23. Temporary use	20
24. Occasional use	20
25. Gaming and gaming machine permits – introduction	20
26. General principles	22
27. Family Entertainment Centre Gaming Machine Permits	24
28. Prize gaming permits	25
29. Licensed premises gaming machine permits	26
30. Clubs – gaming and gaming machine permits	28
31. Exchange of information	29
32. Public register	29
33. Enforcement	29
34. Exercise of functions	30
35. Reviews	31
36. Appeals	33
37. Complaints about premises / activities	33
38. Fees	34
39. Contact details	34



## **Foreword by Councillor John McElroy**

The Gambling Act came into force in 2007 and put in place a comprehensive and cohesive regulatory regime based on three fundamental objectives –

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

In that time there has been a significant change in how gambling is carried on in the Borough. Gambling has for many years formed part of the entertainment culture, but it is important that we understand the harm that can be caused by irresponsible and problem gambling.

There is increasing awareness and concern about the availability of gambling opportunities where people to bet large amounts of money very quickly; and that doing so can lead to financial and other problems if it gets out of hand.

It is important also that we recognise that the vast majority of licensees operating in the Borough do so responsibly and with appropriate sensitivity to the needs of the communities in which they operate.

It is incumbent on all those involved in the gambling industry to be mindful of the needs of the most vulnerable members of our society, and Gateshead Council has an important role to play through the licensing regime in helping to safeguard them.

## **1 Introduction and Consultation**

- 1.1 Gateshead is a constantly changing borough, combining an exciting future with a fascinating heritage. It is, always has been, and probably always will be, an area of contrasts. Half of the borough is rural in comparison with a large urban centre with significant business and residential areas. It includes areas of attractive countryside, areas with a legacy from our industrial past and regeneration and cultural initiatives that have captured the nation's attention. A local economy that was once heavily reliant on industry is now becoming more and more diverse whilst entrepreneurship within the borough is on the increase.
- 1.2 In preparing this statement the Council consulted with and considered the views of a wide range of people and organisations.
- 1.3 The licensing authority has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities (4<sup>th</sup> edition)

issued by the Gambling Commission and the responses from those consulted on the statement.

- 1.4 A full list of comments made in response to the consultation and the consideration by the Council of those comments is available on request to the Environmental Health, Licensing and Enforcement Manager whose details are listed below and also via the Council's website at [www.gateshead.gov.uk](http://www.gateshead.gov.uk)
- 1.5 The policy was approved at a meeting of the Full Council on *[to be inserted]*.

## **2. Strategic Context**

- 2.1 The Council's overall vision for Gateshead, as described in Gateshead's Sustainable Community Strategy (the refreshed Vision 2030) is:

*“Local people realising their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead”*

- 2.2 The Council's Corporate Plan is the Council's statement of priorities and action to achieve Vision 2030. The licensing of gambling activities plays an important role in realising this vision.

## **3 Legal Context**

- 3.1 This Statement of Principles is intended to meet the Council's obligations under Section 349 of the Gambling Act 2005 (referred to in this Statement as “the Act”).
- 3.2 Except for those matters specified in the Act which require the decision of the full Council, the functions of the Licensing Authority under the Gambling Act will be delegated to the Licensing Committee which may delegate some or all of its functions to sub committees and officers.
- 3.3 In carrying out its licensing functions under the Act, particularly with regard to premises licences, the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be:
  - in accordance with any relevant Codes of Practice issued by the Gambling Commission
  - in accordance with any relevant Guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives, interpreted in accordance with the Codes of Practice and Guidance and,

- in accordance with this Statement of Principles in so far as it is consistent with the Codes of Practice, the Guidance and the licensing objectives
- 3.4 There are 3 licensing objectives which are central to the regulatory regime created by the Act. These are:
- *preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime*
  - *ensuring that gambling is conducted in a fair and open way*
  - *protecting children and other vulnerable persons from being harmed or exploited by gambling*
- 3.5 The Act provides for 3 categories of licence:
- operating licences
  - personal licences
  - premises licences
- 3.6 The Licensing Authority is responsible for issuing premises licences. The Gambling Commission is responsible for issuing operating and personal licences.

#### **4 Local Context**

- 4.1 Different localities within the Borough have different characters, and challenges, both of which can change over time depending on a range of factors. To assist applicants and licensees in their understanding of local issues that they should be cognisant of, from time to time the Council publishes and updates 'Local Licensing Guidance' documents on its website.
- 4.2 Gateshead Council acknowledges the need for ongoing engagement with other prescribed statutory bodies and will seek to draw upon the expertise and knowledge of all those who can contribute to the development of the local area profile set out in the Local Licensing Guidance.
- 4.3 Local Licensing Guidance provides information about the causes of serious and chronic concern in these localities. The areas covered by the guidance can vary depending on the nature of the problems that are identified, so may relate to the whole of a particular Ward or for instance to street level. The guidance can include a wide range of information that is considered to be relevant to those who seek to carry on licensable activities within the area, for instance –
- The physical environment (including transport, school walking routes, blocks of flats, commercial / residential proximity, etc)

- Existing licensed premises
  - Health data (such as hospital admissions for under-18s, ambulance calls for alcohol related reasons)
  - Crime and/or disorder hotspots
  - Known areas of congregation
  - Local initiatives
  - Local concerns about the promotion of the licensing objectives (including from Ward Members, community leaders, GPs, schools, etc)
- 4.4 The Local Licensing Guidance will be presented to and approved by the Council's full Licensing Committee from time to time.
- 4.5 It is recommended that applicants and licensees have regard to these documents when considering their activities and any appropriate control measures.

#### Local Risk Assessments

- 4.6 From 6 April 2016, it is a requirement under section 10 of the Licence Conditions and Codes of Practice (LCCP) that licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy. The LCCP also states that licensees must review (and update as necessary) their local risk assessments –
- To take account of significant changes in local circumstances, including those identified in this policy
  - When there are significant changes at a licensee's premises that may affect their mitigation of local risks
  - When applying for a variation of a premises licence; and
  - In any case, undertake a local risk assessment when applying for a new premises licence.
- 4.7 The licensing authority will expect the local risk assessment to consider as a minimum –
- Whether the premises is in an area with high levels of crime and/or disorder

- Whether the premises is in an area of high deprivation
- The demographics of the area in respect of vulnerable groups of people including those with gambling dependencies

4.8 The risk assessment may also include:

- Location of services and amenities for children in the area such as schools, playgrounds, leisure facilities and other areas where children may gather
- Procedures in place to ensure staff are adequately trained in how to monitor and deal with customers suspected of excessive gambling (including brief intervention training for staff), vulnerable persons or children and also details and regularity of training given
- Details of supervisory and management procedures in place including number of staff available and their designated duties and responsibilities
- Details of any consideration given to the need for CCTV in the premises and if installed how the system will be operated and monitored and what coverage it is designed to give in the premises
- Details of the signage and documents relating to games rules, gambling care providers and other relevant information including a consideration of whether information needs to be provided in another language that may be prevalent in the locality.

4.9 Such information may be used to inform the decision the Authority makes about whether to grant a licence, to grant a licence with added conditions, or to refuse the application.

4.10 It is expected that the risk assessment will be made available to officers upon inspection of the premises.

#### Gateshead Community Safety Board

4.11 Gateshead has a Community Safety Board where partners work together to tackle issues associated with crime and disorder, devising local approaches to deal with these local issues, including in respect of gambling. Licensees are expected to have regard to any such initiatives from time to time.

## **5 The Gambling Commission**

- 5.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.
- 5.2 The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.
- 5.3 The Commission has issued Guidance under Section 25 regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.
- 5.4 The Commission also issues codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided.
- 5.5 The Gambling Commission can be contacted at:  
[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## **6 Authorised Activities**

- 6.1 'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.
- 6.2 'Gaming' means playing a game of chance for a prize
- 6.3 'Betting' means making or accepting a bet on the outcome of a race, competition, or any other event ; the likelihood of anything occurring or not occurring; or whether anything is true or not
- 6.4 a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance
- 6.5 The Licensing Authority is responsible for:
  - issuing of premises licences where gambling activities are to take place by issuing Premises licences;
  - issuing Provisional Statements;
  - regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits;
  - issuing Club Machine Permits to Commercial Clubs;
  - granting permits for the use of specific lower stake gaming machines at unlicensed Family Entertainment Centres;
  - receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines; issuing Licensed Premises Gaming Machine Permits for premises

licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003 where there are more than two machines;

- registering small society lotteries below prescribed thresholds;
- issuing Prize Gaming Permits;
- receiving and endorsing Temporary Use Notices;
- receiving Occasional Use Notices;
- providing information to the Gambling Commission regarding details of licenses issued; and
- maintaining registers of the permits and licences that are issued under these functions.

Spread betting is regulated by The Financial Services Authority, the National Lottery is regulated by The National Lottery Commission and Remote Gambling is dealt with by the Gambling Commission.

## **7 General Statement of Principles**

7.1 This statement of principles provides information and guidance to applicants, responsible authorities and interested parties on the overall approach that Gateshead Council will take to applications, compliance and enforcement under the Gambling Act 2005.

7.2 The Licensing Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation. To ensure the licensing objectives are met the Licensing Authority will establish a close working relationship with the Police and other responsible authorities and the Gambling Commission and make every effort to work in co-operation and partnership with local businesses and residents.

7.3 Nothing in this Statement of Principles will undermine the right of any person to apply under the Act for a permission and have the application considered in its own merits, or, override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

7.4 The starting point in determining applications will be to grant the application with only mandatory and default conditions so long as this can be achieved in a manner which is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- consistent with the licensing objectives
- in accordance with this Statement of Principles

and that additional conditions will only be imposed where it is considered that the mandatory and default conditions need to be supplemented in order to uphold the licensing objectives.

- 7.5 Moral objections to gambling are not a valid reason to reject applications for premises licences.
- 7.6 The overriding principle is that all applications and the circumstances prevailing at each premises will be considered on its own individual merits. The licensing authority will consider in the light of relevant representations whether exceptions should be made in any particular case.
- 7.7 This statement of principles is shaped by the local circumstances and the local risks present in Gateshead. It will remain responsive to emerging risks and may be reviewed at any time but at least every three years.
- 7.8 This statement places an expectation on operators to understand the local environment in Gateshead and reflect that awareness in their procedures and policies so that they can mitigate any local risks which may undermine the licensing objectives.
- 7.9 In all cases, it is expected that licensees will ensure that there are adequate numbers of staff at premises to uphold licensing objectives. It is also expected that all licensees will have adequate means for keeping records of incidents that may undermine the licensing objectives; and that any such incidents will be reported to the relevant authority.
- 7.10 Licensees are expected to have a full understanding the principles of mental capacity set out in the Mental Capacity Act 2005, and to act according to those principles.

## **8 Licensing Objective: Preventing gambling from being a source of crime or disorder**

- 8.1 The Gambling Commission plays a leading role in preventing gambling from being a source of crime and maintains rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.
- 8.2 Anyone applying to the Licensing Authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. Therefore, the Licensing Authority will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.



- 8.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with crime, the Licensing Authority will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. If representations are made or the Authority considers it necessary to impose or exclude a condition on the licence then a hearing will be held and specific conditions may then be imposed. This could include, but is not limited to, a requirement for door supervisors.
- 8.4 As far as disorder is concerned, it should be noted that nuisance is not a relevant consideration. There are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Licensing Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can be dealt by other means.
- 8.5 Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance, and it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 8.6 When making decisions in this regard the Licensing Authority will give particular weight to any representations made by the police.

## **9 Licensing Objective: Ensuring gambling is conducted in a fair and open way**

- 9.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.
- 9.2 Because betting track operators do not need an operating licence from the Commission the Licensing Authority may, in certain circumstances require conditions of licence relating to the suitability of the environment in which betting takes place.

**10 Licensing Objective: Protecting children and other vulnerable people from being harmed or exploited by gambling**

- 10.1 The intention of the Act is that children and young persons generally should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 10.2 In practice, where either a representation has been made, or the Licensing Authority has decided to make a representation because it wishes to see such restrictions imposed, or is minded to impose or exclude a condition, steps will be taken to prevent children from taking part in, or being in close proximity to, gambling, especially with regard to premises situated in areas where there may be a high rate of reported truancy.
- 10.3 There may also be restrictions so that gambling products are not aimed at children or displayed in such a way that makes them particularly attractive to children.
- 10.4 When considering whether to grant a premises licence or permit following the receipt of a representation, the Licensing Authority will consider whether any measures are necessary to protect children or vulnerable people, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.
- 10.5 Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate
- 10.6 In seeking to protect vulnerable people the Licensing Authority will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 10.7 The Licensing Authority recognises that financial abuse is a category of abuse under the Care Act 2014, and expects licensees to understand the need to protect those who are at risk of such abuse through their activities. Gateshead Council's Safeguarding Adults team work closely with Northumbria Police where appropriate to assist in the safeguarding of such individuals.
- 10.8 The Licensing Authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

## **11 Meeting the licensing objectives**

11.1 The following list sets out some of the measures that applicants may wish to put in place and which existing licensees may wish to keep under review in respect of their premises. It is not intended to be exhaustive, or mandatory, but applicants are expected to carefully consider the measures that will be appropriate to their individual application in order to promote the licensing objectives.

- CCTV;
- location of entrance;
- physical security measures on the premises;
- supervision of entrances/machine areas;
- physical separation of areas;
- notices and signage displayed externally stating access to the premises is restricted to persons 18 years of age and over;
- notices displayed internally stating use of gaming machines is restricted to persons 18 years of age and over;
- notice specifying opening hours;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare.
- Consideration of the layout of exterior areas to deter the congregation of young people

11.2 Further considerations in respect of the conduct of the licensable activities are set out in paragraph 26.2 below.

## **12 Premises Licences**

12.1 A premises licence can authorise the provision of facilities at the following :

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

12.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are different parts of the building and those parts can be genuinely regarded as being separate 'premises'.

Where the owner of premises intends to apply to the licensing authority for more than one premises licence within the same building they should contact this licensing authority in the first instance so that individual circumstances can be considered. The location of the premises and the suitability of the division will be important considerations.

Entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area. It is not considered that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

- 12.3 Where the Licensing Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.
- 12.4 Other than an application for a betting premises licence in respect of a track, the Licensing Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 12.5 When considering applications for premises licences this Licensing Authority will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.
- 12.6 The Licensing Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.
- 12.7 A licence to use premises for gambling will only be issued where this licensing authority is satisfied that the premises in question are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If this is not the case eg if construction is not yet complete, or if they need an alteration, or if the applicant does not yet have a right to occupy them, then the person can apply to the licensing authority for a provisional statement. (See the section headed "Provisional Statements" below).

### **13 Responsible Authorities**

- 13.1 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Licensing Authority if they are relevant to the licensing objectives.
- 13.2 Section 157 of the Act defines those authorities as:

- The licensing authority in whose area the premises is situated
  - The Gambling Commission
  - The Chief Officer of Police for a police area in which the premises is situated
  - The Fire and Rescue Authority for an area in which the premises is situated
  - The local planning authority for an area in which the premises is situated
  - The authority which has functions in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises is situated ie the Environmental Health Authority
  - The body, designated in writing by the Licensing Authority for an area in which the premises is situated, as competent to advise the authority about the protection of children from harm
  - Her Majesty's Revenue and Customs
  - Any other person prescribed for the purposes of this section by regulations made by the Secretary of State
- 13.3 The principles that the licensing authority has applied in exercising its powers under Section 157(h) of the Act to designate in writing, a body which is competent to advise the authority about the protection of children from harm are:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - The need for the body to be answerable to democratically elected persons rather than any particular vested interest group
- 13.4 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this Authority designates the Local Safeguarding Children Board for this purpose.
- 13.5 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.gateshead.gov.uk](http://www.gateshead.gov.uk)
- 13.6 Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the Licensing Authority may disregard representations that it thinks are irrelevant i.e.
- there are too many gambling premises in the locality
  - the premises are likely to be a fire risk
  - the location of the premises is likely to lead to traffic congestion
  - the premises will cause crowds to congregate in one area causing noise and nuisance

13.7 Each representation will, however, be considered on its own individual merits.

## **14 Interested Parties**

14.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence.

14.2 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above

14.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, the Licensing Authority will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the potential impact of the premises

14.4 In determining whether a person has a business interest which could be affected the Licensing Authority will consider, among other things:

- the size of the premises
- the nature of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area the Licensing Authority would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

14.6 Interested parties (and applicants/licensees) are entitled to be represented at hearings. Ward members, residents associations and community partnerships are able to make representation on behalf of interested parties if they clearly specify the individual or group of persons that they are representing and demonstrate that the individual or group of individuals falls within the definition of an “interested party” as above.

14.7 The Licensing Authority may, in certain circumstances, disregard a representation if it thinks it is frivolous or vexatious or that it will certainly not influence the authority's determination of the application. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically to do with the premises which are the subject of the application

## **15 Conditions of licence**

15.1 The Authority may impose conditions or exclude conditions on a premises licence under s169 of the Act if it considers it necessary to do so. Such decisions will normally follow a hearing of the relevant application after representations have been received or the authority has notified the applicant that it is minded to impose or exclude such conditions. All parties may agree that a hearing is not necessary.

15.2 Conditions imposed by the Licensing Authority may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence. Additional conditions will only be imposed where it is considered that the mandatory and default conditions need to be supplemented in order to uphold the licensing objectives.

15.3 The Licensing Authority will not impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.

15.4 Any conditions imposed by the Licensing Authority will be proportionate to the circumstances they are intended to address. In particular, the Licensing Authority will ensure that any conditions are:

- relevant to the need to make the premises suitable as a gambling facility
- directly related to the premises and the type of licence applied for
- fairly and reasonably related to the scale and type of premises
- reasonable in all other respects

15.5 Examples of some conditions and restrictions which are likely to be attached in certain circumstances include those relating to opening hours, age limits, or keeping children and young persons away from gaming machines.

- 15.6 The Licensing Authority will not consider imposing conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission
  - relating to gaming machine categories or method of operation
  - which specify that membership of a club or other body is required
  - in relation to stakes, fees, winnings or prizes
- 15.7 Duplication with other statutory or regulatory regimes will be avoided as far as possible. Each case will be assessed on its own individual merits.

## **16 Casinos**

- 16.1 There are no casinos in Gateshead and in order for there to be any there would need to be a change in National legislation. If that should happen during the currency of this Statement of Principles a further amendment will be issued.

## **17 Bingo**

- 17.1 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 17.2 Commercial bingo halls will require a bingo premises licence from the Licensing Authority.
- 17.3 Amusement arcades providing prize bingo will require a prize gaming permit from the Licensing Authority.
- 17.4 In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game. When considering applications of this type the Licensing Authority will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.
- 17.5 A limited number of gaming machines may also be made available at bingo-licensed premises.
- 17.6 Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.



## **18 Betting**

- 18.1 Anyone wishing to operate a betting office will require a betting premises licence from the Licensing Authority. Children and young persons will not be able to enter premises with a betting premises licence.
- 18.2 Betting premises will be able to provide a limited number of gaming machines and some betting machines.
- 18.3 The Licensing Authority has the power to restrict the number of fixed odds betting terminals, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.
- 18.4 Each application will be considered on its own individual merits.

## **19 Tracks**

- 19.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 19.2 Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Licensing Authority are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 19.3 Although there will, primarily be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 19.4 When considering whether to exercise its power to restrict the number of betting machines at a track the Licensing Authority will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

## **20 Travelling Fairs**

- 20.1 The Gambling Act defines a travelling fair as wholly or principally providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.
- 20.2 Gateshead Council as a licensing authority is responsible for deciding whether, where gaming machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 20.3 It is noted that the 27 day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **21 Provisional Statements**

- 21.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 21.2 The Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she expects to be constructed or altered, or to acquire a right to occupy.
- 21.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 21.4 However, in contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 21.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The

licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

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

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

## **22 Lotteries**

22.1 Promoting or facilitating a lottery is unlawful unless it is run in accordance with an operating licence issued by the Gambling Commission or it is an 'exempt' lottery as defined by the Act.

22.2 One of those exemptions is in respect of what are termed "small societies lotteries" and the Licensing Authority is responsible for registering these 'small' lotteries.

22.3 A society will be allowed to register with the Licensing Authority if it is a 'non-commercial' lottery, in other words, it is established and conducted:

- for charitable purposes ;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity ; or
- for any other non-commercial purpose other than for private gain.

22.4 The society must have been established for one of the permitted purposes and the proceeds of any lottery must be devoted to those purposes.

22.5 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority.

- 22.6 Societies wishing to run a small society lottery should complete the prescribed form that is available from the Licensing Authority, and return it to the Licensing Authority together with the relevant fee. The applicant will then be notified when the application has been registered.
- 22.7 The Licensing Authority will maintain a register of small societies lotteries that it has registered and will notify the Gambling Commission as soon as practicable of certain prescribed information about the society and the lottery.

### **23 Temporary Use Notices**

- 23.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Suitable premises might include hotels, conference centres and sporting venues.
- 23.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence.
- 23.3 At the time of writing, relevant regulations made under the Gambling Act 2005 state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner eg poker tournaments.
- 23.4 A set of premises cannot be the subject of temporary use notification for more than 21 days in a period of 12 months. This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises eg an exhibition centre with several exhibition halls.

### **24 Occasional Use Notices**

- 24.1 Occasional use notices provide permission for betting on a track on eight days or less in a calendar year without the need for a full premises licence.
- 24.2 Persons wishing to make use of the occasional use notice procedure should complete the appropriate form and return it to the Licensing Authority and the police.
- 24.3 This licensing authority will ensure that the statutory limit of eight days in a calendar year is not exceeded and will keep a record of the number of notices served in relation to each track.

## **GAMING AND GAMING MACHINE PERMITS**

### **25 Introduction**

- 25.1 A gaming machine can cover all types of gambling activity that can take place on a machine, including betting on 'virtual' events.
- 25.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 25.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:
- casinos
  - bingo premises
  - betting premises, (including tracks)
  - adult gaming centres
  - family entertainment centres
  - clubs
  - pubs and other alcohol licensed premises
  - travelling fairs

A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine.

The Licensing Authority will, where appropriate, seek to encourage permit and premises licence holders to adopt any codes of practice that may be introduced by the amusement industry from time to time.

As part of Gateshead Council's licensing function under the Gambling Act 2005 the licensing authority has responsibility for the issue of permits for licensed premises and club gaming machines, club gaming, gaming machines in unlicensed Family Entertainment Centres ("FECs") and for prize gaming.

Licensed premises, clubs and FECs are unlike other types of gambling premises in that gambling is not necessarily the main focus of the business or the main reason why people patronise the premises. For this reason, it is considered appropriate for this Statement of Principles to set out more detail about the principles and expectations of applicants in respect of the issue of permits.

This section relates to the exercise of the Licensing Authority's functions in respect of FEC permits, licensed premises gaming machine permits ("LP") and prize gaming permits (together referred to as "Permits") and is intended to enable persons who are considering making an application to the Licensing Authority for a Permit to

understand the measures that the Licensing Authority will expect applicants to have addressed when making an application. These measures will be applied by the Licensing Authority in determining whether an application for a Permit should be granted.

## **26 General principles**

26.1 Where the Licensing Authority receives an application for a Permit, in order for the application to be duly considered the Authority should receive the following –

- (1) The prescribed application notice completed in full clearly and legibly
- (2) The prescribed fee
- (3) Proof of the applicant's identity (and where the applicant is an individual, his / her age)
- (4) Proof of the applicant's right to occupy the premises for which the Permit is sought
- (5) (Where the applicant is an individual) a basic criminal record check no more than three calendar months old
- (6) Insurance certificate (or a certified copy duly stamped and signed by a solicitor / commissioner for oaths or notary public) confirming the availability of public liability insurance covering the proposed activity
- (7) A standard scale plan of the premises for which the Permit is sought showing –
  - (a) the boundary of the premises including any internal and external walls, entrances, exits, doorways and windows, and indicating the points of access available to the public
  - (b) the location of any fixed or temporary structures in the premises, including columns, stages, balconies and stairs
  - (c) the location of any counters, booths, offices or other locations from which staff may monitor the activities of persons on the premises
  - (d) the location of any public toilets within the boundary of the premises

- (e) the location of fire extinguishers and smoke detectors
- (f) the location of any ATM machines or other cash machines or change machines or other facilities by which persons may obtain monies to participate in the activities to be permitted under the Permit
- (g) the proposed location of the machines for which the Permit is sought, and any other gaming machines , specifying the nature of each machine
- (h) the location of any prize gaming paraphernalia including tables, seats, screens and prizes

26.2 The Licensing Authority will also expect the applicant to demonstrate effective policy and procedure for the protection of children and other vulnerable people from being harmed or exploited by gambling.

Applicants may wish to address the following issues, which are not an exhaustive list, and which may be more or less relevant depending on individual circumstances –

- (1) training for staff to seek appropriate proof of age and identity
- (2) maintenance of contact details for local schools, education authorities and the Gateshead Protection of Vulnerable Adults Multi Agency Committee
- (3) policy and procedure for liaison with appropriate responsible bodies including Northumbria Police, Tyne & Wear Fire and Rescue Service, and local community representatives and Neighbourhood Watch / Pubwatch
- (4) maintenance of records of local school term times
- (5) training in the reporting of truant children to appropriate bodies
- (6) training in dealing with the problems associated with the attendance or attempted attendance of truant children
- (7) policy and procedure to address any problems that may arise from increased numbers of children during non-term time, including to ensure that sufficient competent staff are on duty
- (8) maintenance of a register of incidents including refusals, attendance of truant children, excessive gambling by children and other vulnerable people, and anti-social behaviour, and training to be able to identify such incidents

- (9) policy and procedure to address such incidents including referral to management, consideration of response to patterns of incidents, and reporting incidents to relevant bodies
- (10) policy and procedure for the display of appropriate signage in relation to bodies offering assistance and advice, for instance GamCare and Child Line
- (11) training to ensure that all young children are accompanied by a responsible adult
- (12) policy and procedure to deal with attendance by unaccompanied young children
- (13) policy and procedure to regularly obtain enhanced criminal record checks for all staff working in the proximity of children
- (14) maintenance of staffing records including the names, dates of birth, National Insurance numbers and current addresses of all persons working in the proximity of children, and recording who is on duty at all times when the premises are open to the public

*Not all of these issues will be relevant to all premises; however this list is intended to be indicative of the issues you may need to consider. Equally, there may be issues that are relevant to particular premises that are not referred to above.*

## **27 Family Entertainment Centre Gaming Machine Permits**

- 27.1 FECs that require permits are defined in the Act as premises that are permitted to provide Category D gaming machines, but which do not have a Family Entertainment Centre Premises Licence.
- 27.2 The fact that a family entertainment centre is 'unlicensed' does not mean that it is unregulated. Rather, a premises licence is not required to operate as a FEC. Such FECs still require permits in order to provide Category D gaming machines.
- 27.3 Any premises wishing to provide any gaming machines outside Category D cannot qualify for a FEC Permit.
- 27.4 FECs will generally cater for families, including unaccompanied children and young people. Within the Borough it is anticipated that UFECs will generally be located at transport service centres, however this does not preclude FECs being located in other areas, and each application will be dealt with on its own merits.



- 27.5 The Licensing Authority will only grant a permit to a FEC where it is satisfied that the premises will be operated as a bona fide FEC.

*In addition to the documents set out above, it is this Licensing Authority's policy that applicants for a FEC permit must provide the Licensing Authority with evidence that the machines that are to be provided under the permit are to be supplied by a person holding a valid Gaming Machine Technical Operating Licence issued by the Gambling Commission.*

- 27.6 Where the Licensing Authority receives an application for a FEC permit, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.

- 27.7 The Licensing Authority will only grant an application following consultation with the Chief Officer of Police for the area in which the premises are situated, and will take into account any representations made.

- 27.8 As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

## **28 Prize Gaming Permits**

- 28.1 The Act defines 'prize gaming' as gaming where the nature and size of the prize that can be won is not determined by –

- the number of people participating in the gaming or
- the amount of money paid to participate or amount of money raised by the gaming.

- 28.2 For instance, 'prize gaming' may include bingo where participants pay a fixed amount to have the opportunity to win a fixed prize (regardless of the number of other participants); however this would not constitute 'prize gaming' if the size of the prize varied depending on how many people participated in that particular game.

- 28.3 A prize gaming permit will authorise the provision of facilities for prize gaming at specified premises.

- 28.4 The Act requires prize gaming providers to comply with the following –

- Limits on participation fees as set by Regulations from time to time;
- All chances to participate in the gaming must be acquired or allocated on the day and in the place which the gaming is taking place;

- The game must be played entirely on that day;
- The result of the game must be made public in the premises as soon as reasonably practicable and in any event on the day that the game is played;
- The prize for which the game is played must not exceed the prescribed amount (if a monetary prize) or prescribed value (if a non-monetary prize) set out in Regulations from time to time; and
- Participation in the gaming must not entitle the participant to take part in any other gambling.

28.5 Where the Licensing Authority receives an application for a prize gaming permit, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.

28.6 The Licensing Authority will only grant an application following consultation with the Chief Officer of Police for the area in which the premises are situated, and will take into account any representations made.

28.7 As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

## **29 Licensed Premises Gaming Machine Permits**

29.1 Premises licensed under the Licensing Act 2003 for on-premises sale of alcohol (not being Clubs are referred to in section 29 below) are entitled to provide equal chance gaming and gaming machines subject to certain conditions as follows –

### Gaming machines

29.2 LPs are automatically entitled to operate two Category C / D machines. *Gaming machines are considered to be ‘adult entertainment’ for the purposes of the Licensing Act. This automatic entitlement under the Gambling Act does not exempt permit holders from their requirement to set out in their operating schedule under the Licensing Act that they intend to provide ‘adult entertainment’ at the premises.*

29.3 The Act does not limit the number of machines that LPs may have under gaming machine permits, however it is this Licensing Authority’s policy that generally the number of machines that a LP is automatically entitled to should be sufficient. This does not preclude further machines being permitted where it is considered appropriate; particular consideration will be given to whether operators are complying with the

Gambling Commission Code of Practice in terms of supervision; *however it is the general view of this Licensing Authority that there should be no more than four such machines in operation on LPs.* Each case will be determined on its merits.

- 29.4 There are no requirements for such permits to be renewed, as they are of indefinite duration. The permit will continue as long as the premises licence remains in existence, the premises licence holder continues to hold the licence, and the permit has not been surrendered, cancelled or forfeited.
- 29.5 Permits are not transferable. If the premises licence holder changes then the new licence holder must apply for a new permit.
- 29.6 Where the Licensing Authority receives an application for a gaming machine permit from premises licensed under the Licensing Act 2003, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.
- 29.7 Applicants and permit holders should be aware of the Gambling Commission's Code of Practice for Gaming Machines in Clubs and Premises with an Alcohol Licence issued in August 2014. It is expected that they will comply with the provisions of the Code, and this will be monitored through inspections and test purchasing as appropriate.
- 29.8 As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

Exemption - Equal chance gaming

- 29.8 LPs may provide equal chance gaming where the following conditions are satisfied –
1. the limits on the prizes and amounts staked that are prescribed by the Secretary of State must be adhered to;
  2. there must be no fee charged to participate in the gaming, nor any monies taken from the monies staked or won;
  3. children and young people must not be permitted to participate in the gaming; and
  4. any game played at one pub must not be linked to a game played at any other pub.
- 29.9 This is not an absolute entitlement – it may be lost if high turnover bingo is played during a high turnover period. This means that if during a period of seven days the combined total of stakes or prizes for bingo played at the LP is more than an amount prescribed by the Secretary

of State (currently £2,000), a 'high turnover period' is deemed to have begun from the start of that seven day period. If, during that high turnover period, the combined total of stakes or prizes for bingo played at the LP exceeds the prescribed amount again, then 'high turnover bingo' is deemed to have taken place, and the entitlement is lost.

29.10 If this happens and the LP fails to notify the Gambling Commission then an offence under the Act is committed.

29.11 Also, the Licensing Authority may withdraw the entitlement of a LP to hold equal chance gaming if it is considered that –

- an offence under the Act has been committed at the LP (for instance as above);
- the LP is (or will be) solely or mainly used for gaming;
- if equal chance gaming is permitted to be held it would be inconsistent with the licensing objectives as above; or
- gaming has taken place in breach of a condition of section 284 of the Act.

29.12 Where this is the case, the Licensing Authority may remove the LP's entitlement to provide equal chance gaming. However, the Licensing Authority will only do so where it has given the premises licence holder at least 21 days notice of its intention to consider doing so. The Licensing Authority will take into account any representations made by the premises licence holder in making its determination. If the Licensing Officer determines that this entitlement to provide equal chance gaming should be removed, the applicant may request that the matter be considered at a hearing by the Sub Committee.

29.13 If an order is made by the Licensing Authority preventing equal chance gaming from being provided, that order will be provided to the premises licence holder with the Licensing Authority's reasons for reaching that decision. The order may be appealed to the Magistrates Court within 21 days of receipt of notification of the decision.

### **30 Clubs - Gaming and Gaming Machine Permits**

30.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming permit. The Club Gaming permit will enable the premises to provide gaming machines, equal chance gaming machines and games of chance.

30.2 Members Clubs, Miners' Welfare Institutes *and* Commercial Clubs may apply for a Club Machine permit. A Club Machine permit will enable the premises to provide gaming machines.

30.3 This licensing authority may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Gambling Commission or Police.

### **31 Exchange of information**

31.1 Subject to the provisions of the Data Protection Act 1998 the Licensing Authority will share any information it receives, through the application process with the Gambling Commission and other persons or bodies with functions under the Act as set out in Schedule 6. In doing so the Licensing Authority will have regard to the Act itself, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

### **32 Public register**

32.1 The Licensing Authority keeps a public register which lists all small society lotteries, adult gaming centre licensed premises, betting premises, bingo premises, clubs with machine permits, licensed premises with gaming machine permits, and notifications of intent received by the Licensing Authority. This register can be accessed online via Gateshead Council's website.

### **33 Enforcement**

33.1 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

33.2 In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling and is the enforcement body for operating and personal licences.

33.3 The Licensing Authority will work with the Commission, the police and other enforcing authorities to provide for the targeting of agreed

problem or high-risk premises. A lighter touch will be applied to those premises that are shown to be well managed and maintained.

- 33.4 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the review process.
- 33.5 Licensees should be aware that this Authority will monitor compliance. This may include test purchasing and inspections as appropriate to evaluate the effectiveness of control measures.
- 33.6 In cases where more formal action is considered to be appropriate, the key principles of consistency, transparency and proportionality will be observed in accordance with the Gambling Commission's Guidance to Licensing Authorities and the Development and Public Protection Policy Enforcement Policy which can be found on the Council website at [www.gateshead.gov.uk](http://www.gateshead.gov.uk).

#### Statutory Regulators Code

- 33.7 This Authority will have regard to the Statutory Regulators Code which came into force in April 2014. We support the principle of better regulation to promote efficient, proportionate and effective approaches to enforcement and inspection that improve regulatory outcomes without imposing unnecessary burdens on business. This Authority acknowledges the Primary Authority Scheme. This scheme allows businesses to be involved in their own regulation. It enables them to form a statutory partnership with one local authority, which then provides robust and reliable advice for other local regulators to take into account when carrying out inspections or addressing noncompliance. Where there is a Primary Authority Arrangement in place between a business operator and a local authority no enforcement action will be taken before consultation with the Primary Authority. Arrangements currently exist between:

- Coral – London Borough of Newham
- William Hill - City of Westminster
- Ladbrokes - Milton Keynes
- Paddy Power - Reading

Further information on the scheme and an up to date list of arrangements can be accessed at:

<https://primaryauthorityregister.info/par/index.php/home>.

#### **34 Exercise of functions**

- 34.1 The Licensing Authority's licensing functions under the Act will be carried out by the Licensing Committee, supported by a number of sub-

committees and by officers acting under the delegated authority of the committee.

- 34.2 Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.
- 34.3 Where there are relevant representations in respect of an application the matter will be determined by the Licensing Committee or one of its sub-committees, as will any application for the review of a licence.
- 34.4 The licensing authority, when carrying out its functions with respect to premises licences under the Act shall aim to permit the use of premises for gambling in so far as it thinks it
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's Statement of Principles.
- 34.5 The principles that will be applied by this authority in exercising its functions with respect to the inspection of premises and in exercising its powers to institute criminal proceedings in respect of specified offences are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to:

- be proportionate, accountable, consistent, transparent and targeted
  - avoid duplication with other regulatory regimes so far as possible
- 34.6 Under the Gambling Act, certain functions are reserved to the full Council, ie setting of this Statement of Principles, and determining whether or not to have casinos. The full Council will also determine any fees charged by the Council which are not prescribed by the Secretary of State.
- 34.7 The following applications will be dealt with by officers where there are no representations, and by the Sub Committee if representations are made and not withdrawn:
- application for a premises licence
  - application to vary an existing premises licence
  - application to transfer a premises licence
  - application for a provisional statement

- application for club gaming/club machine permit

34.8 The following matters will be dealt with by the Sub Committee:

- review of premises licence
- cancellation of club gaming/club machine permit
- decision whether to serve counter notice to temporary use notice
- decision whether to disapply sections 279/282(1) for a specified premises holding a licence under the Licensing Act permitting sale/supply of alcohol for consumption on the premises
- refusal to register a small lottery
- revocation of a small lottery registration
- hearing following Licensing Officer's refusal to grant a gaming machine permit / prize gaming permit

All other functions shall be delegated to officers save where they may not be under the Act or the Council's Constitution. Any matter that can be dealt with by Sub Committee or the full Licensing Committee, where it is considered to be appropriate to do so in the individual circumstances.

All applications will be considered with on their own merits.

## **35 Reviews**

35.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's Statement of Principles.

35.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

35.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate. The licensing authority may initiate a review of a premises licence on the grounds that a premises



licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

- 35.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority will carry out the review as soon as possible after the 28 day period for making representations has passed.

- 35.5 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:

- (i) add, remove or amend a licence condition imposed by the licensing authority;
- (j) exclude a default condition imposed by the Secretary of State (eg opening hours) or remove or amend such an exclusion
- (k) suspend the premises licence for a period not exceeding three months; and
- (l) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in 33.1 above as well as any relevant representations.

- 35.6 Once the review has been completed, the licensing authority will, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if not the Licensing Authority)
- the Gambling Commission
- any person who made representations
- the chief officer of police
- Her Majesty's Revenue and Customs

- 35.7 To date there have not been any reviews in the Borough.

## **36 Appeals**

- 36.1 Where an applicant, licence holder or person who has made a representation is aggrieved by a decision of the Licensing Authority, there is a right of appeal. In certain circumstances there is also a right for the Gambling Commission to appeal against decisions of the Licensing Authority. The appeal must be lodged with the Magistrates' Court within 21 days from the date on which the aggrieved person was

notified of the Authority's decision. The appeal must be lodged in the Magistrates' Court where the premises are situated.

- 36.2 Generally a decision will not have effect until the time for bringing an appeal has passed, or if an appeal is brought, until it is determined or abandoned. However the Licensing Authority can decide that its decision should have effect immediately, and this will be considered on each occasion having due regard to the individual circumstances and in particular any immediate risk to public safety.

### **37 Complaints about premises / activities**

- 37.1 The Licensing Authority will investigate complaints about licensed premises and activities taking place at unlicensed premises. Where appropriate, complainants will in the first instance be encouraged to raise the complaint directly with the licensee or business concerned. In the case of a valid complaint, the Licensing Authority will initially endeavour to seek resolution through informal means.

- 37.2 All complaints must in the first instance be addressed to the Environmental Health Licensing and Enforcement Manager, Development & Public Protection, Gateshead Council, Civic Centre, Regent Street, Gateshead, Tyne & Wear, NE8 1HH.

- 37.3 The Licensing Authority will only investigate complaints under this Policy where they relate to one or more of the licensing objectives.

- 37.4 Where appropriate, the Licensing Authority may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

### **38 Fees**

- 38.1 The Department of Culture, Media and Sport (DCMS) published the Gambling (Premises Licence Fees) Regulations 2007 on 21 February 2007. The Regulations provide for Licensing Authorities to determine the fees, subject to maximum fees prescribed in the Regulations. The Regulations provide for licensing authorities to determine separate fees for different types of activities associated with licences (eg application for a licence; application to vary a licence etc) and the annual fees payable in respect of a licence. The Regulations also provide for Licensing Authorities to determine separate fees for different classes of premises licence (eg those relating to bingo halls, betting shops etc) prescribing the maximum fees chargeable for each type of gambling premises.

- 38.2 Under Section 212(2)(d) of the Gambling Act 2005, in determining fees, Licensing Authorities must aim to ensure that the income from the fees

as nearly as possible equates to the cost of providing the service to which the fee relates. Fees will include the cost of administration (including hearings and appeals), inspection and enforcement associated with the regime (direct and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge). The fees are reviewed annually.

- 38.3 The current Gambling Act fees can be found on the Council website at [www.gateshead.gov.uk](http://www.gateshead.gov.uk).

### **39 Contact details**

Should you have any comments as regards this policy statement please send them via email or letter to the following contact :

Environmental Health, Licensing and Enforcement Manager  
Development and Public Protection  
Gateshead Council  
Civic Centre  
Regent Street  
Gateshead  
Tyne & Wear  
NE8 1HH

Telephone : 0191 4334741

Email : [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so

The Council reserves the right to amend this Statement should it be necessary to do so following Regulations issued by the Secretary of State or further Guidance from the Gambling Commission.

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**COUNCIL MEETING**

**17 December 2015**

## **STATEMENT OF LICENSING POLICY**

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**Jane Robinson, Chief Executive**

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### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of a revised Licensing Policy for 2016 – 2021 in accordance with the Licensing Act 2003.
2. The Council is the licensing authority for the borough for the purposes of the Licensing Act 2003. The Act requires licensing authorities to prepare and publish a statement of its policy every five years.
3. The proposed Licensing Policy (appended to this report) has been produced following a widespread public consultation that took place over a 12 week period between July and October 2015.
4. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

5. It is recommended that Council approve the adoption of the Statement of Licensing Policy and its publication in accordance with the requirements of the Licensing Act 2003.

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**TITLE OF REPORT:** Statement of Licensing Policy 2016 - 2021

**REPORT OF:** Paul Dowling, Strategic Director, Communities and Environment

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### **Purpose of the Report**

1. The purpose of this report is for Cabinet to approve and recommend to Council a revised Licensing Policy for 2016 – 2021 in accordance with the Licensing Act 2003.

### **Background**

2. The Council is the licensing authority for the borough for the purposes of the Licensing Act 2003. The Act requires licensing authorities to prepare and publish a statement of its policy every five years.
3. The Policy seeks to achieve the licensing objectives, namely:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance; and
  - The protection of children from harm
4. On 14 July 2015 Cabinet gave approval for a widespread public consultation on a draft revised Statement of Licensing Policy. The consultation took place over a 12 week period between July and October 2015.
5. The responses to the consultation were considered by a Policy Advisory Group on 18 November 2015 and advice was given as to how the draft policy should be amended. Notes from the meeting are attached in Appendix 2.
6. An executive summary of the Statement of Licensing Policy is attached at Appendix 3 and the full Policy is attached at Appendix 4.

### **Proposal**

7. Cabinet is asked to recommend the Council to approve the revised Statement of Licensing Policy.

### **Recommendations**

8. Cabinet is asked to recommend the Council to approve the adoption of the Statement of Licensing Policy and its publication in accordance with the requirements of the Licensing Act 2003.

For the following reason:

To ensure that the Council's functions under the Licensing Act 2003 can be discharged effectively.

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**CONTACT:** Elaine Rudman

extension: 3911



## Policy Context

1. The adoption of the Statement of Licensing Policy will allow the Council to carry out its duties as a Licensing Authority under the Licensing Act 2003. It contributes towards the refreshed Vision 2030, Gateshead's Sustainable Community Strategy and to the Council Plan. The policy contributes to the Council's vision for a reduction in the harm associated with alcohol set out in the Substance Misuse Strategy.

## Background

2. Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy every five years. The policy must be published before the authority carries out any licensing function in relation to applications made under the Act.
3. Revised Guidance under Section 182 of the Licensing Act 2003 from the Home Office in March 2015 stipulates what licensing authorities should include in their licensing policies, and how they should consult with specified stakeholders prior to adopting their policy.

## Consultation

4. A draft policy document was subject to a widespread public consultation between 23 July and 16 October 2015.
5. Consultation took place with a wide range of persons and organisations with an interest in the provision of licensable activities including:
  - The chief officer of police for the area
  - The fire and rescue authority for the area
  - Persons/bodies representative of local holders of premises licences
  - Persons/bodies representative of local holders of club premises certificates
  - Persons/bodies representative of local holders of personal licences
  - Persons/bodies representative of businesses and residents in the area

Consultation also took place with Gateshead's Community Safety Partnership, those charged locally with the promotion of economic growth and tourism and individuals and organisations with an interest in the regulation of licensable activities both locally and nationally. The Cabinet Members for Environment and Transport have been consulted.

6. Nine responses to the consultation were received, and a Policy Advisory Group considered these on 18 November 2015. The Group gave advice for amendment to the draft policy and guidance to incorporate some of the feedback received from the consultees. The advice given by the Policy Advisory Group is attached in Appendix 2.
7. The draft policy has been revised in accordance with the advice of the Policy Advisory Group.

## **Alternative Options**

8. No alternative options are considered appropriate as the Licensing Authority has a statutory duty under the Licensing Act 2003 to prepare and publish a statement of its policy at this time.

## **Implications of Recommended Options**

### **9. Resources:**

- a) **Financial Implications** – The Strategic Director, Corporate Resources, confirms that there are no additional financial implications arising from this report.
  - b) **Human Resources Implications** – There are no human resources implications from the recommended options.
  - c) **Property Implications** - There are no property implications from the recommended options
10. **Risk Management Implications** - There are no risk management implications from the recommended options.
  11. **Equality and Diversity Implications** - an Equality Impact and Needs Assessment of the policy has indicated a neutral impact.
  12. **Crime and Disorder Implications** – There are no crime and disorder implications from the recommended options.
  13. **Health Implications** – While health is not an objective of the Licensing Act 2003 the revised policy contributes to the Council’s vision for a reduction in the harm associated with alcohol.
  14. **Sustainability Implications** - There are no sustainability implications from the recommended options
  15. **Human Rights Implications** - There are no human rights implications from the recommended options
  16. **Area and Ward Implications** - This report affects all wards equally.

## **Background Information**

17. These documents that have been considered in preparation of the report:
  - Licensing Act 2003
  - Home Office Guidance issued under section 182 of the Licensing Act 2003 (March 2015)

**Policy Advisory Group – 18 November 2015****Report to Cabinet**

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Purpose of the Meeting

The purpose of the meeting was to consider the responses to the recent public consultation on the draft Statement of Licensing Policy and how the draft policy should be amended before returning to Cabinet with the final policy for approval by Council.

Elaine Rudman, Environmental Health, Licensing & Enforcement Manager outlined the duty of Licensing Authorities to prepare and publish a statement of licensing policy every five years and confirmed that the next statutory period begins on 7 January 2016.

Summary of Advice:

- It was felt that more explicit reference to concerns about multiple drinks promotions be contained in the policy and that it should include a statement about responsible product placement.
- It was agreed that the statement about the sale of alcohol from petrol stations / garages should be strengthened.
- It was agreed that the protection of children from alcohol related harms should be emphasised in the policy, in particular around restricting external shop promotions of alcohol in the vicinity of schools.
- Following the response to the consultation from Star Pubs and Bars Ltd it was agreed that the automatic entitlement to gaming machines requires notification and that the policy sets out general expectations rather than specific requirements.
- The Advisory Group agreed that there should be more enforcement around the requirement to display a drinks price list.
- Following the response from Campaign for Real Ale it was acknowledged that the flexibility given to licensing authorities to restrict opening hours was fundamental to the Act.
- In relation to the response from Campaign for Real Ale it was acknowledged that the Local Licensing Guidance would address public transport to and from pubs.
- Following the response to the consultation from Campaign for Real Ale the Advisory Group recognised that Late Night Levys can only be introduced following a full consultation process.
- The Advisory Group agreed that the response from Campaign for Real Ale around encouraging community pubs to become assets of community value was not relevant to the promotions of the licensing objectives.
- The Advisory Group agreed with the response from Newcastle Gateshead CCG that the policy shows a commitment to address health harms.

- It was agreed that the age verification standard should be increased from 18 to 25.
- The Advisory Group agreed that the policy should clarify record keeping about training and the maintenance of a register of refusals and proxy sales to adults.
- The Advisory Group suggested that the potential of promoting the policy in schools should be looked at.
- It was agreed that the reference to 'Designated Public Place Orders' be changed to 'Public Space Protection Orders'.
- It was agreed that it should be included in the policy that there is an expectation that off sales premises would not normally be open 23:00 – 07:00.
- The Advisory Group agreed that it should be included in the policy that there is an expectation that a designated premises supervisor will be involved in the premises.

**Chair:** Councillor B Clelland

**Members Present:** Councillors M Hood and M Graham

**Officers Present:** Elaine Rudman – Communities and Environment  
Roselyn White – Corporate Services and Governance

**Licensing Policy 2016 – 2021  
Executive Summary**

Gateshead Council has a statutory duty to publish a statement of its licensing policy every five years. The purpose of the policy is to set out what this Licensing Authority expects of the people that it authorises to carry out licensable activities, the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment in the Borough.

The Policy seeks to achieve the four licensing objectives of the Licensing Act 2003, namely –

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

and sets out the issues that are of particular relevance or concern within Gateshead and the approaches that the Licensing Authority would expect responsible licensees to take into account in order to promote these objectives.

This revised policy for 2016 – 2021 reflects the significant changes that have taken place in Gateshead over the last five years and the potential for further change in the future. It seeks to address the impact of licensable activities on local communities and individuals and to provide a wide range of relevant information for those who seek to carry on licensable activities within localities.

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## **STATEMENT OF LICENSING POLICY**

**Licensing Act 2003**

**7 January 2016 - 6 January 2021**

## **Contents**

1. Foreword by Councillor John McElroy
2. Strategic Context
3. Local Context
4. Legal Context
5. Integration with other legislation, policies, and guidance
6. General principles of the Policy
7. Licensing Objectives
8. Types of activity that may heighten concern as to the promotion of the licensing objectives
9. Licensing Hours
10. Operating Schedules
11. Designated Premises Supervisor
12. Conditions
13. When things go wrong
14. Delegation and Decision Making
15. Consultation and Review
16. Further information

Appendix 1



## **1. Foreword by Councillor John McElroy**

- 1.1 The Licensing Act has been in force now for ten years, and has contributed to a significant change in how licensable activities are carried on in the Borough.

In Gateshead, both the licensed trade and its patrons are, on the whole, responsible and sensitive to the needs of the communities in which licensed activities take place.

However, the trend away from drinking in pubs and clubs to consumption of alcohol at home presents a different set of challenges in terms of minimizing the harms that can arise.

There has been an increase in the availability and accessibility of alcohol, and a broadening of the type of premises where it is made available. Consequently, there is now an increased role for the licensing regime to play in safeguarding the most vulnerable members of our society.

The licensing regime is not only about the sale and supply of alcohol – the provision of regulated entertainment and late night refreshment equally present challenges to ensure that crime, disorder and public nuisance are prevented, public safety is promoted and children are protected from harm.

There is no single answer to the challenges we will face in the coming months and years; but the licensing regime is key to giving residents and responsible authorities an opportunity to have their say on important matters that can impact their community, and I would encourage everyone to utilise it to its fullest potential.

## **2. Strategic Context**

- 2.1 The Council's overall vision for Gateshead, as described in Gateshead Strategic Partnership's Community Strategy – Vision 2030 and the Council's Corporate Plan is:

“Local people realising their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead”

- 2.2 The licensing of premises plays an important role in realising this vision, contributing significantly to the Economy, Environment, and Health areas contained within Priority 1 of the Corporate Plan, in providing safe and accessible venues that promote healthy lifestyles and contribute to economy of the Borough.
- 2.3 This Policy set out what this Licensing Authority expects of the people that it authorises to carry out licensable activities in the Borough of Gateshead.
- 2.4 Applicants and licensees are of course expected to be familiar with the relevant legislation and the National Guidance issued by the Home Office, but they are also expected to be familiar with the exigencies of the locality that they operate in. This applies to everyone seeking to carry on licensable activities in the Borough, whether they are a large national chain or a small community premises.

2.5 The promotion of the licensing objectives underpins every decision that the Licensing Authority makes. How the objectives are best promoted can vary from place to place, and depending on the nature and scale of the activities that are to be carried out. This Policy sets out the issues that are of particular relevance or concern within Gateshead, and the approaches that this Licensing Authority would expect responsible licensees to take into account in their operation.

2.6 The Policy links closely with a number of key plans and strategies produced by the Council and its partners, as set out below in the section headed 'Integration with other legislation, policies and guidance'.

### **3. Local context**

3.1 Gateshead is located on the southern bank of the river Tyne, opposite Newcastle upon Tyne to the north, and bordering County Durham to the south, Northumberland to the west and South Tyneside/Sunderland to the east. It is a constantly changing borough combining modern facilities with a fascinating heritage. The borough stretches almost 13 miles along the south bank of the river Tyne and covers 55 square miles, making it the largest of the five Tyne and Wear authorities.

3.2 Gateshead is a borough of contrasts. It has a large urban hub centred around the main town centre area in Bridges ward and has a number of smaller urban centres and busy employment areas such as Blaydon, Whickham, Felling and Birtley. However, around two thirds of the borough is rural with numerous small settlements such as Kibblesworth, Sunnyside, Chopwell and High Spenn.

3.3 Built on traditional industries of mining and heavy engineering, the 1930's saw diversification through the development of the Team Valley Trading Estate (TVTE), the first trading estate of its type in the UK. Centrally located for the region the TVTE has become prominent for transport and distribution activities and is the borough's most prestigious employment centre, attracting the highest number of inward commuters to the borough on a daily basis.

3.4 The 1970s saw the decline of many of the region's traditional industries. A high proportion of those who lived in Gateshead worked in these industries, resulting in unemployment and high levels of deprivation and financial/social exclusion, the impact of which is still being felt today. In the 1980's Gateshead saw the development of the MetroCentre, now boasting over two million sq ft of retail and leisure floor space, one of the UK's and Europe's largest shopping centres.

3.5 The urban core, shared with Newcastle, is the focus of regeneration, promoting growth through the digital economy, knowledge-based businesses and cultural-led regeneration. Major initiatives such as the Sage Gateshead, BALTIC Centre for Contemporary Art, Gateshead College and the Gateshead Millennium Bridge have all been developed over recent years.

3.6 Gateshead has a population of around 200,000 living in 90,600 households. The population has reduced by around 13,000 since the 1980's but has grown over the last decade by around 8,000. This growth has been most significant for older age groups with an 11% increase in 45-64 year olds and an 11% increase in those aged 65 and over. In contrast, the number of 0-24 year olds fell slightly by 0.7%

over the decade. Population projections from the Office for National Statistics predict that this ageing population trend will continue into the future, becoming more pronounced as life expectancy continues to increase.

### Crime and anti-social behaviour in Gateshead

- 3.7 The number of recorded crimes across the Borough that were linked to alcohol has increased year on year, with 1,386 alcohol-related crimes recorded in 2014/15 which was an 11% increase from 2013/14, compared to a 7% increase in all crime.
- 3.8 More than half the alcohol-related crimes in the Borough in 2014/15 were violence against the person, with significant increases particularly in the number of assaults. It is notable that whilst incidents of the most serious violence are still relatively infrequent, they have more than doubled in the last year. There have also been significant increases in the numbers of alcohol-related sexual offences and burglaries in the Borough in that time.
- 3.9 Temporal profiles show that almost half of all alcohol-related crimes in the Borough are reported on Friday late evenings / Saturday early mornings, Saturday late evenings / Sunday early mornings and (to a lesser extent) Sunday late evenings / Monday early mornings.
- 3.10 Data provided by Northumbria Police enables the Council to identify the most vulnerable locations throughout the Borough in terms of alcohol-related crimes, and to track trends over time. Information about these areas is contained in 'Local Licensing Guidance' documents which are described in further detail below, and will be available from the Council's website and upon request.

### Public health in Gateshead

- 3.11 In 2012 the Police and Social Responsibility Act 2011 introduced public health as a responsible authority under the Licensing Act 2003.
- 3.12 Public health is "the science and art of promoting and protecting health and well-being, preventing ill-health and prolonging life through the organised efforts of society." The Public Health Outcomes Framework acknowledges that health is influenced not only by lifestyle choices but also by a range of wider determinants, including the physical environment, domestic abuse, violent crime and noise nuisance.
- 3.13 Gateshead Council recognises the impact upon population-level health that alcohol consumption can cause. While the protection of public health is not a discrete licensing objective, it can where appropriate permeate each of the licensing objectives.
- 3.14 Each year Gateshead's Director of Public Health publishes an Annual Report, the most recent at the time of writing being published in October 2014. The report recognises that alcohol is a complex social issue which forms part of our everyday social fabric, is a source of pleasure and enjoyment to many; but is also a potentially addictive substance which is promoted by powerful commercial forces,

especially to young people. It highlights the growing evidence of rising alcohol harm on the health of people in Gateshead, and focusses on approaches to tackling alcohol harm.

- 3.15 The report identifies, for instance, that –
- Around one in 5 secondary school / higher education students in Gateshead admit to drinking alcohol; and
  - The number of alcohol specific hospital admissions for secondary school / higher education students in Gateshead is increasing.
- 3.16 Public health data enables the Council to identify the most vulnerable locations in the Borough in terms of alcohol-related harm, and to track trends over time. This data can be particularly relevant to the protection of children from harm, and may also assist in the prevention of crime and disorder, public nuisance and to public safety.

#### Local Licensing Guidance

- 3.17 Different localities within the Borough have different characters, and challenges, both of which can change over time depending on a range of factors. To assist applicants and licensees in their understanding of local issues that they should be cognisant of, from time to time the Council publishes and updates 'Local Licensing Guidance' documents on its website.
- 3.18 The Local Licensing Guidance provides information about the causes of serious and chronic concern in these localities. The areas covered by the guidance can vary depending on the nature of the problems that are identified, so may relate to the whole of a particular Ward or for instance to street level. The guidance can include a wide range of information that is considered to be relevant to those who seek to carry on licensable activities within the area, for instance –
- The physical environment (including transport, school walking routes, blocks of flats, commercial / residential proximity, etc)
  - Existing licensed premises
  - Health data (such as hospital admissions for under-18s, ambulance calls for alcohol related reasons)
  - Crime and disorder hotspots
  - Known areas of congregation
  - Local initiatives (such as Pubwatch, Offwatch, Community Alcohol Partnerships etc)
  - Local concerns about the promotion of the licensing objectives (including from Ward Members, community leaders, GPs, schools, etc)
- 3.19 The Local Licensing Guidance will be produced by the Council's Public Health team with the input of Responsible Authorities and other stakeholders as appropriate; and presented to and approved by the Council's full Licensing Committee.
- 3.20 It is recommended that applicants and licensees have regard to these documents when considering their operating schedule. In particular, where the Local Licensing Guidance identifies measures that it is believed will help to promote the licensing objectives in respect of certain licensable activities due to the issues that have been

identified, if an applicant or licensee chooses not to adopt those measures this may result in representations being made.

#### **4. Legal Context**

- 4.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued by the Home Office under Section 182 of the Act.
- 4.2 The Licensing Authority is responsible for –
- (a) the licensing of licensable activities under the Licensing Act 2003 (The Act)
  - (b) ensuring that those who are authorised under the Act comply with the requirements; and
  - (c) ensuring that only those who are duly authorised to carry out licensable activities do so.
- 4.3 This document sets out the Licensing Authority’s policy as to how it will fulfil its obligations and achieve its strategic aims in this respect.
- 4.4 This Policy should be read in conjunction with the Act itself, the Home Office Guidance, and the other policies and guidance that are referred to in this document.
- 4.5 This Licensing Authority regards each of the Licensing Objective to be of equal importance.
- 4.6 This document sets out the policies the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions under the Act, and when addressing non-compliance with the Act itself or any authorisations issued under the Act. The Licensing Authority will consider deviating from the policy on a case by case basis, where it believes it to be appropriate and proportionate in all the relevant circumstances.

#### **5. Integration with other legislation, policies and guidance**

- 5.1 Anyone who is or who seeks to be authorised under the Act to carry out licensable activities in the Borough of Gateshead should be aware of the other legislation, policies and guidance that may apply to their business. Failure to comply with other legislation and/or regulatory regimes can indicate that a licensee is irresponsible, which may call into question their ability to adequately promote the Licensing Objectives.
- 5.2 Although from the perspective of the business proprietor, there may be an element of crossover between licensing and other regimes, they are separate and are treated as such by the Council.
- 5.3 Applicants and licensees need to be aware of and have regard to –
- Gateshead Strategic Partnership’s Community Strategy – Vision 2030
  - the Gateshead Local Plan
  - Substance Misuse Strategy

- Culture Strategy
- Gateshead Transport Strategy & Tyne & Wear Local Transport Plan
- The Local Government Declaration on Alcohol signed by Gateshead Council in June 2015

5.4 The Licensing Authority will seek to achieve integration with relevant strategies and their aims in its decision making.

#### Human Rights

5.5 The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 that everyone has the right to respect for their home and private life; and
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions.

#### Equality and Diversity

5.6 Applicants and licensees should be aware of their obligations under the Equality Act 2010 and the characteristics protected by the legislation which are –

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex; and
- Sexual orientation

5.7 It is expected that responsible licensees will be sensitive to the needs of their varied customer base and prepared to make reasonable adjustments to accommodate those needs.

5.8 The Equality Act 2010 also requires the Licensing Authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between people with different protected characteristics. Each application will be considered with this in mind.

#### Crime and disorder

5.9 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the Council, Northumbria Police and others to consider crime and disorder reduction in the

exercise of all their duties. The reduction of crime and disorder is integral to this Council's approach to the Licensing Act.

#### Data protection

- 5.10 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.

#### Local Government Declaration on Alcohol

- 5.11 Gateshead Council has signed the Local Government Declaration on Alcohol, and has committed to –
- Promoting the introduction of greater regulations around the price, promotion and availability of alcohol
  - Calling for changes to the Licensing Act in favour of local authorities and communities, to enable greater control on the number, density and availability of alcohol according to local requirements
  - Putting public health and community safety at the forefront of public policy-making about alcohol
  - Making best use of existing licensing powers to ensure effective management of the night-time economy; and
  - Raising awareness of the harm caused by alcohol to individuals and our communities.
- 5.12 It is recognised that the regime under the Licensing Act is only one part of the framework needed available to achieve these aims; that in terms of alcohol the Act only regulates its sale and supply – not its consumption; and that the regime cannot be utilised where the Council's aims do not pertain to the objectives set out in the Act.
- 5.13 However the licensing regime has proven to be an effective tool in Gateshead for the control of price, promotion and availability of alcohol –
- **Price** – The sale / supply of cheap alcohol can lead to its over-consumption which in turn can undermine the licensing objectives particularly in respect of the prevention of crime and disorder and the protection of children from harm. This Licensing Authority has imposed and will continue to will impose minimum unit price requirements where appropriate to promote the licensing objectives, and as part of a range of measures to tackle identified concerns. For instance, alcohol can be 'cheap' not only due to its price but also due to its strength. Where appropriate this Licensing Authority will also impose conditions to control the sale of certain types of product, such as 'super strength' ciders, spirits, etc.

- **Promotion** – The Government has imposed certain mandatory conditions to prohibit irresponsible drinks promotions where the consumption is intended to take place on the premises. This Licensing Authority will impose further conditions on licences where it is appropriate and proportionate to do so, which will depend on the individual circumstances. For instance, conditions can be imposed to prevent promotions which are aimed at young people particularly in the vicinity of schools and other locations attended by children, and promotion of potentially dangerous alcoholic products such as cocktails containing liquid nitrogen. Gateshead Licensing Authority’s expectations with respect to the promotion of alcohol in off licensed premises are set out in 8.18 below.
- **Place** – There are a range of measures that can assist in controlling the availability of alcohol in defined localities where there is appropriate evidence to support the restriction. These include –
  - Cumulative impact policies
  - Night time levy
  - Early morning restriction orders

The evidential basis to consider implementing any of these measures in Gateshead has not yet been put forward, however if evidence supports their implementation in the future this will be duly considered.

#### Public Space Protection Orders

5.14 The following locations have been designated as alcohol exclusion areas:

- Gateshead
- at all of the Metro stations in the borough
- Birtley
- Whickham
- Ryton
- Winlaton

5.15 This means that within the exclusion zones it is an offence to refuse to comply with the reasonable request of a Police Constable or authorised officer to stop consuming alcohol or to hand over alcohol for confiscation. Licensed premises (and their curtilages) are excluded from the scope of the Orders while licensable activities are authorised to take place.

#### Social Responsibility

5.16 The Portman Group has produced a code of practice on the naming, packaging and promotion of alcoholic drinks. Licensees that sell or supply alcohol are expected to have regard to the code of practice as amended from time to time. [http://www.portmangroup.org.uk/docs/default-source/code-of-practice/7609\\_por02\\_code\\_of\\_practice\\_final.pdf](http://www.portmangroup.org.uk/docs/default-source/code-of-practice/7609_por02_code_of_practice_final.pdf)



## Pubwatch

- 5.17 A Pubwatch scheme has been in existence in the Borough for some time. It is led by Northumbria Police, and provides a forum for licensees to gain support from the Police, the Council and other licensees to tackle the problems associated with individuals who cause disturbance, disorder, use drugs or use or threaten violence in and around licensed premises. By acting collectively in excluding such people from a number of premises in the area, this means that the problem is not simply moved from one pub to the next. Pubwatch schemes have been found to be effective tools in tackling anti-social behaviour in many areas where the schemes are well run and there is a significant level of participation by licence holders in the borough. The Gateshead Alcohol Harm Reduction Strategy 2013-2015 recognises the importance of the Pubwatch scheme and envisages it being used to share and develop best practice and as a forum for training.

## Regional and national working

- 5.18 The Licensing Authority participates in regional working through the North East Strategic Licensing Group, which is comprised of representatives of each of the twelve North East Licensing Authorities, and forms part of the North East Public Protection Partnership.
- 5.19 The Licensing Authority also works closely with Balance – the North East Alcohol Office, to achieve an integrated approach across the region and with key partners such as the Police.
- 5.20 From the national perspective, representatives of the Licensing Authority participate in the Local Government Association’s Licensing Policy Forum, and the Licensing Special Area of Activity for Lawyers in Local Government.

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

- 6.1 Each application will be determined on its merits having regard to this Policy, Guidance under Section 182 of the Act, the Act itself and supporting Regulations.
- 6.2 The Licensing Authority considers –
- the effective and responsible management of premises
  - instruction, training and supervision of staff; and
  - the adoption of best practice

to be amongst the most important control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority will expect these elements to be specifically considered and addressed within an applicant’s operating schedule.

- 6.3 Applicants who do not clearly demonstrate how they intend to address these issues in their operating schedules should expect their applications to be objected to, including by the Licensing Authority.

6.4 Also, licensees whose practice does not meet this expectation may have their licence reviewed, and as above this may be triggered by the Licensing Authority itself.

## **7. Licensing Objectives**

7.1 Applicants will need to provide evidence to the Licensing Authority that, in respect of each of the four licensing objectives, suitable and sufficient measures, as detailed in their Operating Schedule, will be implemented and maintained, and will be relevant to the individual style and characteristics of their premises and events.

### Prevention of Crime and Disorder

7.2 The Licensing Authority will expect to see evidence that the following specific matters that impact on crime and disorder have been addressed in the Operating Schedule of the premises:

- The capability of the person who is in charge to run the premises during trading hours or when Regulated Entertainment is provided to effectively and responsibly manage and supervise the premises, including associated open areas
- The steps to be taken in the absence of the Designated Premises Supervisor to effectively manage the business.
- The steps taken or to be taken to ensure that appropriate instruction, training and supervision is given to those employed or engaged in the premises to prevent incidents of crime and disorder
- The measures taken or to be taken to raise staff awareness and discourage and prevent the use or supply of illegal drugs on the premises
- The features currently in place or planned for physical security at the premises, such as lighting outside the premises
- The policies that have been determined in respect of adoption of appropriate existing and future best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, etc)
- Any arrangements which the licence holder proposes to work in partnership with the Council, police and other traders in establishing a method of co-ordinating closing times to prevent crowds emerging from premises at the same time and to prevent migration between premises with different closing times
- Any appropriate additional measures taken or to be taken for the prevention of violence or public disorder

7.3 The extent to which the above matters need to be addressed will be dependent on the individual style, characteristics and location of the premises, proposed events and activities. In general however, the Licensing Authority will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of crime and disorder issues.

- 7.4 In such premises appropriate additional measures taken or to be taken for the prevention of violence or public disorder may include:
- Provision of effective CCTV both within and around premises
  - Employment of SIA licensed door staff
  - Provision of toughened or plastic glasses
  - Procedures for risk assessing drinks promotions and events such as 'happy hours' for the potential to cause crime and disorder and plans for minimising such risks
- 7.5 The Licensing Authority will have particular regard to representations from the Police in deciding whether the above issues have been adequately addressed. It will not normally grant an application where representations indicate a potential negative impact on crime and disorder, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these concerns.

#### Public Safety

- 7.6 The Licensing Authority will expect to see that applicants have considered the impact that the following factors may have on public safety:
- The occupancy capacity of the premises
  - The age, design and layout of the premises, including means of escape in the event of fire
  - The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
  - The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
  - Customer profile (eg age, disability)
  - The use of special effects such as lasers, pyrotechnics, smoke machines, etc
- 7.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:
- Suitable and sufficient risk assessments
  - Effective and responsible management of the premises

- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of premises and patrons
- Adoption of best practice guidance (eg Guide to Fire Precautions in Existing Places of Entertainment and like premises, The Event Safety Guide, Safety in Pubs published by the BBPA, and the Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by Independent Street Arts Network)
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures
- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety)

#### Prevention of Public Nuisance

- 7.8 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 7.9 The Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas.
- 7.10 The Licensing Authority will expect to see that applicants have considered the impact that the following factors may have on the potential for public nuisance:
- The location of premises and proximity to residential and other noise sensitive premises
  - The hours of opening, particularly between 23:00 and 07:00 hours
  - The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
  - The design and layout of premises and in particular the presence of noise limiting features
  - The occupancy capacity of the premises
  - The availability of public transport
  - 'wind down period' between the end of the licensable activities and closure of the premises, i.e. allowing patrons to remain in the premises for a period

after licensable activities have ceased, so that people do not disperse en masse

- last admission time

7.11 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of the premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance eg to ensure customers leave quietly
- operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries
- adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of acoustics, Licensed Property: Noise, published by BBPA)
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff, and traffic (and resulting queues)
- liaison with public transport providers
- siting of external lighting including security lighting
- management arrangements for collection and disposal of litter
- effective ventilation systems to prevent nuisance from odour

#### Protection of Children from Harm

7.12 The protection of children is an important issue and the licensing regime has a fundamental role in achieving this. The protection of children from harm includes moral, psychological and physical harm and applicants are expected to demonstrate that such factors have been considered in their operating schedules.

7.13 Applicants should expect to receive objections in respect of the protection of children from harm, and licensees should expect their licence to be reviewed, where:

- there have been convictions for serving alcohol to minors or the premises have a reputation for facilitating underage drinking
- there is a known association with drug taking or dealing
- there is a strong element of gambling on the premises

- entertainment of an adult or sexual nature is commonly provided

- 7.14 Licensees will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification or the Licensing Authority.
- 7.15 Anyone intending to provide staff for the supervision of activities for under 18s will be expected to carry out enhanced criminal record checks on all such persons, and to keep a register which should be available to the Police or authorised Council officer on request. Applicants who do not put these measures in place should expect objections to be made to their application.
- 7.16 Where applicants intend to provide any age restricted goods or services it is expected that they will apply the same standards of age verification in respect of all age restricted goods or services that staff will be regularly trained, and that appropriate records are kept of training and refusals.

## **8. Types of activity that may heighten concern as to the promotion of the licensing objectives**

- 8.1 It has been the experience of this Licensing Authority over the last ten years since the Licensing Act came into force that there are certain types of licensable activity that tend to require a greater degree of control or a particular emphasis on certain control measures in order that the licensing objectives are effectively promoted.

### Adult entertainment

- 8.2 The term 'adult entertainment' is not defined in the Licensing Act, but it is taken in this policy to refer to activities and form of entertainment that may be unsuitable for children to participate in or to observe. Common examples of adult entertainment include striptease, lap dancing and other forms of dancing /entertainment with a sexual content. Other types of activity may also be 'adult entertainment' such as the showing of films that have been certified '18', total fighting, mixed martial arts, and demonstrations and participation in activities containing elements of bondage, discipline, domination, submission, sadism and/or masochism. This list is clearly not exhaustive, and the Licensing Authority will consider each application on its merits.
- 8.3 Although adult entertainment is permitted by the Licensing Act, it is necessary that licensees set out details of the activities they intend to take place in their operating schedule, so that the Licensing Authority, responsible bodies and others may take appropriate steps to ensure that the Licensing Objectives are not undermined. As such it is important that applicants complete box 'N' of their application form, and provide as much detail as possible regarding the nature of the proposed activities.
- 8.4 If applicants do not complete box 'N' it is the policy of this Licensing Authority to impose a condition on the licence / certificate (if issued), consistent with the operating schedule, that prohibits adult entertainment at the premises. If licensees / certificate holders are then found to have provided adult entertainment in breach of this condition, they may be prosecuted and/or the licence / certificate may be

reviewed which could lead to the imposition of further conditions, suspension or revocation.

- 8.5 Applicants and licence / certificate holders are advised to consider the nature of the activities they wish to take place at their premises in line with the guidance notes to box 'N' of the application form.

#### Sex-related entertainment

- 8.6 In 2010 Gateshead Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of the regulation of sex entertainment venues and implemented a policy regarding the regulation of these venues. Applicants / licensees seeking to provide sex-related entertainment should have regard to that policy.
- 8.7 The Licensing Authority will give detailed consideration to the implications on the Licensing Objectives of any applications for entertainment involving nudity (whether full or partial) or any other sex-related entertainment.
- 8.8 Applicants wishing to provide sex-related entertainment are expected to make this clear on their application. Should they fail to do so without reasonable excuse, or make any false statement in their application, the Licensing Authority will consider this to be misleading as to the nature of the activities for which the licence / certificate is sought. That person may also commit an offence under section 158 of the Act.
- 8.9 Where premises wishing to provide sex-related entertainment are located near schools, places of worship, hospitals, youth clubs or other premises where significant numbers of children are likely to attend, it is likely that representations will be received. Applicants should be sensitive to the needs of interested parties, and should bear in mind that their licence / certificate may be reviewed, restricted or indeed revoked if it is determined that the activities are harmful to the Licensing Objectives.
- 8.10 The Licensing Authority will expect applicants to consider the following issues carefully in their Operating Schedules:
- Ensuring that children are not admitted to and cannot witness these activities
  - Distance between performer and customer
  - Provision and maintenance of CCTV and storage of CCTV footage for extended periods
  - Pre-employment checks and ongoing DBS checks
  - Codes of conduct for performers and staff including supervisors and security
  - Rules of conduct for customers
  - Disciplinary measures for performers, staff customers in the event of breaches of the above

### Gambling

- 8.11 Certain licensed premises are able to conduct specified gambling activities pursuant to the Gambling Act 2005. Applicants and licensees who wish to conduct gambling activities should have regard to that Act, and to Gateshead Council's Statement of Gambling Principles.
- 8.12 Applicants and existing licensees / certificate holders should be aware that the presence of gaming machines in licensed premises is considered to be "adult entertainment" and requires notification to the licensing authority in box "N" of the application form otherwise they will not be permitted, as it is the policy of this licensing authority to add a condition, consistent with the operating schedule of each premises where box "N" is not completed, prohibiting adult entertainment at the premises as set out in guidance note 8 of the respective application forms.

### Film classification

- 8.13 Where the Licensing Authority is requested to classify a film for exhibition within the Licensing Authority's area, it will do so if the film has not been classified by the British Board of Film Classification, or such classification is not pending.
- 8.14 When an applicant submits a film for classification, they should provide a copy of the film to the Licensing Officer, and should indicate the rating that they consider appropriate. The Licensing Officer shall consult with Northumbria Police and the Local Safeguarding Children Board. The applicant should provide the copy of the film at least 28 days in advance of the proposed screening. If the applicant is unable to provide a copy of the film in DVD format or via a website then they should liaise with the Licensing Officer to arrange for a screening of the film for the relevant bodies as above.
- 8.15 The Licensing Authority shall have regard to any representations received from the Local Safeguarding Children Board and Northumbria Police. The Licensing Authority shall have regard to the classification standards applied by the British Board of Film Classification. The Licensing Authority shall also have regard to (but shall not be bound by) any classification given to the film by another Licensing Authority.
- 8.16 Where a relevant representation is received, the classification of the film shall be determined by a hearing of the Licensing Sub Committee.

### Alcohol sales

- 8.17 It is expected that applicants will set out in their operating schedule the measures they will take to ensure that a written record is kept of all the names and addresses of persons who are authorised to sell or supply alcohol at all times, and that the written record is made available to Police and/or Council officers immediately upon request.
- 8.18 It is expected that premises licensed for the sale of alcohol for consumption off the premises will adopt responsible marketing practices and concern may be



heightened where alcohol is promoted in such a way as to encourage people to drink more than they would ordinarily do and in a manner that doesn't promote the licensing objectives, for example quantity based discount promotions and display and promotion of alcohol products in multiple positions in a premises.

8.19 It is expected that applicants who intend to sell or supply alcohol by delivery or collection of prepaid orders will include provision in their operating schedules to set out how they will ensure that they do not –

- serve alcohol to a person who appears to be drunk
- serve alcohol to a person who it is believed will pass it on to persons under 18 years old
- take payment for the alcohol at the place where it is served – sales should be pre-paid only

8.20 It is also expected that applicants will –

- operate an age verification policy of at least a Challenge 25 standard
- only deliver to residential addresses
- only stock delivery vehicles with alcohol that has been pre-ordered
- verify that the person that the alcohol is served to is the person who has ordered it
- only make sales where the purchase price is at least £25 and/or the minimum unit price of the alcohol is not less than £1 per unit

#### Petrol stations / garages

8.21 The Licensing Act prohibits the sale or supply of alcohol from premises used primarily as garages. The Section 182 guidance states that premises are used primarily as a garage if they are used for one or more of the following:

- the retailing of petrol
- the retailing of derv
- the sale of motor vehicles; and
- the maintenance of motor vehicles

8.22 It is expected that applicants for premises licences for premises any of these activities take place will set out in their operating schedule that they will submit sales data on at least a six monthly basis showing:

- the number of purchases of fuel alone
- the number of purchases of fuel and other goods

- the number of purchases of other goods alone, and
- turnover for each of these type of purchases.

### Takeaways

8.23 The Licensing Authority will generally not permit the sale of alcohol from 'takeaway' premises that are licensed for late night refreshment, due to the inherent potential for late night alcohol fuelled crime, disorder and anti-social behaviour and the difficulties of addressing such behaviour where the consumption of the alcohol and associated behaviour takes place away from the premises themselves, often in residential areas. Applicants seeking approval to sell alcohol from 'takeaway' premises will need to clearly demonstrate how they will ensure that their activities will not lead to such problems.

### Outside areas

8.24 Where premises include an outside area it is expected that the operating schedule will set out how the applicant will address:

- The provision of appropriate bins and other receptacles for litter generated by patrons
- Measures to reduce the amount of noise generated by patrons, particularly late at night. This may include door supervision, closure of outside areas after a particular time, restricting re-admission to the premises after a particular time, etc
- Provision and placement of appropriate street furniture to prevent persons 'spilling out' onto public highway in the vicinity of the premises
- Provision of CCTV covering entrances and exits, external areas, and surrounding public highways

## **9. Licensing Hours**

9.1 It is expected that premises whose primary activity is off licence sales will not normally be open between 23:00 and 07:00 hours. Applicants wishing to operate beyond 23:00 hours will need to demonstrate to the satisfaction of the Licensing Authority, in their operating schedule, that there will be no significant disturbance to members of the public living, working or otherwise engaged in normal activity around the premises concerned. Opening hours beyond 23:00 hours will generally be considered to be more acceptable for premises in commercial or tourist areas with high levels of public transport availability, rather than premises in predominately residential areas.

9.2 When considering applications, in respect of hours of operation, the Licensing Authority will take the following into consideration:

- Whether the premises is located in a predominantly retail or entertainment area

- The nature of the proposed activities to be provided in the premises
- Whether there are any arrangements to ensure adequate availability of taxis and private hire vehicles and appropriate places for picking up and setting down passengers
- Whether there is an appropriate amount of car parking, readily accessible to the premises, and in places where the parking and use of vehicles will not cause demonstrable adverse impact to local residents
- Whether the operating schedule agreed with Council Officers indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance
- Whether the licensed activity, particularly if located in areas of the highest levels of recorded crime, may result in a reduction or increase in crime or anti-social behaviour
- Whether the licensed activities are likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it.
- Whether there will be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area

9.3 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally expect the hours during which alcohol is sold to match the normal trading hours during which other sales take place, in order to reduce the potential for disturbance or disorder.

## **10. Operating Schedules**

10.1 Operating schedules should set out the licensable activities that are intended to be carried out and how it is intended that this happens. Operating schedules should be sufficiently detailed and clear for interested parties and responsible authorities to understand how the applicant or licensee will promote the licensing objectives.

10.2 When considering the promotion of the licensing objectives, applicants and licensees should have due regard to the context of the locality that they seek to operate in, and be mindful of any particular concerns that relate to that locality.

10.3 For instance, applicants and licensees are expected to have regard to any Local Licensing Guidance in respect of the locality they propose to serve.

10.4 Applicants are expected to ensure that their operating schedule enables the Licensing Authority, responsible authorities and interested parties to understand –

- What licensable activities are intended to be carried out
- When licensable activities will be carried out – i.e. between what hours, on what days and at what times of year

- When the premises will be open to the public for non-licensed activities
- Whether alcohol is intended to be sold for consumption off the premises (including where it will be delivered to customers)
- (Where the sale or supply of alcohol is intended at premises with a Premises Licence) who the Designated Premises Supervisor will be and what his / her address is
- What steps will be taken to promote the Licensing Objectives.

10.5 It is recommended that applicants contact responsible authorities when preparing operating schedules to discuss any relevant concerns.

## **11. Designated Premises Supervisor**

11.1 Designated Premises Supervisors have an important role to play in ensuring that the measures to promote the licensing objectives that are set out in an operating schedule are put into practice on a day to day basis.

11.2 Where there is a requirement for premises to have a Designated Premises Supervisor, it is expected that the person will be a key person related to the premises, so that matters arising can be dealt with as quickly as possible.

11.3 It is expected that a designated premises supervisor will have day to day responsibility for running the premises and will be present at the premises at least 50% of the time in a seven day week that the premises are open for the carrying on of licensable activities.

11.4 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect an individual to be nominated as a point of contact who will have details of where the Designated Premises Supervisor can be contacted.

11.5 Where there are problems associated with the running of a premises that stem from the DPS's performance of that role, they may be removed from the role by the Licensing Sub-Committee.

## **12. Conditions**

12.1 Whilst the Licensing Act sets out the regulatory framework that applies to all licensees, conditions can be added to individual licences to prescribe how the licensable activities are to be carried out having regard to all the relevant individual circumstances.

12.2 There are three types of condition –

- (a) mandatory conditions imposed by the Secretary of State – applicants and licensees are expected to comply with the relevant mandatory conditions that apply to the activities they carry out, and to be aware that these

mandatory conditions change from time to time. The Home Office issued guidance in respect of these mandatory conditions in October 2014 - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/350507/2014-08-29\\_MC\\_Guidance\\_v1\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350507/2014-08-29_MC_Guidance_v1_0.pdf).

- (b) conditions imposed voluntarily by the applicant / licensee – these conditions will be consistent with the applicant / licensee’s operating schedule, although the wording may be amended to ensure clarity and enforceability. Applicants and licensees should note that in line with this Policy, in certain cases the Licensing Authority will assume unless informed otherwise that applicants are volunteering conditions. For instance, as above where an applicant does not indicate an intention to provide adult entertainment by ticking box ‘N’ on their application form, it will be assumed that they are volunteering a condition not to provide adult entertainment at the premises; and
- (c) conditions imposed at a hearing – the Licensing Sub-Committee may impose conditions on a licence where it considers it appropriate to do so. Any such conditions will be appropriate to the promotion of the licensing objectives and proportionate to the problems that the Sub-Committee find in relation to the premises.

12.3 The Licensing Authority does not impose ‘standard’ conditions on licences, but there are certain factors that most premises that carry out certain licensable activities should take into account. A pool of model conditions is set out in Appendix 1, which applicants should consider when preparing their operating schedule.

### **13. When things go wrong**

#### Complaints about licensed premises

- 13.1 The Licensing Authority will investigate complaints about both licensed premises where licensable activities are taking place but not in accordance with the relevant authorisation; and unlicensed premises where licensable activities are taking place without authorisation.
- 13.2 Complainants will usually, in the first instance, be encouraged to raise the complaint directly with the licensee or business concerned, as this can often be the quickest and most effective way for the person carrying on the licensable activity to understand the negative impact of the activity.
- 13.3 Where appropriate, the Licensing Authority will initially endeavour to seek a resolution through informal means.
- 13.4 Where appropriate, the Licensing Authority may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

## Failing to comply with the Licensing Act

- 13.5 The Council delivers a wide range of enforcement services, aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The BRDO has published a Regulators' Code, which the Council complies with. <https://www.gov.uk/government/publications/regulators-code>. The Council will base its enforcement activities around the principles of consistency, transparency and proportionality.
- 13.6 The enforcement policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence may be dealt with for example by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.
- 13.7 The Council will seek to work actively with the Police, Fire & Rescue Service, Trading Standards and any other relevant authority to enforce the licensing legislation. This may include carrying out test purchases, inspections of licensed premises, investigating complaints about licensed premises and investigating allegations of unlicensed premises. Such a partnership approach is intended to prevent duplication of effort, maximise the potential for controlling crime and disorder at premises and to ensure compliance when relevant conditions are appropriate. Gateshead Council has approved the Northumbria Police Joint Enforcement Protocol, which will encourage a consistent approach to enforcement throughout the Licensing Authorities within the Northumbria Police area.
- 13.8 Inspections will take place at the discretion of the Council and its partner agencies and will be concentrated on areas of need. A light touch inspection regime will be employed for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 13.9 Where possible and appropriate, the Licensing Authority and its partner agencies will give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives.
- 13.10 The Licensing Authority will carry out its responsibilities for enforcement so as to promote the licensing objectives.

## Reviews

- 13.11 Interested parties and responsible authorities may seek a review of a premises licence or club premises certificate if they believe that the current operation under the licence or certificate is harmful to one or more of the Licensing Objectives.
- 13.12 Where an application to review a licence or certificate is received by the Licensing Authority, it should be accompanied by any relevant supporting information, documentation, etc. If the application is relevant, and (if made by an interested party) is not frivolous, vexatious or repetitive, a hearing before the Licensing Authority's Sub Committee will be held. Where appropriate the parties may be able

to hold discussions with a view to reaching an agreement on steps that can be taken to improve the position.

13.13 When a hearing before the Sub Committee takes place, the Sub Committee will consider all relevant information presented to it, and decide what course of action is appropriate for the promotion of the Licensing Objectives. There are a range of responses that are open to the Sub Committee on a review application. The Sub Committee may –

- Take no further action
- Add or modify conditions on the licence or certificate
- Exclude a licensable activity from the licence or certificate
- Remove the designated premises supervisor
- Suspend the licence or certificate for a period not exceeding three months
- Revoke the licence or certificate.

13.14 The review process is intended to enable the Licensing Authority to take appropriate timely measures to promote the Licensing Objectives in respect of individual premises. A review can take place even if it would be disproportionate to revoke a licence or certificate, as some lesser measure can be taken, as above.

13.15 Also, because the review process is intended to address the future conduct of the licence holder, a review can take place regardless of any other measures that may be open to the interested party or responsible body. For instance, if a licence holder is found to have sold age restricted products to a minor, it is not necessary for a prosecution (or indeed a successful prosecution) to take place in respect of that sale before a review is brought, as the review would consider the steps appropriate to prevent future underage sales.

#### Summary reviews

13.16 The Police may request a summary review in serious cases of crime and disorder, and in which case within 48 hours of the application the Licensing Authority will consider whether any interim steps are required pending completion of the review process. This may include immediate suspension of the relevant licence.

### **14. Delegation and Decision Making**

14.1 The Council has established a Licensing Committee to administer its functions under the Licensing Act 2003. Powers and functions have also been delegated to Licensing Sub-Committees and officers in order to provide a speedy, efficient and cost effective service to all parties involved in the licensing process.

14.2 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licences and certificates where no representations have been made. These will be delegated to Council officers. All such matters dealt with by officers will be reported for information to the next Licensing Committee meeting.

14.3 Applications where there are relevant representations will be dealt with by the Licensing Committee/Sub-Committee – unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and

everyone who has made representations agrees that a hearing is not necessary (usually after successful mediation).

- 14.4 The table given below sets out the delegation of decisions and functions of the Licensing Committee, Sub-Committees and officers. The various delegations include delegation to impose appropriate conditions.
- 14.5 This scheme of delegations is without prejudice to the right of relevant parties to refer an application to a Licensing Sub-Committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.
- 14.6 Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing Committee or any of its sub-committees to meet in public – although Members can retire into private session to consider their decision. A public announcement of the decision will be made at the end of the hearing together with clear, cogent reasons for the decision having due regard to the Human Rights Act 1998, the four licensing objectives and all other legislation.
- 14.7 The Licensing Committee will be made up of 15 members and Sub-Committees of three who will hear any relevant representations from authorised persons, responsible authorities and interested parties in the form of a hearing.
- 14.8 Where a function is delegated to an officer, that officer will be responsible for liaising between the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to the appropriate conditions. Where objections are made then the officer will once again liaise with the applicant, interested parties and the responsible authorities to see if a 'settlement' is possible to overcome the objections without the need for the matter to go before the Sub-Committee.
- 14.9 The Sub-Committee will determine each case before it on its individual merits. However, in determining the application the Sub-Committee will consider:
- The case and evidence presented by all parties
  - The promotion of the four licensing objectives
  - Guidance issued by central Government
  - The Licensing Authority's own statement of Licensing Policy
- 14.10 Delegation of functions:



<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Consideration of reports to the committee	Six monthly		
Approval of new / updated Local Licensing Guidance	Six monthly		
Application for personal licence		If representation is made	If no representation made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation is made
Application for a Provisional Statement		If a relevant representation made	If no relevant representation is made
Application to vary Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation is made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Application for interim authorities		If a police Objection	All other cases
Application to review Premises Licence / Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to make representation on behalf of Licensing Authority			All cases
Determination of objection to a Temporary Event Notice		All cases	
Classification of films for exhibition where BBFC has not classified		If a relevant representation made	If no relevant representation is made

## **15. Consultation and Review**

- 15.1 This Policy will come into effect on 7 January 2016 and will remain in force for not more than five years. During that time it will be subject to periodic reviews and further consultation.
- 15.2 The Council is required to review its Licensing Policy statement every five years and will, in doing so, take into account the views of:
- Members and relevant officers of the Council
  - Northumbria Police, Tyne and Wear Fire & Rescue Service and all of the other Responsible Authorities defined in the Act
  - Holders of premises and personal licences and club premises certificates
  - Local businesses, residents and representatives
  - Individuals and organisations with an interest in the regulations of licensable activities both locally and nationally
- 15.3 The Council may, however, review the policy at any time within those five years should it consider it appropriate to do so.
- 15.4 Following consultation, any revisions to this Policy will be published.

## **16. Further information**

- 16.1 Further information about the Licensing Act 2003 and the Council's Licensing Policy can be obtained from:

Licensing Section, Development & Public Protection, Gateshead Council,  
Civic Centre, Regent Street, Gateshead, Tyne and Wear NE8 1HH  
Tel: 0191 4333911  
Email: [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)  
Website: [www.gateshead.gov.uk](http://www.gateshead.gov.uk)

- 16.2 Information is also available from:

Home Office Direct Communications Unit, 2 Marsham Street, London, SW1P  
4DF  
Tel : 020 7035 4848  
Email : [public.enquiries@homeoffice.gsi.gov.uk](mailto:public.enquiries@homeoffice.gsi.gov.uk)  
Website : <https://www.gov.uk/government/organisations/home-office>

### Public Information

- 16.3 The Register of Premises Licences and Personal Licence holders will be available for inspection by appointment during normal office hours.

**LICENSING ACT 2003****POOL OF MODEL CONDITIONS**

## CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

1. The Licensee, that is the person in whose name the Premises Licence is issued, shall ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the Licence and for preventing crime and disorder.
2. The Licensee shall ensure that on each day that door supervisors are engaged for duty at the premises, their details (names and licence numbers) are recorded in an appropriate book kept at the premises. In conjunction with this record book, the licensee shall also keep an incident book. This record book and incident book must be available for inspection by the Police or Authorised Officer at all times when the premises are open.
3. Glass bottles containing beverages of any kind shall not be left in the possession of any patrons after service and following the discharge of the contents into an appropriate glass or drinking vessel.
4. Glass bottles containing wine may be sold for consumption with a meal taken at a table, by customers who are seated in an area set aside exclusively for patrons taking table meals.
5. No persons carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
6. One pint and half pint capacity drinking glasses, and highball (tumbler) drinking glasses, in which drinks are served, shall be of strengthened glass (tempered glassware) or of a material whereby in the event of breakage, the glass will fragment with no sharp edges being left. Alternatively, drinks may be served in non-glassware drinking vessels (e.g. plastic, polystyrene, waxed paper).

(Note. Weights and measures legislation requires the use of “stamped glasses” where “meter-measuring equipment” is not in use.)

7. No glass drinking vessels or glass bottles shall be permitted (in the areas described in the attached schedule and delineated on the approved plan.)
8. No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage.

(Note. This condition shall not apply to patrons who have purchased beverages for consumption off the premises (within the curtilage of the premises licensed area or in the area covered by a Pavement Café Licence) with the express consent of the Licensee, designated premises supervisor or responsible person.)

9. The Licensee and designated premises supervisor shall ensure that there are effective management arrangement in place to enable them to know how many persons there are in the premises at all times when the premises are open for a licensable activity.
10. The maximum number of persons permitted to assemble on the licensed premises, or relevant part of the licensed premises shall be indicated by a fixed notice bearing the words "Maximum Occupancy" with letters and numbers not less than 20 mm high, conspicuously sited at each relevant part of the premises and at the reception point.
11. All members of staff at the premises including Door Supervisors shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.
12. A suitably worded sign of sufficient size and clarity shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
13. A conspicuous notice shall be displayed on or immediately outside the premises adjacent to the entrance to the premises which gives details of times when the premises are permitted to be open for any licensable activity.
14. A conspicuous notice shall be displayed on or immediately outside the premises, or which is immediately adjacent to the premises, which gives details of any restrictions relating to the admission of children to the premises.
15. A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such a system shall: -
  - Ensure coverage of all entrances and exits to the Licensed Premises internally and externally,
  - The till area
  - Ensure coverage of such other areas as may be required by the Licensing Authority and Northumbria Police.
  - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on tape or otherwise) for a period of 28 days, and shall be supplied to the licensing Authority or a Police Officer on request.
  - Be in operation at all times the premises are in use.
16. The Premises Licence Holder and Designated Premises Supervisor shall co-operate with any reasonable crime prevention initiative which are promoted by the Licensing Officer at Gateshead Police Station from time to time.

17. The Premises Licence Holder and Designated Premises Supervisor shall comply with any reasonable measures required by the Licensing Authority from time to time relating to preventing the sale of alcohol to children.
18. A 'Challenge 25' policy shall be adopted, ensuring that all members of staff at the premises shall refuse to sell alcohol to anyone who appears to be under the age of 25 and who is seeking to purchase alcohol unless that person provides credible photographic proof of age evidence.
19. Implementing and maintaining a 'Challenge 25' policy, including staff training to prevent underage sales, and ensuring that all members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 and who is seeking to purchase cigarettes and/or alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a 'PASS' logo.
20. Staff are to be made aware of 'proxy sales' and shall refuse sales of alcohol to adults who they suspect are buying alcohol on behalf of children.
21. Staff shall refuse to sell age restricted products to any adult who they suspect to be passing age restricted products to under age children (i.e. proxy sales). Details of these refusals should also be kept in the ledger.
22. Staff are to be given sufficient training agreed with the Licensing Authority in the control of age-restricted products, refresher training for existing staff and training for all new staff.
23. Accurate training records are to be kept for all staff involved in sales of age-restricted products.
24. A refusals ledger shall be maintained, and made available to Local Authority enforcement officers on request, there refusals to be supported by the CCTV cameras.
25. Staff are to be provided with an unobstructed view of the area immediately outside the shop and entrance.
26. Persons under the age of 18 shall only be allowed to enter or remain on the premises prior to 21.00 hours each day, and only when accompanied by a responsible adult, and with the discretion of the Designated Premises Supervisor.
27. No person carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
28. There shall displayed suitably worded signage of sufficient size and clarity at the point of entry to the premises and in a suitable location at any points of sale advising customers that underage sales of alcohol are illegal and that they may be asked to produce evidence of their age.

#### CONDITIONS RELATING TO PUBLIC SAFETY

30. Notices detailing the actions to be taken in the event of fire or other emergency, including how to summon the fire brigade shall be prominently displayed and protected from damage and deterioration.
31. Temporary electrical wiring and distribution systems shall not be provided without notification to the licensing authority at least ten days before commencement of the work and prior inspection by a suitable qualified electrician. Premises shall not be opened to the public until the work is deemed satisfactory by the above parties.
32. Where it is not possible to give ten days notification to the licensing authority of provision of temporary electrical wiring and distribution systems, the work shall be undertaken by competent, qualified persons.
33. All temporary electrical wiring and distribution systems shall be inspected and certified by a competent person before they are put to use.
34. An appropriately qualified medical practitioner shall be present throughout a sports entertainment involving boxing, wrestling, judo, karate or similar.
35. Where a ring is constructed for the purposes of boxing, wrestling or similar sports, it must be constructed by a competent person, and inspected by a Building Control Officer of the Council (at the cost of the applicant). Any material used to form the skirt around the ring must be flame retardant.
36. At any wrestling or other entertainment of a similar nature, members of the public shall not occupy any seat within 2.5 metres of the ring.
37. Any Licensee wishing to hold a 'Total Fighting' event on the licensed premises shall first apply to the Council for a variation of this licence and in the event that such application is granted, shall comply with any additional conditions that may be imposed. The term 'Total Fighting' shall include any 'full contact' martial arts involving the combined codes of judo, karate and ju-jitsu, judo, sombo and Olympic wrestling or any other mixed martial arts.
38. At water sports entertainments, staff adequately trained in rescue and life safety procedures shall be stationed and remain within the vicinity of the water at all material times.

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

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

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

40. Attendants shall not be engaged in any duties that would hinder the prompt discharge for their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
41. All attendants shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
42. The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
43. No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
44. A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.
45. Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
46. Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
47. In no circumstances shall anyone be permitted to –
  - sit in any gangway;
  - stand or sit in front of any exit; or
  - stand or sit on any staircase including any landings.

48. Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.
49. Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.
50. Any special effects or mechanical installation shall be arranged and stored to minimise any risk to the safety of the audience, the performers and staff.
51. Except with the prior written approval of the Council and subject to any conditions, which may be attached to such approval no special effects shall be used on the premises.

Special effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide 'The Radiation Safety of Lasers used for display purposes' [HS(G)95] and BS EN 60825: 'Safety of laser products');
- explosives and highly flammable substances.

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

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

53. Staff shall not be considered as being available to assist in the event of an emergency if they are: -

- the holder of the premises licence or the manager on duty at the premises; or



- a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
  - a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
54. Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
55. The staff alerting system shall be maintained in working order and be in operation at all times the premises are in use.
56. The level of lighting in the auditorium shall be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

#### CONDITIONS RELATING TO PUBLIC NUISANCE

57. Windows, doors and fire escapes shall remain closed during proposed entertainment events within the premises
58. Noise generated by amplified music shall be controlled by a noise limiting device set at a level determined by the Local Authority Environmental Health Officer, such level being confirmed in writing to the Licensee.
59. Noise limiting devices, once set, cannot be reset or adjusted without consultation with the Local Authority Environmental Health Officer.
60. The lobby doors at the premises shall be kept closed except for access and egress. Door staff shall supervise to ensure that the doors are maintained closed as far as possible when public entertainment is taking place.
61. Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents. In particular, the need to refrain from shouting, slamming car doors and the sounding of car horns shall be emphasised.
62. The premise personal licence holder, designated premise supervisor and door supervisor shall monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
63. Noise and vibration from regulated entertainment shall not be audible at the nearest noise sensitive premises
64. There shall be provided at sufficient regular intervals throughout the premises and grounds litter bins which shall be emptied and waste removed on a frequent basis, and

staff and attendants shall as far as reasonably practicable ensure that the public, members and guests do not litter.

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

65. Children under 18 years will not be allowed access to the premises.
66. The club premises certificate holder shall ensure that all attendants (including volunteers and staff) who are to supervise children have been properly vetted (by and enhanced DBS check) and have no convictions that would make them unsuitable to supervise children.
67. There shall be child protection policies agreed with the Licensing Authority and actioned accordingly.



**COUNCIL MEETING**

**17 December 2015**

## **LOCAL COUNCIL TAX SUPPORT SCHEME FOR 2016/17**

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**Jane Robinson, Chief Executive**

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### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of a Local Council Tax Support Scheme for the year 2016/17.
2. The Local Government Finance Act 2012, paragraph 5 of Schedule 1A, established a framework for Local Council Tax Support that requires the Council for each financial year, to revise its scheme, or replace it with another scheme and to do so before 31 January in the financial year preceding that for which the revision or replacement scheme is to have effect.
3. The proposed Local Council Tax Support scheme for Gateshead has been established with due regard to the Council's statutory obligations and in order to attempt to distribute the reduced funding available amongst those claimants most in need of financial assistance, whilst achieving a contribution to meet the funding reduction.
4. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

5. It is recommended that Council:
  - i) approves the proposed scheme as set out in paragraph 7 of the attached report
  - ii) delegates powers to the Strategic Director, Corporate Resources, to provide regulations to give effect to the scheme

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**TITLE OF REPORT: Local Council Tax Support Scheme for 2016/17**

**REPORT OF: Darren Collins, Strategic Director, Corporate Resources**

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### **Purpose of the Report**

1. Cabinet is requested to recommend to Council a Local Council Tax Support Scheme for the year 2016/17 following consultation.

### **Background**

- 2 The Local Government Finance Act 2012, paragraph 5 of Schedule 1A, established a framework for Local Council Tax Support that requires the Council for each financial year, to revise its scheme, or replace it with another scheme and to do so before 31 January in the financial year preceding that for which the revision or replacement scheme is to have effect.
- 3 The Council is provided with funding to deliver its own Local Council Tax Support scheme although this grant is no longer separately identifiable having been subsumed within the council's overall settlement figure that continues to reduce year on year. The regulations require that pensioner households must be protected from the impact of the local scheme and therefore any shortfall in funding will fall to working age households or the council itself.
- 4 When designing a scheme the Council additionally must also consider its responsibilities under:
  - The Child Poverty Act 2010
  - The Disabled Persons (Services, Consultation and Representation) Act 1986, and Chronically Sick and Disabled Persons Act 1970
  - The Housing Act 1996 which gives local authorities a duty to prevent homelessness with special regard to vulnerable groups
- 5 Under legislation, the Council's own Local Council Tax Support scheme must be approved each year by Council by 31 January at the latest. The proposed council tax support scheme within this report is therefore a scheme for 2016/17.

### **Proposal**

- 6 The proposed Local Council Tax Support scheme for Gateshead has been established with due regard to the Council's statutory obligations and in order to attempt to distribute the reduced funding available amongst those claimants most in need of financial assistance, whilst still achieving a contribution to meet the funding reduction.

7 Apart from some underlying adjustments to the scheme calculations to bring the scheme in line with the Government's Housing Benefit scheme, the outline proposed scheme for 2016/17 will remain much the same as the scheme that was in place in previous years from 2013/14 and this will retain the same provision for pensioners and the original 8 underlying principles outlined below;

- Protection should be given to certain groups – all working age claimants to pay at least 8.5% of their council tax liability
- The scheme should encourage people to work
- Everyone in the household should contribute
- Capital or Savings threshold should be maintained at £16,000
- War Pensions should be disregarded
- Minimum level of support should be £1
- Child benefit should be disregarded as income.
- A discretionary fund should be maintained.

8 The proposed scheme therefore retains the minimum contribution of all working age claimants at 8.5% of their Council Tax liability and does not recommend an increase to this figure.

### **Recommendations**

9 Cabinet is requested to recommend that Council:

- (i) Approves the proposed scheme as set out in paragraph 7 of the report.
- (ii) Delegates powers to the Strategic Director, Corporate Resources, to provide regulations to give effect to the scheme.

For the following reasons:

- (i) To meet the statutory requirements of the Local Government Finance Act 2012 in relation the establishment of a framework for Localised Council Tax Support
- (ii) To mitigate the impact of budget cuts on Council Tax support claimants
- (iii) To mitigate the impact of funding reductions on Council finances

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**CONTACT:** John Jopling extension: 3582

## APPENDIX 1

### Policy Context

1. The proposal in this report will support the vision for Gateshead as outlined in the Council plan in particular the key council priority of ensuring a sustainable Gateshead through best use of resources.

### Background

2. The Welfare Reform Act 2012 included the abolition of the Council Tax Benefit scheme with effect from 1 April 2013.

The Act created the need for each billing authority in England to develop a scheme that 'states the classes of person who are to be entitled to a reduction under the scheme'. The Council must, before developing a scheme, consult any major precepting authority which has power to issue a precept, publish a draft scheme in such a manner as it sees fit, and then consult such other persons as it considers are likely to have an interest in the operation of the scheme.

3. The Council scheme, since 2013 has been based on 8 underlying principles:
  - **Principle 1 – Protection should be given to certain groups** – All working age claimants to pay at least 8.5% of their council tax liability. The council will support through the local scheme the remaining amount up to 91.5%.
  - **Principle 2 – The scheme should encourage people to work** – The earnings taper will not be increased and the earnings disregard will not be decreased.
  - **Principle 3a – Everyone in the household should contribute: Non-Dependants** - Non dependant deductions will increase in line with government recommendations and be on a sliding scale according to income.
  - **Principle 3b – Everyone in the household should contribute: Second Adult Rebate** – there will be no second adult rebate.
  - **Principle 4 – Benefit should not be paid to those with relatively large capital or savings** – The level of savings a claimant can have will be £16,000. A tariff will be applied for savings held between £6,000 and £16,000.
  - **Principle 5 – War pensions should not be included as income** – In recognition of the sacrifices made by war pensioners, war pension income will be excluded as income.
  - **Principle 6 – There should be a minimum level of support** – The minimum award of council tax support will remain at £1 per week.
  - **Principle 7 – Child benefit will not be included as income** – All child benefit income will continue to be disregarded in the calculation.

- **Principle 8 – Establishment of a discretionary fund** – A discretionary fund will allow for additional support to be provided to the most vulnerable in exceptional circumstances.

### **Proposal**

4. The proposed scheme for 2016/17 will retain the same 8 underlying principles and remain the same as the scheme in place in previous years apart from some adjustments to the underlying entitlement calculation.
5. Those changes, which have been consulted on are:
  - No additional 'Family' premium for new claims or on the birth of a first child from May 2016.
  - Limit backdating to 1 month
  - Negate the impact of any tax credit reductions
6. The Council also consulted on the option to increase the minimum contribution amount to either 10% or 12.5%, however, the proposal is to retain the minimum contribution at 8.5% of liability.

### **Consultation**

7. Where the draft scheme for a year remains the same as in previous years, no formal consultation is required to be undertaken. Where even minor changes are considered to a scheme, the Council must undertake a formal consultation with stakeholders.
8. Consultation on those changes therefore took place between 16<sup>th</sup> September 2015 and 11<sup>th</sup> November 2015.
9. 115 residents and groups completed the survey and included Advice Agencies, Housing Associations and Private Landlords, residents and members. There was unanimous support for retaining the 8 underlying principles. Stakeholders also indicated their overall support to the proposed underlying entitlement calculation changes. The consultation provided the following levels of support for the options around minimum contribution: 30% supported 8.5% liability, 28% supported 10% liability and 37% supported 12½% liability.

### **Alternative Options**

10. Alternative options could involve the adoption of a scheme which offers more support to residents by increasing at a greater rate the Council's commitment of resources or the council could adopt a scheme which offers less support by increasing the minimum contribution to either 10% or 12.5%.



## Implications of Recommended Option

### 11. Resources:

- a) **Financial Implications** – The proposed approach enables the Council to operate a support scheme within the funding available and to mitigate the impact on working age claimants by utilising council resources.

Adopting the scheme means that approximately 10,000 council tax payers will continue to pay no more than 8.5% of their council tax (around £95 per year/ £1.83 per week).

The full impact on the Collection Fund continues to be monitored and the behaviour of those claimants who are required to pay has been analysed during the current and previous years. Full monitoring and the impact on the collection fund is continuing to be assessed but collection from this client group has exceeded previous assumptions since the start of the scheme and continues to do so in 2015/16.

The removal of the ring-fence within the Government funding calculation means that funding for this area is impossible to identify separately.

- b) **Human Resources Implications** – There are no human resource implications directly arising from this report
- c) **Property Implications** - There are no property implications directly arising from this report

12. **Risk Management Implication** - Retaining the same scheme in the main with only minor underlying entitlement changes, eliminates the risk of a local scheme not being supported from a technology perspective.
13. **Equality and Diversity Implications** - A Comprehensive Impact Assessment has been carried out.
14. **Crime and Disorder Implications** – No impact.
15. **Health Implications** – Financial concerns arising from reforms to welfare benefits may adversely affect the mental and physical health of some residents.
16. **Sustainability Implications** - There are no sustainability implications arising from this report.
17. **Human Rights Implications** – There are no Human Rights implications arising from this report.
18. **Area and Ward Implications** – This scheme affects all current and future working age benefit recipients across Wards within the borough.

## Background Information

Welfare Reform Act 2012  
Local Government Finance Bill  
Communities and Local Government - Statement of intent  
Communities and Local Government - Vulnerable people –key local authority  
duties  
Comprehensive Impact Assessment



**COUNCIL MEETING**

**17 December 2015**

**CALENDAR OF MEETINGS 2016/17**

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**Jane Robinson, Chief Executive**

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## **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of the proposed calendar of meetings for 2016/17.
2. Every year a calendar of meetings is drawn up for the Council's main decision making bodies and overview and scrutiny committees for the following municipal year.
3. The Councillor Support and Development Group on 9 September 2015 considered the issue of later start times for meetings and it was felt that there should be at least one evening meeting per year, starting at 5.30pm for all of the Council's committees and OSCs. The draft calendar, attached at Appendix 2 has been prepared on this basis.
4. In addition, Planning and Development Committee will continue to have some 6.00pm starts, the Rights of Way Committee will meet at 4.30pm and 5.30pm and the Councillor Support and Development Group at 5.30pm. Seminars and meetings of the Corporate Resources Advisory Group will be held at a range of times during the day.
5. As previously agreed by Council in 2009, the principle of not holding meetings in school holidays will continue with the exception of Planning and Development Committee, Regulatory Committee and Audit and Standards Committee.
6. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

## **RECOMMENDATIONS**

7. It is recommended that Council:
  - i) approves the calendar of meetings 2016/17
  - ii) agree that, as far as possible, meetings should not be held during school holidays
  - iii) authorise the Strategic Director, Corporate Services and Governance, following consultation with the Leader of the Council, to make any necessary amendments to the calendar of meetings

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**TITLE OF REPORT:**           **Calendar of Meetings 2016/17**

**REPORT OF:**               **Mike Barker, Strategic Director, Corporate Services and Governance**

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### **Purpose of the Report**

1. This report sets out the proposed calendar of meetings for 2016/17.

### **Background**

2. Every year a calendar of meetings is drawn up for the Council's main decision making bodies and overview and scrutiny committees for the following municipal year. The calendar of meetings assists in the effective planning of the consideration of Council business and with the preparation of the Cabinet's schedule of decisions.
3. The Councillor Support and Development Group on 9 September 2015 considered the issue of later start times for meetings. The Group felt there should be a guiding principle that all of the Council's committees and OSCs should have at least one evening meeting per year starting at 5.30pm and those meetings should have a suggested maximum duration of no more than two hours.
4. A draft calendar of meetings has been prepared for 2016/17 and this is attached as Appendix 2. It has been prepared on the same basis as previous years except that later start times have been included for committees and OSCs in accordance with the principle suggested by the Councillor Support and Development Group.
5. In addition, Planning and Development Committee will continue to have some 6.00pm starts, the Rights of Way Committee will meet at 4.30pm and 5.30pm and the Councillor Support and Development Group at 5.30pm.
6. Seminars and meetings of the Corporate Resources Advisory Group will be held at a range of times during the day including meetings at 5.30pm.
7. If Chairs wish to change the date of the meetings starting at the later time to another date then this will be accommodated where possible.
8. As previously agreed by the Council in 2009, the principle of not holding meetings in school holidays will continue, with the exception of Planning and Development Committee, Regulatory Committee and Audit and Standards Committee.

## **Proposal**

9. It is proposed that the Cabinet agree the calendar of meetings 2016/17 (attached at appendix 2) and that it be forwarded to Council for approval.

## **Recommendations**

10. The Cabinet is requested to recommend Council to:
- (i) approve the calendar of meetings 2016/17;
  - (ii) agree that, as far as possible, meetings should not be held during school holidays; and
  - (iii) authorise the Strategic Director, Corporate Services and Governance, following consultation with the Leader of the Council, to make any necessary amendments to the calendar of meetings.

For the following reason:

To assist in the preparation of the Cabinet's schedule of decisions and to allow councillors and officers to plan commitments in their diaries.

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**CONTACT:** Mike Aynsley      extension 2128

## Policy Context

1. Preparing a calendar of meetings for the municipal year enables effective planning of Council business and preparation of the Cabinet's schedule of decisions. The Council's Charter for Local Decision Making and Voting also aims to ensure that decision making is open and democratic and that residents are aware of meetings and decisions taking place.

## Background

2. The calendar of meetings has been prepared on the following basis:
  - As far as possible, meetings will not be held during school holidays.
  - Ten Council meetings, including the annual meeting and special meeting to consider the budget.
  - Meetings of the Cabinet to take place once a month with breaks during school holiday periods. Additional meetings of the Cabinet to be arranged, if required.
  - Meetings of the Planning and Development Committee to be held every three weeks.
  - Meetings of the Regulatory Committee to be held on a monthly basis.
  - Two meetings of the Licensing Committee per annum (sub-committee meetings will be arranged on an ad hoc basis).
  - Three meetings of the Rights of Way Committee per annum.
  - Seven meetings of the Audit and Standards Committee per year.
  - One meeting of the Accounts Committee per year.
  - Overview and Scrutiny Committees to be held every six weeks. Meetings of the Corporate Parenting and Community Safety Overview and Scrutiny Sub-Committees to be held quarterly.
  - Two meetings of the Personnel Appeals Committee per month, as far as practicable.
  - Health and Wellbeing Board to be held every six weeks.
3. The Councillor Support and Development Group on 9 September 2015 considered the issue of later start times for meetings. The Group felt there should be a guiding principle that all of the Council's committees and OSCs should have at least one evening meeting per year starting at 5.30pm and those meetings should have a suggested maximum duration of no more than two hours.

4. The calendar of meetings for 2016/17 has been prepared on the same basis as previous years except that later start times have been included for committees and OSCs in accordance with the principle suggested by the Councillor Support and Development Group.
5. In addition, Planning and Development Committee will continue to have some 6.00pm starts, the Rights of Way Committee will meet at 4.30pm and 5.30pm and the Councillor Support and Development Group at 5.30pm.
6. Seminars and meetings of the Corporate Resources Advisory Group will be held at a range of times during the day including meetings at 5.30pm.
7. If Chairs wish to change the date of the meetings starting at the later time to another date then this will be accommodated where possible.
8. The Council has previously agreed that meetings should not be held in school holidays, as far as possible. There are exceptions to this principle, such as Planning and Development Committee, Regulatory Committee and Audit and Standards Committee. It is proposed that this principle should continue to be adopted, except for urgent meetings. The Corporate Parenting OSC will hold two meetings after school hours at 4.30pm to allow children the opportunity to attend its meetings.
9. To avoid meetings being arranged at short notice and to give councillors as much notice as possible, a programme of meetings for the Corporate Resources Advisory Group has been incorporated into the calendar for 2016/17.
10. It is proposed that the Strategic Director, Corporate Services and Governance should be authorised, following consultation with the Leader of the Council, to make any necessary amendments to the calendar of meetings.

### **Consultation**

11. The Leader of the Council has been consulted on the calendar of meetings.

### **Alternative Options**

12. No other options have been considered.

### **Implications of Recommended Option**

#### **13. Resources**

- a) **Financial Implications** - The Strategic Director, Corporate Resources confirms that there are no financial implications arising from this report.
- b) **Human Resources Implications** – There are no human resources implications arising from this report.
- c) **Property Implications** – There are no property implications arising from this report.

14. **Risk Management Implication** - There are no risk management implications arising from the recommended option.

15. **Equality and Diversity Implications** - There are no equality and diversity implications arising from the recommended option.



**16. Crime and Disorder Implications** - There are no crime and disorder implications arising from the recommended option.

**17. Health Implications** – There are no health implications arising from the recommended option.

**18. Sustainability Implications** - There are no sustainability implications arising from the recommended option.

**19. Human Rights Implications** - There are no human rights implications arising from the recommended option.

**20. Area and Ward Implications** - There are no area and ward implications arising from the recommended option.

**21. Background Information** - The calendar of meetings approved for the current municipal year.

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Calendar of Meetings 2016/17

MAY 2016

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON	2	<b>BANK HOLIDAY</b>		9	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00	16			23	LAB GROUP LIB DEM GROUP	6.00 6.00	30	<b>BANK HOLIDAY</b>	
TUE	3			10			17			24	CABINET	10.00	31		
WED	4			11	PLANNING AND DEVELOPMENT COMMITTEE LABOUR GROUP (ANNUAL MEETING) LIB DEM GROUP (ANNUAL MEETING)	10.00 6.00 6.00	18	LIB DEM GROUP	6.00	25					
THU	5	<b>LOCAL ELECTIONS</b>		12			19			26	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS COUNCIL	10.00 2.30			
FRI	6			13			20	ANNUAL COUNCIL	2.30	27					

**JUNE 2016**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON				6			13	CORPORATE RESOURCES ADV GP	2.00	20	AUDIT AND STANDARDS COMMITTEE COMMUNITIES AND PLACE OSC	10.00 1.30	27	CORPORATE RESOURCES OSC	10.00
TUE				7	REGULATORY COMMITTEE	1.30	14	CABINET	10.00	21	CARE, HEALTH AND WELLBEING OSC	1.30	28	COMMUNITY SAFETY OSC	1.30
WED	1	PLANNING AND DEVELOPMENT COMMITTEE	10.00	8	PERSONNEL APPEALS COMMITTEE SEMINAR	10.00 4.00	15	SEMINAR	3.00	22	PLANNING AND DEVELOPMENT COMMITTEE	6.00	29	COUNCILLOR SUPPORT AND DEVELOPMENT GROUP	5.30
THU	2			9	CORPORATE RESOURCES ADV GP	2.00	16	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS FAMILIES OSC	10.00 1.30	23			30		
FRI	3			10	HEALTH AND WELLBEING BOARD	10.00	17	PERSONNEL APPEALS	10.00	24					

**JULY 2016**

	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON				4	CORPORATE PARENTING OSC	1.30	11	RIGHTS OF WAY COMMITTEE LABOUR GROUP LIB DEM GROUP	4.30 6.00 6.00	18	CORPORATE RESOURCES ADV GP	2.00	25	AUDIT AND STANDARDS COMMITTEE	10.00
TUE				5	REGULATORY COMMITTEE	5.30	12	CABINET CORPORATE RESOURCES ADV GP	10.00 4.00	19			26		
WED				6	LIB DEM GROUP	6.00	13	PLANNING AND DEVELOPMENT COMMITTEE SEMINAR	10.00 3.00	20	PERSONNEL APPEALS COMMITTEE	10.00	27		
THU				7	PLANNING AND DEVELOPMENT - SITE VISITS		14	COUNCIL	2.30	21			28	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00
FRI	1	PERSONNEL APPEALS COMMITTEE	10.00	8	SEMINAR	11.00	15	HEALTH AND WELLBEING BOARD	10.00	22			29		

## AUGUST 2016

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON	1			8			15			22			29	<b>BANK HOLIDAY</b>	
TUE	2			9	REGULATORY COMMITTEE	1.30	16			23			30		
WED	3	PLANNING AND DEVELOPMENT COMMITTEE	10.00	10			17			24	PLANNING AND DEVELOPMENT COMMITTEE	10.00	31		
THU	4			11			18	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00	25					
FRI	5			12			19			26					

**SEPTEMBER 2016**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON				5	CORPORATE RESOURCES OSC	10.00	12	COMMUNITIES AND PLACE OSC	1.30	19	PERSONNEL APPEALS COMMITTEE LABOUR GROUP LIB DEM GROUP	2.00 6.00 6.00	26		
TUE				6	REGULATORY COMMITTEE SEMINAR	1.30 4.00	13	CABINET CARE, HEALTH AND WELLBEING OSC	10.00 5.30	20	CORPORATE RESOURCES ADV GP	2.00	27		
WED				7	PERSONNEL APPEALS COMMITTEE CORPORATE RESOURCES AD GP	10.00 2.00	14	PLANNING AND DEVELOPMENT COMMITTEE SEMINAR LIB DEM GROUP	10.00 3.00 6.00	21	AUDIT AND STANDARDS COMMITTEE COUNCILLOR SUPPORT AND DEVELOPMENT GROUP	10.00 5.30	28		
THU	1			8	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS FAMILIES OSC	10.00 1.30	15	SEMINAR CORPORATE RESOURCES AD GP	10.00 2.00	22	COUNCIL	5.30	29	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00
FRI	2			9	HEALTH AND WELLBEING BOARD	10.00	16	LICENSING COMMITTEE	10.00	23	ACCOUNTS COMMITTEE	10.00	30		

**OCTOBER 2016**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON	3	AUDIT AND STANDARDS COMMITTEE	5.30	10	CORPORATE PARENTING OSC	4.30	17	CORPORATE RESOURCES OSC CORPORATE RESOURCES ADV GP	10.00 2.00	24			31	COMMUNITIES AND PLACE OSC	1.30
TUE	4	COMMUNITY SAFETY OSC	5.30	11	CABINET	5.30	18	REGULATORY COMMITTEE	1.30	25					
WED	5	PLANNING AND DEVELOPMENT COMMITTEE	6.00	12	SEMINAR	3.00	19	PERSONNEL APPEALS COMMITTEE SEMINAR	10.00 5.00	26	PLANNING AND DEVELOPMENT COMMITTEE	10.00			
THU	6	CORPORATE RESOURCES ADV GP	2.00	13	CORPORATE RESOURCES ADV GP	5.00	20	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS FAMILIES OSC	10.00 1.30	27					
FRI	7			14	PERSONNEL APPEALS COMMITTEE	10.00	21	HEALTH AND WELLBEING BOARD	10.00	28					



**NOVEMBER 2016**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON				7	RIGHTS OF WAY COMMITTEE LABOUR GROUP LIB DEN GROUP	4.30 6.00 6.00	14			21			28	CORPORATE RESOURCES OSC	10.00
TUE	1	CABINET CARE, HEALTH AND WELLBEING OSC	10.00 1.30	8			15	REGULATORY COMMITTEE	1.30	22			29	CABINET CORPORATE RESOURCES ADV GP	10.00 2.00
WED	2	CORPORATE RESOURCES ADV GP LIB DEM GROUP	3.00 6.00	9	PERSONNEL APPEALS COMMITTEE SEMINAR	10.00 2.00	16	PLANNING AND DEVELOPMENT COMMITTEE	6.00	23	SEMINAR	5.30	30	PERSONNEL APPEALS COMMITTEE COUNCILLOR SUPPORT AND DEVELOPMENT GROUP	10.00 5.30
THU	3			10	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS COUNCIL	10.00 2.30	17	CORPORATE RESOURCES ADV GP	2.00	24	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS CORPORATE RESOURCES ADV GP	10.00 4.00			
FRI	4	SEMINAR	11.00	11			18	PERSONNEL APPEALS COMMITTEE	10.00	25					

**DECEMBER 2016**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON				5	COMMUNITIES AND PLACE OSC	1.30	12	CORPORATE RESOURCES ADV GP	2.00	19			26	<b>BANK HOLIDAY</b>	
								LABOUR GROUP	6.00						
								LIB DEM GROUP	6.00						
TUE				6	CARE, HEALTH AND WELLBEING OSC	1.30	13	CABINET	10.00	20			27	<b>BANK HOLIDAY</b>	
								REGULATORY COMMITTEE	1.30						
WED				7	PLANNING AND DEVELOPMENT COMMITTEE	10.00	14	PERSONNEL APPEALS COMMITTEE	10.00	21			28		
					SEMINAR	3.00		CORPORATE RESOURCES ADV GP	5.30						
					LIB DEM GROUP	6.00									
THU	1	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00	8	CORPORATE RESOURCES ADV GP	10.00	15	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00	22			29		
		FAMILIES OSC	1.30					COUNCIL	2.30						
FRI	2	HEALTH AND WELLBEING BOARD	10.00	9	SEMINAR	11.00	16			23			30		

**JANUARY 2017**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON	2	<b>BANK HOLIDAY</b>		9			16	CORPORATE PARENTING OSC	1.30	23	CORPORATE RESOURCES OSC	10.00	30	AUDIT AND STANDARDS COMMITTEE	10.00
														COMMUNITIES AND PLACE OSC	1.30
														LABOUR GROUP	6.00
														LIB DEM GROUP	6.00
TUE	3			10			17	COMMUNITY SAFETY OSC	1.30	24	CABINET CARE, HEALTH AND WELLBEING OSC	10.00 1.30	31	REGULATORY COMMITTEE	1.30
WED	4	PLANNING AND DEVELOPMENT COMMITTEE	10.00	11	PERSONNEL APPEALS COMMITTEE	10.00	18	PERSONNEL APPEALS COMMITTEE	10.00	25	PLANNING AND DEVELOPMENT COMMITTEE	10.00			
					SEMINAR	2.00		SEMINAR	5.00		CORPORATE RESOURCES ADV GP	2.00			
											LIB DEM GP	6.00			
THU	5			12	CORPORATE RESOURCES ADV GP	2.00	19	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00	26	FAMILIES OSC	1.30			
								CORPORATE RESOURCES ADV GP	2.00						
FRI	6			13			20	HEALTH AND WELLBEING BOARD	10.00	27	SEMINAR	11.00			

**FEBRUARY 2017**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON				6	CORPORATE RESOURCES ADV GP	2.00	13	CORPORATE RESOURCES ADV GP	2.00	20	LABOUR GROUP LIB DEM GROUP	6.00 6.00	27	CORPORATE RESOURCES OSC	5.30
TUE				7	CABINET	10.00	14			21	CABINET	10.00	28	REGULATORY COMMITTEE	1.30
WED	1	CORPORATE RESOURCES ADV GP	2.00	8	PERSONNEL APPEALS COMMITTEE SEMINAR	10.00 5.00	15	PLANNING AND DEVELOPMENT COMMITTEE SEMINAR LIB DEM GP	10.00 2.00 6.00	22					
THU	2	COUNCIL	2.30	9	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS LICENSING COMMITTEE	10.00 5.30	16			23	COUNCIL (BUDGET)	2.30			
FRI	3	PERSONNEL APPEALS COMMITTEE	10.00	10			17			24					

**MARCH 2017**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON				6	AUDIT AND STANDARDS COMMITTEE  COMMUNITIES AND PLACE OSC	10.00  5.30	13	CORPORATE RESOURCES ADV GP  LABOUR GROUP  LIB DEM GROUP	2.00  6.00  6.00	20	CORPORATE PARENTING OSC	4.30	27	RIGHTS OF WAY COMMITTEE	5.30
TUE				7	CARE, HEALTH AND WELLBEING OSC	1.30	14	CABINET	10.00	21			28	REGULATORY COMMITTEE	1.30
WED	1	PERSONNEL APPEALS COMMITTEE	10.00	8	PLANNING AND DEVELOPMENT COMMITTEE  SEMINAR  LIB DEM GP	10.00  4.00  6.00	15	PERSONNEL APPEALS COMMITTEE	10.00	22	SEMINAR  COUNCILLOR SUPPORT AND DEVELOPMENT GROUP	2.00  5.30	29	PLANNING AND DEVELOPMENT COMMITTEE	6.00
THU	2	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS  FAMILIES OSC	10.00  1.30	9			16	COUNCIL	2.30	23	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00	30		
FRI	3	HEALTH AND WELLBEING BOARD	10.00	10	SEMINAR	11.00	17			24			31		

**APRIL 2017**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON	3	CORPORATE RESOURCES OSC	10.00	10			17	<b>BANK HOLIDAY</b>		24	AUDIT AND STANDARDS COMMITTEE	10.00			
											COMMUNITIES AND PLACE OSC	1.30			
											LABOUR GROUP	6.00			
											LIB DEM GROUP	6.00			
TUE	4	COMMUNITY SAFETY OSC	1.30	11			18			25	CABINET	10.00			
											CARE, HEALTH AND WELLBEING OSC	1.30			
WED	5	PERSONNEL APPEALS COMMITTEE	10.00	12			19	PLANNING AND DEVELOPMENT COMMITTEE	10.00	26	PERSONNEL APPEALS COMMITTEE	10.00			
		SEMINAR	3.00								SEMINAR	2.00			
THU	6	FAMILIES OSC	5.30	13	PLANNING AND DEVELOPMENT COMMITTEE - SITE VISITS	10.00	20			27	COUNCIL	2.30			
FRI	7	CORPORATE RESOURCES ADV GP	10.00	14	<b>BANK HOLIDAY</b>		21			28	HEALTH AND WELLBEING	10.00			

**MAY 2017**

DAY	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME	DATE		TIME
MON	1	<b>BANK HOLIDAY</b>		8			15	LABOUR GROUP LIB DEM GROUP	6.00 6.00	22			29	<b>BANK HOLIDAY</b>	
TUE	2	REGULATORY COMMITTEE	1.30	9			16			23	CABINET			30	
WED	3	PLANNING AND DEVELOPMENT COMMITTEE ANNUAL LABOUR GROUP ANNUAL LIB DEM GROUP	10.00 6.00 6.00	10	LIB DEM GROUP	6.00	17			24				31	
THU	4			11			18	COUNCIL	2.30	25					
FRI	5		10.00	12	ANNUAL COUNCIL	2.30	19			26					

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## COUNCIL MEETING

17 December 2015

### COMMUNITY ASSET TRANSFER – REVISED POLICY AND PROCEDURE

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**Jane Robinson, Chief Executive**

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#### EXECUTIVE SUMMARY

1. The purpose of this report is to seek approval of a revised policy and procedure relating to Community Asset Transfers.
2. The current Community Asset Transfer (CAT) policy was approved in September 2012. Since this time, the Council has transferred sixteen community centres to occupying community associations and two to sport organisations. More recently, the Council has also transferred two leisure facilities (Gateshead Indoor Bowling Centre and the Dunston Activity Centre).
3. The Council is now receiving applications from community groups and other charitable organisations for a CAT of buildings that have not necessarily been used for community activity and this includes receiving multiple applications for the same building.
4. In order for the Council to consider such applications thoroughly and consistently it is proposed that the applications be assessed against a clear set of agreed criteria. The proposed policy has therefore been reviewed and is outlined in Appendix 2 of the attached report with a copy of the proposed matrix to be used in connection with any application outlined in Appendix 3 of the attached report.
5. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

#### RECOMMENDATIONS

6. It is recommended that Council agree the revised Community Asset Transfer Policy and Procedure

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**TITLE OF REPORT:**           **Community Asset Transfer – Revised Policy and Procedure**

**REPORT OF:**           **Mike Barker, Strategic Director Corporate Services and Governance**  
**Paul Dowling, Strategic Director Communities and Environment**

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### **Purpose of the Report**

1. To seek Cabinet approval to the revised policy and procedure relating to Community Asset Transfers, for recommendation to Council.

### **Background**

2. On 20<sup>th</sup> September 2012, Council approved the current Community Asset Transfer (CAT) policy (Minute No. CL/54) - an update to the previous policy which had been agreed in 2010.
3. The revised policy reflected the changes in legislation at the time, including the Localism Act 2011 and the resultant promotion of community involvement and need for the Council to reduce its outgoings.
4. At the time of the last review in 2012, Community Asset Transfers were very much associated with the transfer of community centres to occupying community association and sports clubs with only occasional speculative requests for asset transfer received in respect of other surplus assets.
5. Since 2012 the Council has transferred sixteen community centres to occupying community associations, and two to sports organisations (e.g. boxing clubs).
6. More recently the Council has also transferred two leisure facilities: the Gateshead Indoor Bowling Centre is now leased and managed by the group who use the facility on a regular basis; and the Dunston Activity Centre is now leased and managed by the Dunston Family Church.
7. Many of the centres are now offering a more extensive range of activities which are more diverse and respond to local need

### **The Current Position**

8. Not all properties are available and suitable for CAT. There are some instances where the transfer of a building by way of a CAT would result in the Council foregoing a capital receipt or the cost/risk of keeping a building

vacant pending transfer would be significant. In such instances it is considered that such buildings would be unsuitable for asset transfer.

9. The Community Asset Transfers to the community associations have been at nil rent as the organisations have taken full responsibility for the building and are required to continue to support activities previously provided by the Council in the locality. In relation to the sports clubs, they have been transferred at nil consideration when the organisation has undertaken to take responsibility for either the building or the sports pitches (or in some instances both).
10. The Council is now receiving applications from community groups and other charitable organisations for a CAT of buildings that have not necessarily been used for community activity and this includes receiving multiple applications for the same building. In most cases these organisations are looking for the property to be offered at nil rent

### **Proposal**

11. In order for the Council to consider such applications thoroughly and consistently it is proposed that the applications be assessed against a clear set of agreed criteria.
12. The policy has therefore been reviewed and a copy of the proposed new policy is attached at Appendix 2 with a copy of the proposed matrix to be used in connection with any application attached at Appendix 3.
13. One of the main changes in the revised policy is that should a building be considered suitable for asset transfer the starting premise for any rent will be that it will be at open market value and it will be discounted to reflect the level of benefit the Council will secure as a result of granting a Community Asset Transfer.

### **Recommendations**

14. Cabinet is asked to recommend the Council to agree the revised Community Asset Transfer Policy and Procedure.

For the following reason:

To manage resources and rationalise the Council's assets in line with the Corporate Asset Strategy and Management Plan.

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**CONTACT:** Lesley Pringle

extension: 3490

**Policy Context**

1. The proposed new Community Asset Transfer Policy supports the overall vision for Gateshead as set out in Vision 2030 and the Council Plan. In particular: managing resources, strategic interventions, Gateshead Volunteers and increasing collective responsibility.
2. The proposals as set out in this report also accord with the provisions of the Corporate Asset Strategy and Management Plan 2015 – 2020. In particular, the rationalisation of the estate and supporting the voluntary sector.

**Background**

3. The Council has adopted a proactive approach to Community Asset Transfer and as such has, in conjunction with its partners, been promoting community development and empowerment for a number of years within Vision 2030 and continues to do so in the recently approved Council Plan 2015 – 2020.
4. The outcome of this approach has been the successful transfer of a number of council buildings to volunteer groups by way of Community Asset Transfer.
5. Initially the majority of buildings being transferred were community centres and sports clubs to the organisations operating from them. More recently the Council has agreed to transfer 3 libraries to the volunteer organisations which are currently operating from the buildings.
6. In the above instances the buildings have been transferred on the basis of nil rent as it was acknowledged that the volunteer organisations were to take responsibility for the buildings, provide services that would meet the Council's policy priorities, were location specific and as such there was little opportunity to generate income over and above what was needed to operate the building.

**Current Position**

7. More recently the Council has received applications from larger community organisations, national charities and more financially sustainable organisations for a Community Asset Transfers of a building and also multiple applications for a particular building.
8. The criteria previously applied cannot be used when dealing with those applications; officers have therefore reviewed how the Council can assess such applications on an objective and transparent basis.
9. The proposal is that a matrix is used to assess the application. The starting point of which will be whether the property suitable for a Community Asset Transfer. In some instances the building will not be suitable: its condition and

the enhanced benefits that the Council can derive from a sale of the property being two examples.

10. If the building is considered suitable then the next stage will be assessing the market rent and then using the matrix to apply a discount, the ultimate level of the discount being dependent upon the extent to which the organisation who is applying for the Community Asset Transfer fulfils the objectives of the Council as set out in Vision 2030, the Council Plan and the various Strategies which support the Plan.

### **Consultations**

11. In preparing this report consultations have taken place with the Leader, the Deputy Leader and the Cabinet Member for Communities and Volunteering who have raised no objections to the proposal.

### **Alternative Option**

12. The Council could choose to reject the proposed revisions to the policy and procedure but this would mean that it would be difficult for the Council to determine applications from those parties identified in paragraph 7 above.

### **Implications of Recommended Option**

#### **13. Resources**

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no financial implications arising directly from adopting the policy but there will be from its implementation.
- b) **Human Resources Implications** – There are no implications arising from the recommendation
- c) **Property Implications** - There are no implications arising directly from adopting the policy but there will be from its implementation

14. **Risk Management Implication** - There are no implications arising directly from adopting the policy but will be from its implementation

15. **Equality and Diversity Implications** - There are no implications arising from the recommendation

16. **Crime and Disorder Implications** – There are no implications arising from the recommendation

17. **Health Implications** - There are no implications arising from the recommendation

18. **Sustainability Implications** - There are no implications arising from the recommendation

19. **Human Rights Implications** - There are no implications arising from the recommendation
20. **Area and Ward Implications** - All wards
21. **Background Information** – Cabinet Report 18<sup>th</sup> September  
Community Asset Transfer – Revised  
Policy and Procedure  
Council Approval 20<sup>th</sup> September 2012  
(CL/54)

### 1. Purpose of the Policy

- 1.1. This policy sets out Gateshead Council's approach to asset transfer. It outlines the principles behind asset transfer together with details of who is eligible to apply, what support will be provided to assist organisations seeking to take a transfer and how proposals will be assessed. It is hoped that by providing this framework the Council will help the voluntary and community sector (VCS) to take full advantage of the opportunity presented by asset transfer from the Council to support them in their objectives and promoting their resilience and sustainability in the long-term.
- 1.2. Where an organisation does not meet the criteria to take an asset transfer but is interested in managing and running an asset their support needs will be discussed and, where appropriate, assistance provided through the Gateshead Offer. The Gateshead Offer is the support provided jointly by Gateshead Council and GVOC to the voluntary and community sector and social enterprises in Gateshead, to help build capacity enabling organisations to become more effective, efficient and sustainable and thereby better placed to take an asset transfer at some future date.

### 2. Background

- 2.1 The Council recognises that the VCS has a vital role to play in delivering Vision 2030 and the Council Plan, and a strong and sustainable VCS is key in the delivery of services and providing a link with local communities.
- 2.2 The Council's aim is to ensure that the way its assets are managed strongly underpins its wider corporate aims and where appropriate, will use asset transfer as a means of enabling VCS organisations to become sustainable on a long-term basis
- 2.3 An asset transfer also helps the Council:
  - Rationalise its estate and facilitate more effective and efficient use of its asset base by maximising use of its buildings and reducing its financial outgoings;
  - Maximise the community benefit from buildings transferred as the focus is on better services and community outcomes through a more focussed neighbourhood approach;
  - Build capacity within the community to deliver the Council's priorities and outcomes set out in Vision 2030 and the Council Plan by acting as a catalyst to stimulate stronger partnership working between VCS organisations, the Council and other partners, providing opportunities for long-term working between sectors,



2.4 The Council also recognises that the way its physical assets are managed can have a positive impact on the long-term strength of the VCS and local communities more generally. By holding an interest in their asset, VCS organisations can gain access to sources of investment that may not be available while the building is managed by the Council.

2.5 An asset transfer also helps the VCS by:

- Strengthening the confidence of individual organisations through the capacity building support provided;
- Providing opportunities for income generation, and access to funding to refurbish the building or to support staff training and development that may only exist if a suitable lease is in place;
- Providing the organisation with the opportunity to become financial self-sufficient and potentially less dependent on short term grants and so improve long term sustainability;
- Providing the opportunity for the organisation to develop the asset to meet the organisation's needs and aspirations.

2.6 The Council provides support and advice to mitigate risks and liability to VCS organisations taking a community asset transfer. The Council's support has three elements:

- a. Capacity Building Support through the Gateshead Fund (Capacity Building Fund), the health check process and Gateshead Offer provided by a virtual Capacity Building Team
- b. Support around sustainability such as helping the organisation to reduce costs, generating income and accessing other sources of funding
- c. Increasing volunteers to both empower individuals, increase ownership and support and build the capacity of the organisation

This support will be provided before and after the transfer process regardless of whether or not there is a Partnership Agreement in place.

2.7 VCS organisations will be signposted to appropriate networks and peer support e. g. Community Centre Network. This will provide opportunities to pool knowledge and resources.

### **3. What is Community Asset Transfer?**

3.1 Community Asset Transfer is the transfer of responsibility for land or a building from the Council to a voluntary organisation or a social enterprise. It can take the form of a freehold sale or a leasehold disposal. The Council has agreed that, in the absence of exceptional circumstances, any disposal of a council asset will take the form of a lease for a minimum term of 30 years together with (if appropriate) a 'partnership agreement' an example of which is attached as Appendix 4.

- 3.2 The Council is committed to volunteering and a thriving VCS sector, so during and after the asset has been transferred it will provide the support and advice that organisations need to ensure taking a transfer of the asset does not place too much of a burden on the organisation in terms of new responsibilities, costs and expenses and it will help mitigate risk.

#### **4. National Policy Context**

- 4.1 Prior to 2010 asset transfer was encompassed within government policies to create sustainable communities, empowerment and regeneration (e.g. the 2008 white paper “Communities in Control: real people real power”).
- 4.2 The most important piece of work contributing to government policy was the Quirk Review, “Making Assets Work” published in May 2007. The Review strongly advocated in favour of local ownership and management of public assets. This was supported by the then government and a number of new initiatives were created, including the establishment of the Asset Transfer Unit.
- 4.3 The Localism Act 2011 devolves decision making powers to neighbourhood level and advocates new rights and powers for communities and individuals such as the “Community Right to Challenge” and “Community Right to Bid” (for assets of community value). Local authorities are now required to maintain a list of “assets of community value”, whereby communities have the opportunity to nominate, for possible inclusion, the assets that are most important to them: when listed assets come up for sale or change of ownership, VCS organisations will be given time to develop a business case and raise money so they can bid for the property when it comes on to the open market.
- 4.4 Community Asset Transfer will continue as a Council Policy alongside the statutory Community Right to Bid.

#### **5. Local Policy context and links to other strategies**

- 5.1 The policy has been developed in the context of the existing policy framework:
- Vision 2030 – asset transfer has a role in all the Big Ideas, by helping to strengthen and sustain VCS organisations
  - Gateshead Communities Together – makes specific reference to supporting communities, through community development, to achieve asset transfer.
  - The Council Plan – particularly in relation to objectives to empower communities under Increasing Collective Responsibility
  - The Corporate Asset Strategy and Management Plan - outlines how the Council aims to use its assets to achieve its corporate objectives
  - The Gateshead Compact – based around partnership working with the VCS to deliver Vision 2030.

## 6. Principles Underpinning the Community Asset Transfer Policy

6.1 The Council's policy on community asset transfer is underpinned by the following principles:

- a) A proactive strategy to implement the policy;
- b) The suitability of the building;
- c) A good, transparent and consistent process

a) A proactive strategy to implement the policy

- The Council will seek to implement the policy proactively, (through awareness raising, outreach and support) to encourage appropriate groups to take on an asset, linked to its commitment to volunteering and ongoing programmes of support to the VCS.
- Any proposed asset transfer must support the aims and priorities of the Council as set out in adopted policy.
- The Council views its policy on community asset transfer positively as part of a long-term programme of support to, and partnership with, the VCS. Organisations not considered to be suitable to take an asset transfer may continue to receive advice and officer support from the Council and partner organisations to help develop their capacity.
- The Council may institute programmes for multiple asset transfer in respect of specific locations, building types or services. Within these programmes the Council will promote collaboration between voluntary and community organisations. Decisions to transfer an asset will be based on the same principles as individual asset transfers.
- Once the revised policy document has been established within the Council, opportunities to extend the approach to other public bodies through the Gateshead Strategic Partnership will be sought.

b) The Suitability of the Building

- The Council will respond to requests for asset transfer of a building by exploring the strategic implications of a transfer. This will take account of priorities linked to, for example, major capital programmes; neighbourhood and area based programmes and priorities; Gateshead Communities Together; the development of community hubs; area based reviews of assets; and the value of the building.
- When assessing whether asset transfer is appropriate the Council will also take into account the need for and cost of ongoing maintenance, security and the market demand for the property. Therefore not all properties will be considered suitable for asset transfer.

- c) A good, transparent and consistent process
  - The Council will have a transparent corporate process for dealing with an asset transfer which includes a clear point of first contact (the Corporate Asset Strategy Team) together with clear stages in the process for each party to follow.
  - The Council will adopt an agreed method of assessing the benefits of the transfer (linked to corporate priorities), which allows a comparison with market disposal.
  - The lease will be commercial in nature in that it will set out the legal responsibilities of each party.
  - Where a Partnership Agreement is granted alongside the lease, this will set out how the parties will work together once the asset has been transferred.
  - Cabinet will approve all asset transfers.

## **7. Assessing a Community Asset Transfer Application**

7.1 There are three elements to be considered:

- (a) Assessing the suitability of the building for community asset transfer;
  - (b) Assessing the suitability of an organisation to take a community asset transfer;
  - (c) Assessing the rent to be paid.
- (a) Assessing the suitability of the building for community asset transfer

In determining if the building is suitable for asset transfer the Council will consider whether:

- (i) the property is linked to an alternative priority? i.e. service delivery, capital programme, regeneration, development of hub/ one stop shop;
- (ii) a disposal of the asset (whether the building itself or the land on demolition of the building) on the open market to secure a capital receipt or rental income stream best meets the Council's priorities;
- (iii) the building is suitable in terms of size, location and condition for the proposed use by the applicant;
- (iv) the property is currently vacant and is there a risk of vandalism arson and associated cost of ongoing maintenance and security;
- (v) the community benefit to be gained from the asset transfer would be localised, borough wide or regional and if not localised could it be located elsewhere;
- (vi) the property is in an area of high deprivation and the asset transfer could help to create jobs/opportunities for local people;

- (vii) the proposed use of the building is in compliance with the Local Plan.

The Council will consider investment in an asset prior to transfer to ensure the building is fit for purpose. However, preference will be given to VCS organisations that can lever in external investment.

- (b) Assessing the suitability of an organisation to take a community asset transfer

Any organisation that is a not for private profit organisation can be considered for a Community Asset Transfer, for example;

- Registered charity
- Company Limited by Guarantee with charitable status or objectives
- Community Interest Company
- Industrial and Provident Societies (Co-operatives and community benefit Industrial and Provident Society with an asset lock)
- Charitable Incorporated Organisations
- Social Enterprises

The main requirements for an eligible organisation to be considered for community asset transfer are:

- (i) An up to date legally adopted constitution or governing document which provides that the organisation can enter into a lease;
- (ii) A robust management committee / board of trustees with defined roles and responsibilities which meets on a regular basis and is elected in accordance with the governing document;
- (iii) Appropriate financial systems and procedures in place;
- (iv) Appropriate policies, procedures, licences and insurance cover in place;
- (v) Up to date, signed, examined or audited accounts which do not show a deficit;
- (vi) A robust business plan which demonstrates the organisation's plans for the asset and how these will contribute to Gateshead's Vision 2030 and the Council Plan;
- (vii) Evidence of community need and support for the proposal.

The business plan is a key document when determining whether the organisation's proposals for the building are sustainable. It will as a minimum set out:

- (i) The organisation's charitable aims and objectives;
- (ii) An assessment of the organisation and its ability to manage the asset and staff;
- (iii) Details to show that the management committee / board members have the necessary skills and expertise to deliver the

- organisations aims and objectives and operate and manage a building;
  - (iv) Summary of the activities that already take place and any additional activities that will take place in the future;
  - (v) The extent of the community benefit the organisation will bring, who will benefit, whether it is localised, borough wide or regional;
  - (vi) A 3-5 year financial forecast showing how and when income will be generated against anticipated expenditure, including investments to be made.
- (c) Assessing the rent to be paid

The Council has a statutory obligation and fiduciary duty to obtain the best consideration reasonably obtainable for its assets. However, best consideration can be obtained by money or monies' worth and therefore if the Council considers that the community benefit derived from a community asset transfer represents monies worth then this can be taken into account assessing the rent to be paid, as it can be seen as an alternative to monetary rent.

In determining if the proposed use of the property provides a benefit to the Council that constitutes monies' worth and thereby enables the Council to let the premises at a reduced monetary rent the Council will assess those potential benefits that will be gained by transferring the asset to the community. In making this assessment the officers will have due regard to the provisions of Vision 2030 and the Council Plan and the following:

- (i) The community benefits to be realised by the transfer: will the interests of local people be better served by the transfer?
- (ii) The opportunity to support and build capacity within voluntary organisations and encourage greater organisational sustainability and development of community enterprise activity.
- (iii) The impact on the Council's proposals in terms of environmental and economic regeneration and social and economic wellbeing.
- (iv) Improvements to safeguarding or creating new local services and activities whilst ensuring that existing activities, services or facilities already provided in the local community are not duplicated
- (v) Supporting Gateshead Council's efficiency gains and co-location of service providers.

In assessing the rent to be paid over the term of the lease the Council may consider it prudent to make provision for the rent to be reviewed.

## 8. The Process

- 8.1 The key stages for the community asset transfer assessment process are described in more detail below. The Council is committed to a streamlined, efficient process and the completion of each of these stages will be as quick as possible.
- 8.2 The first step for the Council will be to determine the open market rental value of the property. Once this has been determined then the Council can engage in the asset transfer process.
- 8.3 This process begins by organisations being provided with an information pack and sent the Expression of Interest form for completion and return:
  - a. If all the requirements within Part One are met organisations can complete Part Two of the Expression of Interest form. (If not all of the requirements of Part One have been met, organisations will be contacted to discuss support needs);
  - b. When Part Two of the Expression of Interest form have been submitted, the organisation will be contacted to discuss the proposal and for a more detailed Organisation Health Check to be carried out;
  - c. The detailed business plan will need to be submitted as part of the Organisation Health Check.
- 8.4 Once all of the information is received by the Council it will be assessed against the criteria as set out in 7 above in a scoring matrix (see Appendix 3), the outcome of which will inform the level of rent to be paid in respect of the asset transfer. The more the building is used for the purposes as set out in 7 then the greater the discount that can be applied
- 8.5 Provided the Council is satisfied the business plan demonstrates that the proposed use and transfer are sustainable, and the proposed use meets the criteria as set out in 7 above in whole or in part, a formal offer letter will be issued, setting out the proposed lease terms, including where appropriate the rent payable. Once the organisation has accepted the terms a suitable report will be prepared for Cabinet to obtain the Council's formal approval to the transaction.
- 8.6 If the terms of the transaction are approved by Cabinet a lease will then be provided to the organisation for approval. Once completed the asset will be transferred to the organisation and this will enable the organisation to manage and develop the property as an asset in the long term, while ensuring that the use of the building as a community facility is retained.
- 8.7 Based on the individual circumstances of each building, the Council may enter into a Partnership Agreement with the VCS organisation to set out how they will work together once the asset has been transferred. Reflecting the flexible relationships that the Council has with VCS organisations, this agreement could outline how the Council could provide additional support to the VCS organisation at a cost (e.g. Asbestos and Fire Safety compliance).

- 8.8 VCS organisations that complete a Community Asset Transfer may also be requested to produce an annual update on community benefit and continue to assist the Council in monitoring the benefit of asset transfer.
- 8.9 Should a situation arise where there are a number of interested parties in an asset that has been made available for transfer, the Council will aim to encourage collaboration. However, when this is not possible a competitive process will be used to decide the outcome and the successful organisation will become the Council's preferred partner in the transfer process.



## APPENDIX 3

Matrix 1

Question	Yes	No	Comment
Is the building suitable for asset transfer?			
Is it a properly constituted organisation?			
Does the organisation have a sound business plan?			
Will the Council continue to deliver a service from the building?			
Does the use of the accommodation include commercial activity to generate profit?			

Matrix 2

Question	Category	Category	Category	Category	Category	Comment
How many groups will operate out of the building	1-2	3-5	6-10	more than 10		Max 20% Discount
How many groups are local to that area	1-2	3-5	6-10	more than 10		Max 20% Discount
Sectors of the community benefiting from use of the building	Ages 1-5	Ages 6-19	Ages 11-19	Age 20-50	Over 50+	Max 20% Discount
How many of the groups are run by volunteers	1-2	3-5	6-10	more than 10		Max 20% Discount
How many of the activities support the Council's priorities.(A row will be needed for each priority it supports and appropriate discount applied)	1-2	3-5	6-10	more than 10		Max 20% Discount

## The Partnership Agreement

THIS PARTNERSHIP AGREEMENT IS MADE THE                      DAY OF  
201

BETWEEN

THE BOROUGH COUNCIL OF GATESHEAD of Civic Centre, Regent Street,  
Gateshead NE8 1HH (“the Council”)

and

XXXXXXXXXXXX, collectively known as the Trustees of XXXX (“the Trustees”)

### **Background**

The Council and the Trustees have agreed to work together in partnership to ensure the [property] at [place] is maintained and developed for the community of [place].

To enable them to do this the Council has granted a lease of the property known as [place] to the Trustees on favourable terms.

In consideration of this, the Trustees have agreed that they will comply with their obligations set out in this Agreement to ensure the [property] is maintained and developed for the benefit of the community of [place].

Nothing within this Agreement is intended to create a legal partnership between the parties within the meaning of the Partnership Act 1890.

### **The Lease**

1. This Agreement is a side agreement to the lease between The Borough Council of Gateshead and the Trustees of [Association/Club] and dated XXXX (“the lease”). Unless the context otherwise requires, the terms used in this Agreement shall have the same meaning given to them in the lease.
2. In cases of conflict between the terms of this Agreement and the Lease, the Agreement will take precedence.

### **The Trustees’ Obligations**

3. The Trustees agree to:
  - a. Undergo an annual health check, where necessary, to be carried out by a Council Officer;
  - b. Ensure that they have adequate Health and Safety policies in place;

- c. Provide evidence that appropriate safeguarding policies for Children and Adults are adhered to in accordance with local policies, such as Gateshead Local Safeguarding Children's Board;
- d. Provide opportunities for sport and leisure activities and to advance and improve health;
- e. Provide opportunities to advance education, training and employment options;
- f. Provide volunteering opportunities by signing up to the Gateshead Volunteer Programme;
- g. Provide social community activities to benefit the people of Gateshead;
- h. Provide evidence of equal opportunity and community engagement;
- i. Comply with the terms of the lease.

#### **The Agreement Period**

- 4. This agreement shall commence on the date shown at the head of this Agreement ("the Commencement Date") and shall continue in force until such time as it is terminated in accordance with clauses 20 or 21.

#### **Review and Variation**

- 5. The parties shall hold a review meeting every 3 years from the Commencement Date ("the Review meeting"). The purpose of the Review Meeting will be to review and renew the development plan and outcomes and agree any changes that the parties feel are necessary.
- 6. Any changes made to this Agreement shall be by way of mutual consent and recorded in writing and signed by all parties.

#### **Vision 2030**

- 7. Both the Council and the Trustees each agree to adhere to the principles set out in the Council Plan 2015 – 2020 to help achieve the long term strategic outcomes in Vision 2030.

The Council is committed to working with the Gateshead Strategic Partnership to deliver Vision 2030 to create a thriving voluntary and community sector in Gateshead.

The Six Big Ideas are:

- i. **City of Gateshead** – Gateshead taking its place alongside other great cities in terms of design, growth, natural resources, people and culture.

- ii. **Global Gateshead** – Maximising opportunities to develop relations with international partners for local benefit and reward, and to recognise the Borough’s role in the international community.
- iii. **Creative Gateshead** – Investing in our heritage and our people, giving local people the chance to enjoy a variety of creative experiences and opportunities.
- iv. **Sustainable Gateshead** – Looking at how we live, travel, use resources and energy as well as how we ensure a sound economic future and an attractive environment for Gateshead.
- v. **Active and Healthy Gateshead** – Support and encourage people to take up opportunities to improve their health and lifestyle.
- vi. **Gateshead Volunteers** – Involving local people in their community in a way that benefits them and their community.

### **Priorities for the Council**

- 8. As a partner in this agreement, the Trustees are encouraged to increase participation in sport and leisure activities which is a key priority of Gateshead’s Culture Strategy. The Strategy aims to deliver its vision through four key aims:
  - (i) Culture, creativity and high impact events;
  - (ii) Improving Health and well-being;
  - (iii) Creating capacity through volunteering;
  - (iv) Creating conditions for economic growth.

### **Monitoring and Evaluation**

- 9. The Council will nominate a senior officer who will be responsible for the monitoring and review of the performance of the Trustees under this Agreement. It is recommended that the Council officer act in an advisory role to the Trustees’ management committee and attend committee meetings.
- 10. The Trustees shall keep records relating to the performance of its obligations in such form as the Council may from time to time specify and the Trustees shall provide regular copies of such records at specified intervals and when requested to do so by the Council.
- 11. As part of the checks and scrutiny of its ongoing performance on service provision, the Council is from time to time subject to inspection from the Government and other external Statutory Bodies. As a partner in delivering objectives the Trustees will be expected to be a part of this process and therefore must comply with all requirements of these inspection processes as a condition of this Agreement. The Council will co-ordinate this process, providing all the necessary support and assistance.
- 12. If the Trustees are not complying with their obligations under this agreement, the Council will notify the Trustees in writing. The Council must provide details

of how the Trustees are not complying with their obligations and give the Trustees a reasonable period of time to rectify matters satisfactorily.

### **Disputes**

13. In the event of a dispute between the Council and the Trustees in relation to this agreement both parties shall seek to informally resolve the dispute.
14. If the Council and the Trustees cannot between themselves informally resolve such a dispute within 56 days, then either party may refer the matter to mediation.
15. The use of this procedure shall not prejudice the other rights and remedies of the parties under this agreement.

### **Termination**

16. The Council may terminate this Agreement with immediate effect if:
  - (i) The Trustees commit a substantial, repeated or persistent breach of their obligations under this agreement and fail to remedy the breach; or
  - (ii) The Trustees fail to comply with the terms of the Lease, insofar as they are not contradictory with this Agreement.
17. This Agreement will terminate automatically upon termination (for whatever reason) of the Lease.

### **Communication**

18. Any communication given under this agreement shall be in writing in the English language and delivered personally or sent by facsimile transmission or pre-paid first class recorded delivery to the address of the party as shown on this agreement or any other such address as either party may notify to the other in writing from time to time.
19. Any notice or other communication so sent will, subject to proof to the contrary, be deemed to have been received by the addressee on the second working day after the date of posting or on successful transmission or delivery as the case may be.

### **Assignment**

20. Neither party may assign this agreement, in whole or in part, to any third party.

### **Statutory Obligations**

21. Both parties shall at all times comply with all applicable laws and any consents, orders, notices or directions of any regulatory body (whether made against either party) in force from time to time.

Applicable Law

22. The Agreement will be governed by and construed in accordance with the laws of England and Wales.

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**Signatories to this Agreement**

For and on behalf of the Council

Name:

.....

Position:

.....

Signed:

.....

The Trustees

Name:

.....

Signed:

.....

The Trustees

Name: .....

Signed: .....

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**COUNCIL MEETING**

**17 December 2015**

## **SENIOR MANAGEMENT ARRANGEMENTS**

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**Jane Robinson, Chief Executive**

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### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of interim arrangements to cover the role of Strategic Director, Care, Wellbeing & Learning (including the statutory roles of director of children's services and director of adult social services) pending a permanent appointment; and the deletion of the post of Strategic Director, Policy, Growth & Transformation (also Assistant Chief Executive).
2. The Council continues to face a number of major challenges in managing significant budgetary pressures, whilst meeting increasing demand. It is the responsibility of the Chief Executive to ensure the Council is able to meet these challenges, and deliver the Council's priorities and objectives, by having the right skills and capacity in the right places across the organisation.
3. The organisational structure of the Council has changed significantly and it is acknowledged that the Council's management structures and resourcing need to be kept under review to meet changes in both demand and the policy context in which the Council operates.
4. A new model for the Care, Wellbeing & Learning service group has been developed in consultation with partner agencies, the workforce and trade unions and will be brought forward for consideration in the new year. However in light of the retirement of the current Strategic Director, Care, Wellbeing & Learning Services, it is proposed that Alison Elliott be appointed to this post on an interim basis.
5. The report in the new year will also recommend arrangements for the re-allocation of those functions currently the responsibility of the Strategic Director, Policy, Growth & Transformation (also Assistant Chief Executive), should the deletion of this post be agreed.
6. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

7. It is recommended that Council:
  - i) appoints Alison Elliott on an interim basis to the post of Strategic Director, Care, Wellbeing & Learning, pending a permanent appointment being made

ii) agrees that the post of Strategic Director, Policy, Growth & Transformation be deleted from the Council's senior management structure.



# COUNCIL MEETING

17 December 2015

## GATESHEAD COUNCIL

### REPORT FROM THE CABINET

#### 1. PURPOSE OF THE REPORT

This is the report from the Cabinet. Its purpose is to report on issues for the period November – December 2015

#### PROGRESS ON KEY ISSUES

#### 2. PEOPLE

##### *Children and Young People*

##### 'We Stand Together'

During Hate Crime Awareness Week (12 - 16 October), GemArts' new anti-hate crime animation and poster campaign, called 'We Stand Together', was launched. 'We Stand Together' was a participatory arts project delivered by GemArts, in partnership with the Council and The Gateshead Housing Company.

As part of the project, GemArts worked with two Gateshead secondary schools, Year 9 pupils from Heworth Grange Comprehensive School, and Year 8 pupils from Joseph Swan Academy. The project enabled young people to engage with, discuss and create artwork focused on raising hate crime awareness and reporting.

Heworth Grange Comprehensive School worked with visual artist Lesley-Anne Rose to create an innovative animation, and Joseph Swan Academy worked with Creative Ginger to design a powerful poster campaign.

##### Services for Vulnerable Children – Ofsted Inspection

Using their single framework for inspecting local authority services for vulnerable children, Ofsted conducted an inspection of Gateshead's services, between 27 October and 20 November. The inspectors looked at child protection, services for looked after children and care leavers, and local authority fostering and adoption services. Ofsted will publish their findings in January 2016.

##### Celebrating Achievement Event for Looked After Children

It's now 15 years since the Council introduced the Annual Celebrating Achievement Awards for Gateshead's Looked After Children and Young People. This year, the event took place on 27 October 2015 at the Lancastrian Suite, Dunston.

The event was well attended, with 358 young people nominated to receive awards by social workers, foster carers, teachers and other professionals. Three of the Ofsted inspectors also took the opportunity to attend and were very complimentary of the event.

The nomination categories were:

- Be Healthy
- Enjoy and Achieve
- Make a Positive Contribution
- Achieve Economic Wellbeing.

As well as the standard nomination areas listed, young people were also nominated for several special awards including the Lorna Gallagher Award for outstanding achievement in sport or performing arts, The Finton O'Regan Award for most improved attendance since coming into care, and the Virtual School Head Awards linked to educational attainment.

### **3. PLACE AND ECONOMY**

#### ***Economy***

Within the last report to Council, an update was provided on the consultation exercise being undertaken by JobCentre Plus, on the proposed closure and relocation of Felling Jobcentre.

DWP/Jobcentre Plus notified the Council on 10 September 2015 that it was their proposed intention to close the Felling Jobcentre Plus office, and to relocate its staff and services in entirety to Gateshead Jobcentre. The reason given for this was that it 'provides them with the opportunity to maintain high levels of customer service while ensuring we are getting the best value for money for the taxpayer'. No timetable for this was announced but stakeholders, including Gateshead Council, had been asked to comment. In response, the Council sent a strong reply outlining its concerns with the proposal.

Following the consultation exercise, Jobcentre Plus wrote to the Council on 11 November to confirm that a decision has been made to go ahead with this proposal and that, subject to detailed planning, this will happen by 31 March 2016 at the latest.

The closure of Felling JCP office will reduce the number of Jobcentres serving the Borough to two; namely Gateshead and Blaydon.

Officers will continue to liaise with Jobcentre Plus regarding this issue, and will co-ordinate our engagement to tackle the issues associated with this closure.

#### ***Environment and Transport***

##### Pedal Cycle Casualties

The North East Regional Road Safety Resource (based at Gateshead Council) has published a report analysing pedal cyclist casualties on the North East's road network between 2010 and 2014. In Gateshead, there were 218 injuries, equating to 7.5 injuries per million cycle miles, slightly higher than the North East average of 6.6.

The report identifies several important findings, notably that the main accident problems are at junctions as a result of motorists' failure to look properly. There are also clear differences in patterns of injuries between adult and child cyclists.

### Quality Contracts

The North East Combined Authority has been developing a proposed Quality Contract scheme for Tyne and Wear. This would suspend the current deregulated bus market and instead define the local bus network through a series of contracts in which service routes, frequencies and fares are all stipulated.

As part of this process, the scheme was referred for consideration by an independent Board, appointed by the Government, which has now published its conclusions. Although not binding, these are a major blow to the proposals in that, of the 5 'public interest' tests considered, the proposals were judged to have met only 2.

The future approach remains uncertain, although in the longer term similar powers proposed as part of the Government's devolution deals may provide the basis to pursue a similar approach. In the short term, a potential threat to some marginal bus services lies in the falling revenue available to Nexus to support these. This was something the Quality Contract approach sought to avoid, by increasing the number of people using buses.

### Land of Oak and Iron

Heritage Lottery Fund (HLF) has awarded the Land of Oak & Iron Landscape Partnership a £2.2million grant to deliver a programme of activity over 4 years, which will be worth £3.4million when additional resources and in-kind time are included.

Groundwork North East is the accountable body for the Partnership and will manage the programme of activity. The Council is one of a number of partners taking part in the project, including Durham County Council, Durham Wildlife Trust and the Environment Agency.

Project ideas that will directly benefit Gateshead include a new build Heritage Centre at Winlaton Mill, which will provide the base for the project activity and act as an information point for the Land of Oak & Iron. This idea does require more development and a significant amount of additional funding that still needs to be secured.

Given the industrial heritage of the area, restoring remnants of the past is a key theme, with Whinfield Coke Ovens near Highfield and Crowley's low dam at 'Old' Winlaton Mill both included. A Land of Oak & Iron sculpture trail is also proposed within Derwenthaugh Park to attract visitors and interest. There are also a number of projects that will be area wide. These include a small grants scheme aimed at local groups and a community archaeology initiative that will focus on some of the area's old Waggonways.

A guide book will also be produced that will include walks and places to visit. A skills training proposal has been developed for young people and volunteers to help sustain activity beyond the 4 year programme. There will also be opportunities for schools in the area to participate in an education programme including site visits.

## 4. COMMUNITIES

### *Culture, Sport and Leisure*

#### Great North Snowdogs

The Council, along with other partners, is working with Wild in Art and St Oswald's Hospice to support and help with the delivery of this public art event to Tyne and Wear in winter 2016. The project was launched regionally on 10 November and aims to feature around 50 individually-designed artworks based on a sculpture of a Snowdog by Raymond Briggs. Each Snowdog will be created by local artists and communities – all designed to reflect and celebrate Tyne and Wear's rich cultural offer.

A trail will be planned across Tyneside to exhibit these sculptures; to encourage people to get active and be 'tourists in their own town' and also invite visitors to explore, discover and celebrate the town. A schools trail comprising of around 100 smaller 'snowpuppies' will run alongside the main trail, animating indoor spaces such as libraries, shopping and art centres. The trail will be accessible by Metro, and each Council is being asked to suggest appropriate locations, assist with networks and identify potential support in kind from internal council services. Further discussions as to what this entails will be reported on in the future.

The trail finale will include a charity auction of the large Snowdog sculptures. The aim of the auction is to raise over £100,000 for St Oswald's Hospice Children's and Family Services. Previous similar trails have drawn between 200,000 and 1.18million visitors into towns and cities in a ten week period.

The cultural impact is expected to place art and culture at the heart of Tyne & Wear's identity and boost the local economy through increased visitor numbers and investment in the cultural community.

#### Winter Festival 2015 in Gateshead

This year, the Council is offering a range of activities to engage with residents and visitors across Gateshead. Festivities began on 24 November, when a 35 foot blue spruce Christmas tree was installed in Baltic Square. A seasonal programme of street entertainment, in partnership with Trinity Square, has taken place each Friday and Saturday from 27 November at 11am, 12noon and 1pm.

St Mary's Heritage Centre has hosted a number of festive activities, including a Christmas Craft Fair on 28 November and several concerts, including Tyneside Chamber Orchestra. The Snow Ball took place on 12 December, which brought the atmosphere of the Swing era into St Mary's with Lindy Jazz and Charleston.

The Winter installation 'Arctic Animations', supported by Tyneside Cinema, is a pop-up cinema, set in a magical winter wonderland inside St Mary's, featuring 4 animations from above the Arctic Circle and live music interludes. The seven performances start on 22 December until Christmas Eve morning and are aimed at whole family entertainment. The Caedmon Hall held a special Winter Piano Recital on 9 December, under the leadership of Venera Bojkova and showcasing local pianists.

The season would now not be complete without the ever-popular Enchanted Parks, in Saltwell Park from Wednesday 9 December until Sunday 13 December. The event, which is celebrating its 10<sup>th</sup> birthday in Saltwell Park, will once again breathe myth and

magic into Gateshead's beautiful Victorian park, through a series of art installations including fire, light, projection and sculpture. There will also be an exhibition of photographs from the event over the last 10 years, exhibited in Bewicks' Gallery from 25 November until 8 January 2016.

### **Summer Reading Challenge**

The Summer Reading Challenge takes place in libraries every year during the summer holidays. Children read six library books of their choice, collecting stickers and other rewards along the way. 1300 children from across Gateshead took part in this year's challenge and borrowed over 6,000 library books. Research shows that the challenge helps to maintain or improve children's reading levels during the long summer break.

This year, the Library Service recruited 42 young volunteers aged 15 - 19 to support children's activities linked to the reading challenge. Volunteering during the Summer Reading Challenge has given young people the chance to work creatively on a project that encourages younger children's reading while gaining valuable work experience. Their volunteering was recognised and rewarded at a special celebration evening where certificates and prizes were awarded.

## **5. CONCLUSION**

The Council is asked to note this report.

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**COUNCIL MEETING**

**17 DECEMBER 2015**

## **GATESHEAD METROPOLITAN BOROUGH COUNCIL**

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### **NOTICE OF MOTION**

Councillor R Beadle will move the following motion:

“Council notes with regret the decision of the Open University to close its Gateshead centre along with six others despite the opposition of its own Senate.

Council believes that the OU centre in Gateshead is important in encouraging non-traditional students to take up Higher Education opportunities in a region with historically low levels of attainment. The Council is also concerned at the potential loss of skilled jobs from the Borough.

Council calls on the Boroughs MPs to write to the Vice-Chancellor of the Open University to oppose these plans.

Council requests the Chief Executive to write to the Vice-Chancellor of the Open University to ask what consultation in the region was undertaken by the OU, whether a regional impact assessment has been undertaken and whether any steps are proposed to mitigate the effects of this proposal on regional take up of Higher Education opportunities and to report back to Council on the reply”

Proposed: Councillor R Beadle

Seconded by: Councillor J Wallace  
Supported by: Councillor J McClurey  
Councillor F Hindle  
Councillor M Ord

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**COUNCIL MEETING**

**17 DECEMBER 2015**

**GATESHEAD METROPOLITAN BOROUGH COUNCIL**

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**AMENDMENT TO NOTICE OF MOTION**

Councillor M Henry will move the following amendment:

In the first paragraph, insert commas as follows:

“Council notes, with regret, the decision of the Open University to close its Gateshead centre along with six others, despite the opposition of its own Senate.”

Delete paragraph three and four and replace with:

“Council welcomes the recent signing by Gateshead MPs of an Early Day Motion that opposes the closure and asks them to write to the Vice-Chancellor of the Open University to oppose these plans.

Council supports and endorses the Leader’s recent letter to the Vice-Chancellor of the Open University, copied to Gateshead MPs, the Current Chancellor of the Open University and its recent Chancellor and Gateshead Freeman, Lord David Puttnam. That letter outlines the importance of the Open University to our region and expresses strong concerns about the closure and its negative impact on Gateshead, the North East and local people. It also asks for details on what consultation in the region was undertaken by the OU, whether a regional impact assessment has been undertaken, and whether any steps are proposed to mitigate the effects of this proposal on regional take-up of Higher Education.”

Proposed by: Councillor M Henry

Seconded by: Councillor M Foy

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