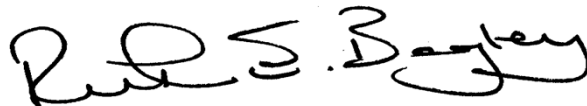


Date of issue: 9th November, 2015

MEETING	LICENSING COMMITTEE (Councillors Davis (Chair), Shah, Abe, Cheema, Coad, Dhillon, Malik, Munawar, Sohal, Usmani and Wright)
DATE AND TIME:	TUESDAY, 17TH NOVEMBER, 2015 AT 6.30 PM
VENUE:	VENUS SUITE 2, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE, SL1 3UF
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	TERESA CLARK 01753 875018

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

AGENDA

PART I

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	CONSTITUTIONAL MATTERS		
1.	Declarations of Interest		

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest.

All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

- | | | | |
|----|--|-------|--|
| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 | |
| 3. | Minutes of the Last Meeting held on 30th September, 2015 | 3 - 6 | |

LICENSING ISSUES

- | | | | |
|----|--|---------|-----|
| 4. | Street Collections and House to House Collections | 7 - 56 | All |
| 5. | Spoken English Assessment Test for all new Hackney Carriage and Private Hire Driver Applicants | 57 - 64 | All |
| 6. | Deregulation Act 2015- Late Night Refreshment | 65 - 78 | All |

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.



PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Committee – Meeting held on Wednesday, 30th September, 2015.

Present:- Councillors Davis (Chair), Shah (Vice-Chair), Cheema, Coad, Malik, Sohal, Usmani and Wright

Apologies for Absence:- Councillors Abe and Dhillon

PART 1

11. Declarations of Interest

None.

12. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on Predetermination and Predisposition.

13. Minutes of the Last Meeting held on 22nd July, 2015

Resolved – That the minutes of the meeting held on 22nd July 2015 be approved as a correct record.

14. Revised Policy for the Disclosure and Barring Service (DBS)

Mick Sims, Licensing Manager, outlined a report seeking the Committee's approval of the revised Disclosure and Barring Service (DBS) policy.

The Officer reminded the Committee that the Council, as the Licensing Authority was responsible for licensing all Hackney Carriage and Private Hire Drivers and had a duty to ensure that all licensed drivers were 'Fit and Proper Persons' to apply for and continue to hold such a licence. This included the power to refuse to grant a licence and suspend or revoke a licence where a driver was not deemed or no longer deemed to be 'Fit and Proper'.

In order to strengthen its current processes and procedures, the Council had revised its DBS policy to make it a mandatory requirement that all licensed drivers and new applicants must register with the DBS Update Service to create a 'living certificate' which the licensing authority could then access. The Committee had resolved to approve the draft DBS policy at its meeting on 22nd July which authorised Officers to commence a full consultation exercise with all current licensed Hackney Carriage and Private Hire Drivers and Operators. This was conducted between 4th August and 4th September 2015 and it was noted that no responses were received.

A Member asked whether and drivers had contacted the Licensing Team to discuss the revised policy and was advised that no questions were received which related specifically to the policy.

Licensing Committee - 30.09.15

Resolved- That Council be recommended to adopt the revised Disclosure and Barring Service Policy.

15. Gambling Act 2005: Review of Statement of Licensing Principles

The Licensing Manager outlined a report, to inform the Committee of the outcome of the public consultation on the Council's Gambling Act 2005 Statement of Principles policy (as amended 2015).

Members were reminded that inter alia, the Gambling Act 2005 placed the responsibility for the regulation of gambling on the Gambling Commission, and local authorities. The functions of the Council included the licensing of premises for gambling activities; and the granting of permits for gaming and gaming machines in clubs. The Council was required under the Gambling Act to put in place a policy known as a Statement of Principles, which would set out how functions would be managed under the Act. The Act required that the policy be reviewed every three years. The policy had now been fully reviewed and should be adopted by 7th January 2016.

The Officer reminded Members that the Gambling Act required that a consultation on the draft Statement of Principles and a consultation was carried out between 3rd August 2015 and 4th September 2015. The consultation had included press releases and placing the draft statement with information about the consultation on the Council's website.

It was noted that there had been very little feedback from the consultation and this was attributed to the draft statement being very comprehensive and in line with the legislation and Gambling Commission guidance.

The Committee was requested to recommend the adoption of the revised policy to Council. It was noted that the Policy would then be published locally and take effect no later than 7th January 2016.

Resolved- That Council be recommended to adopt the Gambling Act 2005 Statement of Principles policy (as amended 2015) as the Council's Gambling Policy.

16. Gambling Act 2005: Review of No Casino Policy

The Licensing Manager outlined a report to inform the Committee of the outcome of the public consultation on the Council's 'No Casino' policy. The Committee was requested to consider the results of the consultation and resolve whether to recommend to Council to pass a new resolution for a 'No Casino' policy.

Members were reminded that the Gambling Act 2005 had introduced a major reform of gambling laws which included measures for the introduction of three new types of casino that could operate, the actual number being set by central government. A Licensing Authority could decide to implement a No Casino policy meaning that any application for a Casino Premises would be declined. The Policy was last reviewed in 2012.

Licensing Committee - 30.09.15

The Officer discussed the results of the recent public consultation regarding the Policy, where ten responses were received requesting that a further 'No Casino' resolution should be passed. The Committee was therefore asked to consider the results of the public consultation, and to recommend to Full Council whether or not a further 'No Casino' resolution should be made.

A Member questioned how long it would take to update the policy document and the Officer advised that only one paragraph required amendment.

Resolved- That Council be recommended to pass a new resolution for a 'No Casino' policy.

17. Home Office Model Street Collection Regulations

The Licensing Manager outlined a report in which the Committee was asked to endorse the re-adoption of the Home Office Model Street Collection Regulations and recommend that Council re-adopt the Regulations (previously adopted in June 1974).

The Officer advised that the Council did not currently have any specific policies for Street Collections or House Collections in place and the Licensing Team had recently reviewed current processes and procedures. This had resulted in the creation of new draft policies for both types of collections which would be consulted on in due course for reasons of transparency.

Members raised a number of comments/ questions during the ensuing debate regarding individuals collecting for dubious causes in the Town Centre. The Officer confirmed that it was for reasons such as this that the policy had been drafted and bogus companies conducting house to house collections would be struck off. It was also highlighted that new application forms had been created and that checks were made with the Charity Commission to confirm the status of collectors.

Resolved-

- (a) That the re-adoption of the Home Office Model Street Collection Regulations be endorsed.
- (b) That Council be recommended to re-adopt the Home Office Model Street Collection Regulations.

18. Date of Next Meeting

It was confirmed that the next meeting of the Committee would be held on 17th November, 2015.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 7.00 pm).

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SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 17th November 2015

CONTACT OFFICER: Michael Sims - Licensing Manager
(For all Enquiries) (01753) 477387
 Ginny de Haan – Head of Consumer Protection and
 Business Compliance
 (01753 477912)

WARD(S): All

PART I
FOR DECISION

STREET COLLECTIONS AND HOUSE TO HOUSE COLLECTIONS

1. **Purpose of Report**

For Members to comment on and approve, the new draft policies for Street Collections and House to House Collections.

2. **Recommendation(s)**

That the Committee:

- (a) Make comment on and approve the new draft policies.
- (b) To recommend that Officers commence a full consultation exercise.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The Council is responsible for processing and determining applications in respect of organisations/people wishing to undertake charitable collections by way of a Street Collection or House-to-house Collection within the Borough of Slough. The Council does not currently have in place specific policies for Street Collections or House Collections. The Licensing Team has recently reviewed the current processes and procedures, which has resulted in new draft policies being prepared for both types of collections. As part of the review process and as a matter of transparency with the new draft policies being prepared, at its meeting on 30th September 2015, the Licensing Committee recommended that the Home Office Model Street Collection Regulation (previously adopted in June 1974) to be re-adopted.

3a. **Slough Joint Wellbeing Strategy Priorities –**

As the report outlines new specific policies for Street Collections and House to House Collections have been drafted. The new draft policies have been prepared with the essence being that proceeds (other than holders of Home Office Exemption Orders) where ever possible will be used for the benefit of Slough's community.

The recommendations within the report will contribute the following wellbeing themes.

- Health and Wellbeing
- Safer Communities

Cross-Cutting themes:

Approving the recommendations will promote the benefits of living and working in Slough and will contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The report outlines fully the reason for the recommendation to ensure that all charitable collections are conducted legally ensuring that there is no risk to the public which will therefore contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley

4. **Other Implications**

(a) Financial

There are no financial implications involved in the recommendation.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	None	The new Street Collection and House to House Collection polices will ensure that only bona fide and genuine collections will take place and where possible for the benefit of Slough's community.

(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the 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.

(c) Equalities Impact Assessment

An initial EIA has been completed which indicates that there is a neutral impact on charitable organisations and equality groups. However a review of the EIA will be conducted following the consultation exercise.

5. Supporting Information

- 5.1 The Council does not currently have in place specific policy documents in relation to 'Street Collections' and House to House Collections and currently deal with such applications using Slough Borough Council (SBC) House to House Model Guidance for Public Charitable Collections, House to House Regulations, SBC Street Collections Guidance and the SBC Model Street Collection Regulations.
- 5.2 In light of this and to address some concerns over the legitimacy of previous collections made and as to the recipient of the proceeds of the collection the Licensing Team have conducted a review of the processes and procedures for 'Street Collections' and 'House to House Collections'. In doing so they have prepared new draft policies for both types of collections, to include those documents referred to in (5.1 above) as well as more specific information on the application process such as the Council reserving the right to make more detailed enquiries, including consulting with the Police.
- 5.3 As part of the review process and as a matter of transparency with the new draft policies being prepared, the Licensing Committee at its meeting on 30th September 2015 recommended that the Home Office Model Street Collection Regulations (previously adopted in June 1974) to be re-adopted.
- 5.4 The consultation exercise will involve consulting with national and local charitable organisations, the Charities Commission and all previous applicants for charitable collections in Slough, as well as through the SBC website.

6. Comments of Other Committees

None.

7. Conclusion

The Committee is requested approve the draft policies and recommend that a public consultation is commenced.

8. Appendices Attached

- 'A' - Draft Street Collection Policy
- 'B' - New Street Collection Application Form
- 'C' - Draft House to House Collection Policy
- 'D' - New House to House Collection Application form

9. Background Papers

Section 5 of the Police, factories and c. (Miscellaneous Provisions Act 1916
As amended by the Local Government Act 1972

Charitable Collections (Transitional Provisions) Order 1974

House to House Collections Act 1939

House to House Collections Regulations 1947, as amended.

APPENDIX A

STREET COLLECTION POLICY

Document Number	01
Version Number	
Date approved	
Effective	
Contact Officer	Licensing Manager

Change History		
Version No	Date	Change Details
1.00		Initial Draft
2.00		
3.00		
4.00		

Related Documents	
Document Title	Location
Section 5 of the Police, Factories and c. (Miscellaneous Provisions) Act 1916, as amended by Section 251 and Schedule 29 of the Local Government Act 1972.	Statute
Street collection permit application form	
Street collection permit	
Blank statement of return form	

If you have any further questions about this policy or for further information, including applications forms, please contact:

Licensing Manager,
Slough Borough Council,
Landmark Place,
High Street,
Slough
Berkshire
SL1 1JL

STREET COLLECTIONS POLICY

Contents

1. Background information
2. The aims of this policy
3. Eligible applicants/organisations
4. Definition of street collection
5. Scope of this policy
6. Collection dates for local organisations
7. Application deadlines
8. Collection times
9. Application process
10. Decisions
11. Exceptional circumstances
12. Successful applications
13. Collection principles
14. Refusal/revocation
15. Returns
16. Enforcement
17. Sharing of information
18. Appeals
19. Fee structure
20. Review of this policy
21. Contacts
- Appendix A – Definitions
- Appendix B – Excluded collections areas
- Appendix C – Decision making process flow chart
- Appendix D – Regulations

STREET COLLECTIONS POLICY

1. BACKGROUND INFORMATION

It is unlawful in the United Kingdom to hold a street collection on any street or public place without first obtaining a Street Collection Permit from a local authority.

Slough Borough Council regulates¹ charitable collections in accordance with Section 5 of the Police, Factories and c. (Miscellaneous Provisions) Act 1916, as amended by the Local Government Act 1972 and the Charitable Collections (Transitional Provisions) Order 1974.

A Pedlars Licence, issued by the Police cannot be used for this purpose.

Some issues relating to street collections are at the discretion of Slough Borough Council and it is important that the council, as licensing authority, has a policy regarding these issues.

From xx 2015, the council as licensing authority will only issue street collection permits to **local organisations** (and their authorised collection agents) whose collection proceeds will be used for the benefit of Slough's communities.

This policy should be read in conjunction with the Regulations set out at Appendix D adopted by the Council and approved by the Secretary of State on .

¹ See appendix D regulations

2. THE AIMS OF THIS POLICY

2.1 This policy is designed to:

- Ensure that members of the public are safeguarded so that they are not subject to unauthorised donation requests.
- Ensure that applications are considered in a timely way.
- Ensure impartiality and fairness in determining applications.
- Accommodate all eligible requests, subject to capacity, bearing in mind that certain days are especially sought after.
- Reduce nuisance to residents and visitors.
- Safeguard the interests of the public, donors and beneficiaries.
- Facilitate well organised collections by bona fide charitable institutions and ensure that good standards are met.
- Prevent unauthorised collections.
- Prevent collections in specified locations.
- Ensure that wherever possible, no more than one organisation will be permitted to collect in the same area on the same day.
- Ensure money is collected securely and proceeds properly accounted for.
- Achieve a fair balance between local and national causes.

3. SCOPE OF THIS POLICY

This policy covers the whole of the borough of Slough.

4. ELIGIBLE APPLICANTS

- 4.1 Organisations whose purposes/intentions are charitable within the meaning of Section 1 of the Charities Act 2011 set out at appendix A..
- 4.2 Before allowing any collection, the council must be satisfied that the organisation:

(i) is a bona fide charity; and

(ii) is providing a public benefit which serves the needs of persons resident in the borough (see appendix A) .

5. DEFINITION OF STREET COLLECTION

- 5.1 Street collections for charitable, benevolent or philanthropic purposes usually involve the collection of cash in the street or any public place.
- 5.2 The definition also includes the sale of articles in the street or any public place the proceeds of which are for charitable, benevolent or philanthropic purpose.

6. COLLECTION DATES

- 6.1 Street collection permits are in great demand and as such the numbers issued by the licensing authority need to be carefully controlled.
- 6.2 To provide as many different organisations (and their authorised collection agents) with the opportunity to fundraise, the licensing authority maintains a list of available dates.
- 6.3 Wherever possible, no more than one eligible organisation will be permitted to collect in the same area on the same day.
- 6.4 Where more than one applicant applies for a street collection permit on the same date, the allocation of that date will be determined on a first come first served basis.
- 6.5 No guarantee can be given that an applicant's preferred day will be allocated.
- 6.6 If the licensing authority is unable to allocate the preferred date, alternatives will be offered, wherever possible.
- 6.7 The licensing authority will not grant licences for periods in excess of 14 days.

- 6.8 A calendar year runs from 1st January to 31st December each year.
- 6.9 Collection dates will not be confirmed until the licensing authority has received a fully completed street collection permit application form and supporting information from the applicant.

7. COLLECTION TIMES AND LOCATIONS

- 7.1 Street collections may only take place between the hours set out in the licence but no earlier than 10:00 and no later than 18:00 hours..
- 7.2 Street collections may only take place In the location set out in the licence.
- 7.3 There are a number of specified locations in the borough where an application for a street collection permit will **not** be granted. These are listed in appendix B to this policy.
- 7.4 Street collections in the permitted areas of Slough High Street are restricted to Wednesdays, Saturdays and Sundays only.

8. APPLICATION PROCESS

- 8.1 All applications for a street collection permit must be made using a street collection licence application form. This form can be downloaded from the council's website at www.slough.gov.uk/business/licences-and-permits/street-collection-permits.aspx .
- 8.2 This form must be made accompanied by the following supporting information:
- Literature about the organisation.
 - A copy of the published accounts for the collecting organisation for the previous financial year; an electronic copy is acceptable.
 - If the applicant is not an official of the organisation, a letter from the organisation authorising the applicant to undertake a collection on their behalf.

- Any agreement or contract details between the applicant and the organisation benefiting from the collection; an electronic copy is acceptable.
- 8.3 Failure to provide this information in support of an application will render the application incomplete and will result in it being rejected.
- 8.4 The licensing authority reserves the right to make more detailed enquiries about an application in certain circumstances. This could include consulting with the Police.
- 8.5 If additional information is requested from the applicant, it must be provided no later than 10 working days before the first proposed collection date. Failure to do so could result in a delay in the licensing authority considering and or refusing the application.
- 8.6 Where an applicant refuses or neglects to provide the licensing authority with the requested information that the licensing authority reasonably requires, it will refuse the application.
- 8.7 No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.
- 8.8 The use of stalls, trailers, vehicles, animals or other displays or advertising in connection with a street collection will be permitted at the discretion of the licensing authority.
- 8.9 There is no fee for making an application for a street collection permit.

9. APPLICATION DEADLINES

9.1 An application for a street collection permit may be submitted to the council a minimum of 30 days before the first proposed collection date but no earlier than six months in advance of the proposed start date of the collection.

9.2 Applications will be dealt with on a first come first served basis.

10. DECISIONS

10.1 The licensing authority, in exercising its discretion in carrying out its regulatory functions, will have regard to this policy and the principles set out herein.

10.2 Each application for a street collection permit will be considered on its own merits based on the licensing principles detailed in this policy and using the decision making process illustrated at appendix C to this policy.

10.3 The licensing authority may authorise a departure from this policy only if it considers it necessary and/or in exceptional circumstances..

10.4 Where it is necessary for the licensing authority to depart substantially from this policy, clear and compelling reasons for doing so will be given in writing.

11. EXCEPTIONAL CIRCUMSTANCES

11.1 The licensing authority operates a policy of allowing one eligible organisation to collect in an area on any given day. Exceptions to this will be for national charities whose collections are linked to specific dates in the year and to whom preference will be given, for example The Royal British Legion Poppy Appeal.

11.2 The licensing authority may also, at its discretion, make an exception to this policy in respect of proposed street collections in response to a national or international disaster; including but not limited to urgent

appeals by individuals or groups collecting on behalf of the Disaster Emergency Committee (DEC). Further information on DEC is available at www.dec.org.uk/

12. SUCCESSFUL APPLICATIONS

12.1 If an application for a street collection permit is granted the applicant will receive the following documents from the licensing authority:

- A street collection permit made out in the name of the applicant.
- A blank statement of return form.²

13. COLLECTION PRINCIPLES

13.1 The licensing authority requires that all eligible organisations undertaking street collections in the borough adhere to:

- the Institute of Fundraising's Code of Fundraising Practice.³
- The Licensing Authority expects all collectors to follow the advice provided by the Public Fundraising Regulatory Association.⁴
- The Regulations set out at Appendix D.

14. REFUSAL/REVOCATION

14.1 The licensing authority can refuse or revoke a street collection permit for a number of reasons:

- If the applicant is found not to be a bona fide charity providing a public benefit which serves the needs of persons residents in the borough.
- If the applicant is found to have:

² This form can be downloaded from the council's website at www.slough.gov.uk/business/licences-and-permits/street-collection-permits.aspx

³ <http://www.institute-of-fundraising.org.uk/guidance/code-of-fundraising-practice/>

⁴ http://www.pfra.org.uk/professional_standards/code_rules#Street Rule Book

- previous convictions
- been in breach of its licence conditions
- been observed conducting collections in an aggressive manner

15. RETURNS

- 15.1 Within **one month** of the date of the street collection having taken place, the permit holder must send a completed statement of return form to the licensing authority in accordance with section 17 in the Regulations at Appendix D..
- 15.2 Failure to comply with section 17 in the Regulations within the specified deadline is an offence and will result in any future applications for a street collection permit being refused by the licensing authority for a period of 6 months.
- 15.5 No further permits will be considered if there are any outstanding financial returns due to the licensing authority from a charity or organisation's previous street collection.
- 15.6 A letter from the benefiting organisation confirming the donation amount received from the collection must also accompany the returns form.

16. ENFORCEMENT

- 16.1 The licensing authority operates a proportionate enforcement regime in accordance with the council's relevant enforcement policies.
- 16.2 The general enforcement aims of the council are to:
- Safeguard the interests of the public, donors and beneficiaries.
 - Facilitate well organised collections by bona fide charitable organisations and to ensure good standards are met.
 - Prevent unlicensed collections from taking place.

16.3 A copy of the council's Consumer Protection and Business Compliance Enforcement Policy can be found at

<http://www.slough.gov.uk/council/strategies-plans-and-policies/consumer-protection-and-business-compliance-enforcement-policy.aspx>

17. SHARING OF INFORMATION

17.1 The licensing authority may share with other enforcement bodies (including the Police) any information supplied by applicants, or required in the course of exercising its licensing functions, where it is lawful to do so.

17.2 Personal information will only be disclosed in accordance with the Data Protection Act 1998. This may include requests from the Audit Commission or other regulatory agencies where this is necessary for the detection or prevention of a crime or where it is required by law, or in connection with legal proceedings.

17.3 Where applicable, it will be under the relevant Information Sharing Protocol.

18. APPEALS

There is no formal right of appeal against any decision made by the licensing authority to grant or refuse an application for a street collection permit.

19. CONTACTS

Licensing team

Slough Borough Council

Email: Licensing@slough.gov.uk

Tel: 01753 875664

Web: www.slough.gov.uk/business/licences-and-permits

Charity Commission for England and Wales

www.gov.uk/government/organisations/charity-commission

Companies House

www.companieshouse.gov.uk

Institute of Fundraising

www.institute-of-fundraising.org.uk/home

Public Fundraising Regulatory Association

www.pfra.org.uk

DRAFT

Appendix A: Definitions

1. Definition of charitable purpose

The council will use Section 1 of the Charities Act 2011, which defines charitable purpose as:

1. the prevention or relief of poverty
2. the advancement of education
3. the advancement of religion
4. the advancement of health or the saving of lives
5. the advancement of citizenship or community development
6. the advancement of the arts, culture, heritage or science
7. the advancement of amateur sport
8. the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
9. the advancement of environmental protection or improvement
10. the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
11. the advancement of animal welfare
12. the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services
13. other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.

2. Definition of charity

Most organisations that are charities are required to register with the appropriate regulator, but significant exceptions apply so that many organisations that are bona fide charities do not appear on a public register maintained by the Charity Commission.

In order to determine whether an applicant is a charity the council will refer to Section 1 Charities Act 2011, which provides the following definition:

“(1) For the purposes of the law of England and Wales, “charity” means an institution which —

(a) is established for charitable purposes (see definition 1 above) only, and

(b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.”

This means that the following types of legal entity may be eligible to apply for a street collections licence under this policy:

- 1) **Charitable Companies** - these are formed and registered under the Companies Act 2006; they also include a companies already registered under the Companies Act 1985, or one which was already in existence at that time; and which is established for **exclusively** charitable purposes.
- 2) **Charitable Incorporated Organisations** – these have powers similar to a company but without the need to register as a company. CIOs have a legal personality, the ability to conduct business in their own name, and limited liability so that its members and trustees do not have to contribute in the event of financial loss. From March 2013 all CIOs have to register with the Charity Commission.
- 3) **Charities incorporated by Royal Charter** – these tend to be organisations with a legal personality (or, in some instances, transforms a charity incorporated as a company into a charity incorporated by Royal Charter). The Charter must be approved by the Privy Council before receiving Royal Assent. Although the nature of these charities will vary depending on the clauses enacted, these generally have the same limited liability as a company and the ability to enter into contracts.
- 4) **Common Deposit Funds** – these are charities established by Scheme under s.100 of the 2011 Act. Test = question in the form / copy of governing document
- 5) **Common Investment Funds** – these are established by scheme under s.96 of the 2011 Act. But the definition for the purposes of the Charities (Accounts and Reports) Regulations 1995, and the Financial Services and Markets Act 2000 (Exemption) Order 2001, and clause 38 of the Trustee Bill excludes such funds whose trusts provide for participation only by charities which have the same charity trustees as the fund (i.e., pool charities). In a CIF a participating charity has a "share" or a number of the "units" in a portfolio of the CIF rather than

an individual list of stock holdings of its own. CIFs are established as separate charities in themselves (i.e. aside from the individual participating charities), with trustees appointed in accordance with the Scheme.

- 6) **Community Trusts or Community Foundation** - these are fund-raising and grant making charities established to raise new resources for local charities in a specific geographic area (or "community") and to promote the effective use of these resources. Community Trusts are most commonly constituted as charitable companies limited by guarantee. Test = question in the form / copy of governing document.
- 7) **Companies limited by guarantee** - these are private limited companies where the liability of members is limited. They do not have a share capital, but instead have members who are guarantors instead of shareholders. In the event of the company being wound up the members agree to pay a nominal sum which can be as little as £1.
- 8) **Excepted charity** - these are charities that do not have to register with the Charity Commission, but, in most other respects, are fully within their jurisdiction (either due to a Charity Commission ruling, legislation or because their income is considered as too small). They tend to include churches and chapels of some Christian denominations and the funds associated with them, charitable funds of the armed forces, scout and guide groups.
- 9) **Exempt charity** - these charities do not have to register with the Charity Commission, as they are covered by other statutory instruments. Examples of exempt charities are listed in Schedule 3 to the 2011 Act (although it should be noted that not every institution listed in this schedule is not necessarily a charity; the Act grants exempt status only "so far as they are charities").
- 10) **Non-company charities** – these are non exempt charities other than those which are formed and registered under the Companies Act 1985 and the Companies Act 2006, or to which the provisions of those Acts apply.
- 11) **Trusts** – these are essentially a relationship between three parties, the donor of some assets, the trustees who hold the assets and the beneficiaries (those people who are eligible to benefit from the charity). When the trust has charitable purposes, and is a charity, the trust is known as a charitable trust. They will have Trust Deed or Declaration of Trust, which comes into operation once it is signed by all the trustees.
- 12) **Unincorporated associations** - these is the most common form of organisation within the voluntary sector in England. An unincorporated association is essentially a contractual arrangement between individuals who have agreed to come together to form an organisation for a particular purpose. They normally have a governing document and a constitution or set of rules, which will deal with such matters as the appointment of office bearers, and the rules governing membership.

3. Definition of public benefit

It is a legal requirement in the Charities Act that, to be a 'charitable purpose', the purpose must be 'for the public benefit'. There are two aspects of public benefit:

- 1) The 'benefit aspect' – this is about whether the purpose is beneficial. In order to satisfy the 'benefit aspect' of the legal requirement:
 - the purpose must be beneficial
 - any detriment or harm that results from the purpose must not outweigh the benefit
- 2) The 'public aspect' – this is about who the purpose benefits. In order to satisfy the 'public aspect' legal of the legal requirement:
 - it must benefit the public in general, or a sufficient section of the public
 - and not give rise to more than incidental personal benefit

The council will use the flow diagram at Appendix B to determine whether the purpose of the applicant's collection satisfies both the 'benefit' and 'public' aspect requirements of the Act.

4. Definition of borough

The area covered by Slough Borough Council.

Appendix B: Excluded Areas

Street collection permits will **not** be granted in the following locations:

Stoke Poges Lane and the immediate vicinity

- Stoke Poges Lane – Elliman Avenue to Belgrave Road
- Elliman Avenue – Stoke Poges lane to Shackleton Road
- Carrington Road
- Oakley Crescent
- Leeds Road
- Carmarthen Road
- Belgrave Road – Carrington Road to Stoke Poges Lane
- Shackleton Road – Elliman Avenue to Carrington Road

Diamond Road and the Immediate Vicinity

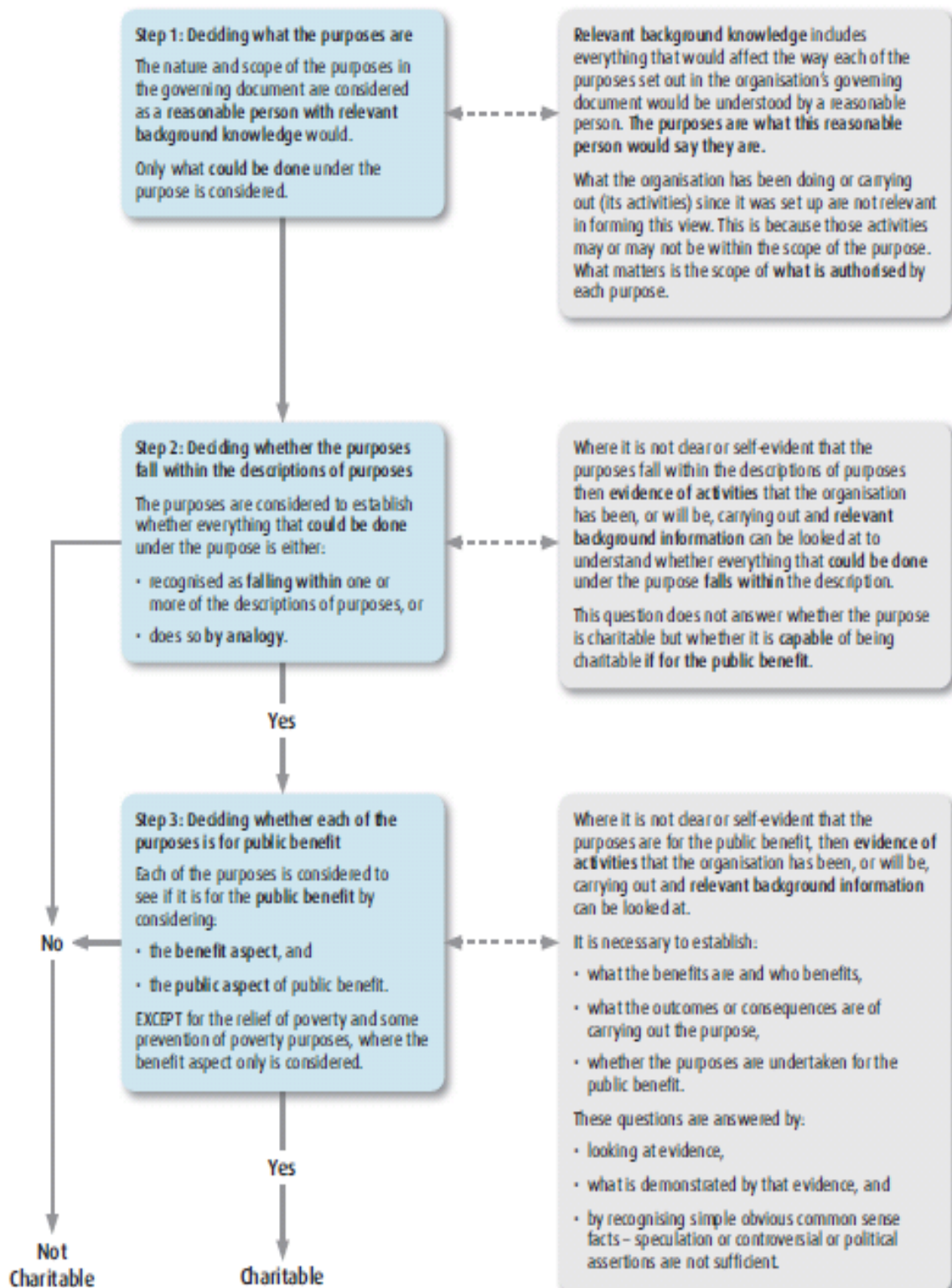
- Diamond Road
- Atkin Avenue
- Princes Street
- Wexham Road – A4 Wellington Street to the railway bridge
- A4 Wellington Street – Wexham Road to A412 Uxbridge Road
- A412 Uxbridge Road – Wellington Street to Victoria Road

Montem Lane and the Immediate Vicinity

- Montem Lane – A4 Bath Road to Ledgers Road
- Henry Road
- Arthur Road
- King Edward Road
- Oban Court

Town Square, Slough High Street

Appendix C: Decision making process flow chart



Appendix D: Regulations

[Insert once confirmed by Secretary of State]

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Police, Factories etc (Miscellaneous Provisions) Act 1916

Application for permission to hold a Street Collection public charitable collection

Section A: Applicant details	
Title (Mr/Mrs/Ms etc):	
Full Name:	
Home Address:	
Email Address:	
Contact Telephone Number:	
Date of Birth:	
Place of Birth:	
Section B: Collecting organisation details	
Company Name:	Charity name:
Company Address (head office):	Charity address (head office):
Registered company number:	Registered charity number:
Legal Status (Sole trader/partnership/limited company/charity etc):	
Your position in the business:	
Section C: Details of organisation to benefit from the collection	
Organisation name:	Organisation address:
Registered company number:	Registered charity number:
Legal Status (Sole trader/partnership/limited company/charity etc):	
Organisation contact name:	
Section D: Supporting information	
Have all documents detailed in point 9.2 of the policy been submitted with this application?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes please tick all that apply. Literature about the organisation A copy of the published accounts Authorisation letter	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

A copy of any agreement or contract	
Section E: Definition of Charity. Please tick all that apply.	
Charitable Company	<input type="checkbox"/>
Charitable Incorporated Organisation	<input type="checkbox"/>
Charities Incorporated by Royal Charter	<input type="checkbox"/>
Common Deposit Funds	<input type="checkbox"/>
Common Investment Funds	<input type="checkbox"/>
Community Trusts or Community Foundation	<input type="checkbox"/>
Companies limited by guarantee	<input type="checkbox"/>
Excepted charity	<input type="checkbox"/>
Exempt charity	<input type="checkbox"/>
Non-company charities	<input type="checkbox"/>
Trusts	<input type="checkbox"/>
Unincorporated associations	<input type="checkbox"/>
Section F: Purpose of collection. Please tick all that apply.	
the prevention or relief of poverty	<input type="checkbox"/>
the advancement of education	<input type="checkbox"/>
the advancement of religion	<input type="checkbox"/>
the advancement of health or the saving of lives	<input type="checkbox"/>
the advancement of citizenship or community development	<input type="checkbox"/>
the advancement of the arts, culture, heritage or science	<input type="checkbox"/>
the advancement of amateur sport	<input type="checkbox"/>
the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity	<input type="checkbox"/>
the advancement of environmental protection or improvement	<input type="checkbox"/>
the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage	<input type="checkbox"/>

<p>the advancement of animal welfare</p> <p>the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services</p> <p>other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Please provide further information supporting each purpose ticked above and how the collection proceeds will be used for the benefit of Slough's community. Continue on a separate sheet if required:</p>	
<p>Please note: no payments shall be made to any collector and no payment shall be made out of the proceeds of a collection either directly or indirectly to any other person connected with the promotion of a collection, unless approved by the Licensing Authority.</p>	
<p>Section G: Street collection</p>	
<p>Please note: any permit granted for Slough High Street will only allow a charitable collection to take place on a Wednesday or Saturday. Collections are only permitted to take place between the hours of 10:00 and 18:00</p>	
<p>Please state where you propose to collect:</p>	
<p>Preferred dates for the collection:</p>	
<p>How many people do you propose to authorise as collectors (maximum 6 collectors)? <input type="text"/></p>	<p>Please provide name, address & date of birth for all authorised collectors on a separate sheet</p>
<p>Please provide samples of collector identification i.e. badge, certificate of authority etc.</p>	
<p>Section H: Type of collection. Please tick all that apply</p>	
<p>Cash</p> <p>Items (for sale)</p> <p>Other</p>	<input type="checkbox"/> <input type="checkbox"/> please provide details on a separate sheet <input type="checkbox"/> please provide details on a separate sheet
<p>Do you propose to hold the collection in conjunction with a carnival, procession or other event?</p> <p>Yes</p> <p>No</p>	<input type="checkbox"/> please provide details on a separate sheet <input type="checkbox"/>
<p>Section I: Method of collection. Please tick all that apply</p>	

Sealed box	<input type="checkbox"/>	
Envelope	<input type="checkbox"/>	
Other	<input type="checkbox"/> please provide details on a separate sheet	
Section J: Disposal of collection proceeds. Please tick all that apply		
Out of the collection proceeds to you propose to pay:		
The organisers	<input type="checkbox"/>	
Collectors	<input type="checkbox"/>	
Expenses	<input type="checkbox"/>	
Other	<input type="checkbox"/>	
Please provide details of all the payments you propose to make out of the proceeds of the collection. Continue on a separate sheet if required.	Payment type:	Amount to be paid:
Section K: Other applications		
Have you, or anybody associated with the collection, previously applied for permission to hold a charitable collection with this or any other local authority?		
No	<input type="checkbox"/>	
Yes – application granted	<input type="checkbox"/>	
Yes – granted and revoked or suspended	<input type="checkbox"/> please provide details on a separate sheet	
Yes – application refused	<input type="checkbox"/> please prove details on a separate sheet	
Section L: Convictions; subject to the Rehabilitation of Offenders Act 1974.		
Have you, or anyone connected with the collection, been convicted of any criminal offence?		
Yes	<input type="checkbox"/> all relevant unspent convictions must be declared below	
No	<input type="checkbox"/>	
Court:		
Offence:		
Penalty:		
Date of conviction:		
Please continue on a separate sheet if required.		
Section M: Bank account details		
Please provide details of the bank account into which the collection proceeds will be paid:		
Bank account name:		
Bank account number:		
Bank sort code:		

Please note the following:

- You may be requested to supply other information:
 - Particulars of any contract you may have with the organisation that is to benefit from the collection.
 - The most recent accounts of the organisation that is to benefit.
 - Literature about the organisation that is to benefit.

Section N: Applicant declaration and signature

- I have read fully and understood the contents of this form and any supporting information and agree to the terms and/or conditions set out within;
- I understand that by submitting this application, I consent to Slough Borough Council passing on the data within this application and its supporting documents to any authority or person that will assist its determination of this application, or as required by law;
- I declare that the information provided is true to the best of my knowledge and belief;
- I understand that if any false information is provided I may be guilty of an offence and liable to prosecution;
- I understand that if the application is authorised I must inform the authority about any changes to circumstances that mean I no longer meet the conditions for the authorisation;

Applicant Signature:

Print Name:

Date:

Completed applications should be sent to: **Licensing
Slough Borough Council
Landmark Place
High Street
Slough
SL1 1JL**

If you need further information, please contact the Licensing Department on:

Telephone No: 01753 875664

e-mail: licensing@slough.gov.uk

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HOUSE TO HOUSE COLLECTION POLICY

Document Number	01
Version Number	
Date approved	
Effective	
Contact Officer	Licensing Manager

Change History		
Version No	Date	Change Details
1.00		Initial Draft
2.00		
3.00		
4.00		

Related Documents	
Document Title	Location
House to House Collections Act 1939	Statute
House to House Collections Regulations 1947, as amended,	
House to house collection licence application form	
House to house collection licence	
House to house collection statement return form	
Consumer Protection and Business Compliance Enforcement Policy	
Relevant Information Sharing Protocol?	

If you have any further questions about this policy or for further information, including applications forms, please contact:

Licensing Manager,
Slough Borough Council,
Landmark Place,
High Street,
Slough
Berkshire

Appendix C

HOUSE TO HOUSE COLLECTION POLICY

Contents

1. Background information
 2. The aims of the policy
 3. Scope of this policy
 4. Eligible applicants/organisations
 5. Definition of house to house collection
 6. Collection dates
 7. Application
 8. Collection Principles
 9. Refusal/revocation
 10. Returns
 11. Enforcement
 12. Sharing of information
 13. Appeals
 14. Contacts
- Appendix A – Definitions
Appendix B – Decision making process flow chart
Appendix C – Collection Areas

Appendix C

HOUSE TO HOUSE COLLECTION POLICY

1. BACKGROUND INFORMATION

Public charitable collections that are carried out house-to-house are controlled by the House to House Collections Act 1939 and the House to House Collections Regulations 1947, as amended, which established a central licensing regime for such collections.

The 1939 Act states that a licence from a local authority is required in order to carry out any collection. Section 11 defines 'collection' as "an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property."

A **collection for charitable purposes** cannot be made unless the provisions of the 1939 Act and the regulations are complied with - otherwise an offence may be committed. You must have a licence before you carry out a collection.

Offences are punishable by penalties ranging from a fine of up to £200.00 or in some cases, up to six months imprisonment and a fine of up to £1,000.00.

The only exemptions to this general rule are organisations that have been granted a 'National Exemption Order' by the Cabinet Office under the provisions of the House to House Collections Act 1939.

This allows these organisations to fundraise in an area without the need to apply for a licence, although they do have to notify the local authority of the dates and areas of any planned fundraising activities. Details of this scheme can be found at www.gov.uk/government/publications/national-exemption-order-scheme

From xx 2015, the Council as licensing authority will give preference in granting house to house collections licences to **local organisations** (and their authorised collection agents) whose collection proceeds will be used for the benefit of Slough's communities and this policy should be read accordingly.

2. THE AIMS OF THE POLICY

2.1 This policy is designed to:

- Ensure that members of the public are safeguarded so that they are not subject to unauthorised donation requests.
- Ensure that applications are considered in a timely way.
- Ensure impartiality and fairness in determining applications.
- Accommodate all eligible requests, subject to capacity, bearing in mind that certain days are especially sought after.
- Reduce nuisance to residents and visitors.
- Safeguard the interests of the public, donors and beneficiaries.
- Facilitate well organised collections by bona fide charitable institutions and ensure that good standards are met.
- Prevent collections in specified locations.
- Ensure that wherever possible, no more than one organisation will be permitted to collect in the same collection area on the same day. Details of the 7 collection areas can be found at Appendix C.
- Ensure money is collected securely and proceeds properly accounted for.
- Achieve a fair balance between local and national causes.

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3. SCOPE OF THIS POLICY

- 3.1 This policy covers the whole of the borough of Slough.

4. ELIGIBLE APPLICANTS/ORGANISATIONS

- 4.1 Organisations wishing to make collections should note that only those organisations whose purposes/intentions are charitable (see Appendix A for a definition of 'charitable purpose') within the meaning of Section 1 of the Charities Act 2011 will be eligible for the grant of such a licence, unless there are exceptional circumstances to allow otherwise.
- 4.2 Before allowing any collection, the council must be satisfied that the organisation is a bona fide charity (see Appendix A for a definition of 'Charity').

5. DEFINITION OF HOUSE TO HOUSE COLLECTION

- 5.1 House to house collections for charitable, benevolent or philanthropic purposes usually involve the collection of either cash or goods directly from a person's property.
- 5.2 The definition also includes requests for unwanted clothing and household items, where any part of the collection proceeds may go to a charitable, benevolent or philanthropic purpose.

6. COLLECTION DATES

- 6.1 Where ever possible, no more than one eligible organisation will be permitted to collect in the same area on the same day.
- 6.2 In general, eligible organisations will not be permitted to hold more than two collections in the borough or part thereof during one calendar year.
- 6.3 A calendar year runs from 1st January to 31st December each year.
- 6.4 The licensing authority will not grant licences for periods in excess of 14 days.
- 6.5 This requirement will only be waived in *exceptional circumstances* and at the discretion of the licensing authority (see section 9 below).
- 6.6 Collection dates will not be confirmed until the licensing authority has received a fully completed house to house collection licence application form and supporting information (see section 7 and 8 below) from the applicant.

7. APPLICATION

- 7.1 An application for a house to house collection license may be submitted to the council a minimum of 30 days before the first proposed collection date.
- 7.2 This requirement will only be waived in *exceptional circumstances* and at the discretion of the licensing authority (see section 9 below).

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- 7.3 In order to avoid multiple collections being made on the same day applications for house to house collection licences will not be considered more than 6 months in advance of the proposed start date of the collection.
- 7.4 Applications will be dealt with on a first come first served basis.

Application Process

- 7.5 All applications for a house to house collection licence must be made using a house to house collection licence application form which can be downloaded from the council's website at www.slough.gov.uk/business/licences-and-permits/house-to-house-collections.aspx.
- 7.6 All applications must be made accompanied by the following supporting information:
- Literature about the organisation
 - A copy of the published accounts for the collecting organisation for the previous financial year; an electronic copy is acceptable.
 - If the applicant is not an official of the organisation, a letter from the organisation authorising the applicant to undertake a collection on their behalf.
 - Any agreement or contract details between the applicant and the organisation benefiting from the collection; an electronic copy is acceptable.
- 7.7 Failure to provide this information in support of an application will render the application incomplete and will result in it being rejected.
- 7.8 The licensing authority reserves the right to make more detailed enquiries about all applications in certain circumstances. This could include consulting with the Police.
- 7.9 If additional information is requested from the applicant it must be provided no later than 10 working days before the 1st proposed collection date.
- 7.10 Failure to do so could result in a delay in the licensing authority considering and or refusing the application (see section 14).
- 7.11 Where an applicant refuses or neglects to provide the licensing authority with the requested information that the licensing authority reasonably requires, it will refuse the application (see section 14).
- 7.12 The legislation does not allow the Council to make a charge for the licence.

Decisions

- 7.13 The licensing authority, in exercising its discretion in carrying out its regulatory functions, will have regard to this policy and the principles set out herein.
- 7.14 Each application for a house to house collection licence will be considered on its own merits based on the licensing principles detailed in this policy and using the decision making process illustrated at appendix B to this policy.
- 7.15 Where it is necessary for the licensing authority to depart substantially from this policy, clear and compelling reasons for doing will be given in writing.

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- 7.16 The licensing authority may authorise a departure from this policy if it considers it necessary and/or in exceptional circumstances.

Exceptional Circumstances

- 7.18 The licensing authority operates a policy of allowing one eligible organisation to collect in an area on any given day.
- 7.19 The council may, at its discretion, may make an exception to this policy in respect of proposed house to house collections in response to a national or international disaster; including, but not limited to, urgent appeals by individuals or groups collecting on behalf of the Disaster Emergency Committee (DEC). Further information on DEC is available at <http://www.dec.org.uk/>

Successful Applications

- 7.20 If an application for a house to house collection licence is granted the applicant will receive the following documents from the licensing authority:
- A house to house collection licence made out in the name of the applicant.
 - A blank statement of return form

8. COLLECTION PRINCIPLES

- 8.1 The licensing authority requires that all eligible organisations undertaking house to house collections in the borough adhere to:
- the Institute of Fundraising's Code of Fundraising Practise. A copy of this code of practise can be found at www.institute-of-fundraising.org.uk.
 - It should be noted that while the collection of direct debit details during house to house collections are outside the scope of the 1939 Act, the licensing authority expects all collectors to follow the advice provided by the Public Fundraising Regulatory Association. A copy of this advise can be found at www.pfra.org.uk/control_and_regulation/doorstep/doorstep_f2f_best_practice

9. REFUSAL/REVOCATION

- 9.1 The licensing authority may refuse or revoke a house to house collection licence for a number of reasons:
- If the applicant is not (i) a bona fide charity providing public benefit; or (ii) a local charity providing public benefit which serves the needs of persons residents in the borough.
 - If the applicant has been refused a licence to carry out a house to house collection by another local authority.
 - If the applicant is found to have carried out an unlicensed collection previously anywhere in England and Wales. In this instance, no licences will be granted to that applicant until at least 3 years have passed without further contraventions.

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- If a high a proportion of the proceeds are to be spent on expenses.
 - If not enough of the proceeds are to be given to the charity (see section 13 below).
 - If incorrect or incomplete (see section 7 above) information was provided on the application form.
 - If additional information is requested and the applicants refuse or neglects to provide it.
 - If the applicant, promoter or any other person involved in the collection has been convicted of certain criminal offences. These offences include:
 - Any offences involving burglary, blackmail or fraud.
 - Any offence of a violent or sexual nature.
 - Any offence which necessarily involved a finding that the applicant acted fraudulently or dishonestly.
 - Offences committed in Scotland involving personal violence or lewd, indecent, or libidinous conduct, or the dishonest appropriation of property.
 - Offences committed under this Street Collections Regulation (Scotland) Act 1915.
 - Offences committed under section 5 of the Police, Factories etc) Miscellaneous Provisions) Act 1916.
 - If the granting of a licence would be likely to facilitate the commission of an offence under section 3 of the Vagrancy Act 1824.
 - If the applicant or licence holder has failed to exercise due diligence to ensure that the collectors are fit and proper, to ensure compliance with the provisions of the [House to House Collection Regulations Act 1939](#) or to prevent prescribed badges or certificates of authority being obtained by authorised persons.
- 9.2 Where an application for a licence is refused or revoked by the licensing authority the applicants have the right to appeal to the Minister for the Cabinet Office (see section 17 below).

10. RETURNS

- 10.1 Within **one month** of the date of the house to house collection having taken place, the licence holder must send a completed statement of return form to the licensing authority.
- 10.2 This form must record the amount received and the expenses and payments incurred in connection with the house to house collection.
- 10.3 A letter from the benefiting organisation confirming the donation amount received from the collection must also accompany the returns form.
- 10.4 Failure to comply with this requirement within the specified deadline is an offence and will result in any future applications for a house to house

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collection license being refused by the licensing authority for a period of 6 months.

- 10.5 No further licences will be considered if there are any outstanding financial returns due to the licensing authority from a charity's previous house to house collection.

11. ENFORCEMENT

- 11.1 The licensing authority operates a proportionate enforcement regime in accordance with the council's relevant enforcement policies.
- 11.2 The general enforcement aims of the council are to:
- Safeguard the interests of the public, donors and beneficiaries.
 - Facilitate well organised collections by bona fide charitable organisations and to ensure good standards are met.
 - Prevent unlicensed collections from taking place.
- 11.3 A copy of the council's Consumer Protection and Business Compliance Enforcement Policy can be found at www.slough.gov.uk/business/licences-and-permits/house-to-house-collections.aspx

12. SHARING OF INFORMATION

- 12.1 The licensing authority may share with other enforcement bodies (including the Police) any information supplied by applicants, or required in the course of exercising its licensing functions, where it is lawful to do so.
- 12.2 Personal information will only be disclosed in accordance with the Data Protection Act 1998. This may include requests from the Audit Commission or other regulatory agencies where this is necessary for the detection or prevention of a crime or where it is required by law, or in connection with legal proceedings.
- 12.3 Where applicable, it will be under the relevant Information Sharing Protocol.

13. APPEALS

- 13.1 There is a statutory right of appeal to the Minister for the Cabinet Office against the decision of the licensing authority to refuse a licence to hold a house to house collection or to revoke such a licence.
- 13.2 Appeals should be made in writing to:

Office of Civil Society
2nd Floor, Admiralty Arch
South Side
The Mall
London
SW1A 2WH

- 13.3 An appeal must be lodged within 14 days of the date on which the Notice of refusal or revocation was given to the applicant or licence holder.

14. CONTACTS

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Licensing team

Slough Borough Council

Email: Licensing@slough.gov.uk

Tel: 01753 875664

Web: www.slough.gov.uk/business/licences-and-permits

Charity Commission for England and Wales

www.gov.uk/government/organisations/charity-commission

Companies House

www.companieshouse.gov.uk

Institute of Fundraising

www.institute-of-fundraising.org.uk

Public Fundraising Regulatory Association

www.pfra.org.uk

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Appendix C

Appendix A: Definitions

1. Definition of charitable purpose

The council will use Section 1 of the Charities Act 2011, which defines charitable purpose as:

1. the prevention or relief of poverty
2. the advancement of education
3. the advancement of religion
4. the advancement of health or the saving of lives
5. the advancement of citizenship or community development
6. the advancement of the arts, culture, heritage or science
7. the advancement of amateur sport
8. the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
9. the advancement of environmental protection or improvement
10. the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
11. the advancement of animal welfare
12. the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services
13. other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.

2. Definition of charity

Most organisations that are charities are required to register with the appropriate regulator, but significant exceptions apply so that many organisations that are bona fide charities do not appear on a public register maintained by the Charity Commission.

In order to determine whether an applicant is a charity the council will refer to Section 1 Charities Act 2011, which provides the following definition:

“(1) For the purposes of the law of England and Wales, “charity” means an institution which —

- (a) is established for charitable purposes (see definition 1 above) only, and*
- (b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.”*

This means that the following types of legal entity may be eligible to apply for a house to house collections licence under this policy:

- 1) **Charitable Companies** - **these are** formed and registered under the Companies Act 2006; they also include a companies already registered under the Companies Act 1985, or one which was already in existence at that time; and which is established for **exclusively** charitable purposes.
- 2) **Charitable Incorporated Organisations** – these have powers similar to a company but without the need to register as a company. CIOs have a legal personality, the ability to conduct business in their own name, and limited liability so that its members and trustees do not have to contribute in the event of financial loss. From March 2013 all CIOs have to register with the Charity Commission.
- 3) **Charities incorporated by Royal Charter** – these tend to be organisations with a legal personality (or, in some instances, transforms a charity incorporated as a company into a charity incorporated by Royal Charter). The

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Charter must be approved by the Privy Council before receiving Royal Assent. Although the nature of these charities will vary depending on the clauses enacted, these generally have the same limited liability as a company and the ability to enter into contracts.

- 4) **Common Deposit Funds** – these are charities established by Scheme under s.100 of the 2011 Act. Test = question in the form / copy of governing document
- 5) **Common Investment Funds** – these are established by scheme under s.96 of the 2011 Act. But the definition for the purposes of the Charities (Accounts and Reports) Regulations 1995, and the Financial Services and Markets Act 2000 (Exemption) Order 2001, and clause 38 of the Trustee Bill excludes such funds whose trusts provide for participation only by charities which have the same charity trustees as the fund (i.e., pool charities). In a CIF a participating charity has a "share" or a number of the "units" in a portfolio of the CIF rather than an individual list of stock holdings of its own. CIFs are established as separate charities in themselves (i.e. aside from the individual participating charities), with trustees appointed in accordance with the Scheme.
- 6) **Community Trusts or Community Foundation** - these are fund-raising and grant making charities established to raise new resources for local charities in a specific geographic area (or "community") and to promote the effective use of these resources. Community Trusts are most commonly constituted as charitable companies limited by guarantee. Test = question in the form / copy of governing document.
- 7) **Companies limited by guarantee** - these are private limited companies where the liability of members is limited. They do not have a share capital, but instead have members who are guarantors instead of shareholders. In the event of the company being wound up the members agree to pay a nominal sum which can be as little as £1.
- 8) **Excepted charity** - these are charities that do not have to register with the Charity Commission, but, in most other respects, are fully within their jurisdiction (either due to a Charity Commission ruling, legislation or because their income is considered as too small). They tend to include churches and chapels of some Christian denominations and the funds associated with them, charitable funds of the armed forces, scout and guide groups.
- 9) **Exempt charity** - these charities do not have to register with the Charity Commission, as they are covered by other statutory instruments. Examples of exempt charities are listed in Schedule 3 to the 2011 Act (although it should be noted that not every institution listed in this schedule is not necessarily a charity; the Act grants exempt status only "so far as they are charities").
- 10) **Non-company charities** – these are non exempt charities other than those which are formed and registered under the Companies Act 1985 and the Companies Act 2006, or to which the provisions of those Acts apply.
- 11) **Trusts** – these are essentially a relationship between three parties, the donor of some assets, the trustees who hold the assets and the beneficiaries (those people who are eligible to benefit from the charity). When the trust has charitable purposes, and is a charity, the trust is known as a charitable trust. They will have Trust Deed or Declaration of Trust, which comes into operation once it is signed by all the trustees.
- 12) **Unincorporated associations** - these is the most common form of organisation within the voluntary sector in England. An unincorporated association is essentially a contractual arrangement between individuals who have agreed to come together to form an organisation for a particular purpose. They normally have a governing document and a constitution or set

Appendix C

of rules, which will deal with such matters as the appointment of office bearers, and the rules governing membership.

3. Definition of public benefit

It is a legal requirement in the Charities Act 2011 that, to be a 'charitable purpose', the purpose must be 'for the public benefit'. There are two aspects of public benefit:

- 1) The 'benefit aspect' – this is about whether the purpose is beneficial. In order to satisfy the 'benefit aspect' of the legal requirement:
 - the purpose must be beneficial
 - any detriment or harm that results from the purpose must not outweigh the benefit
- 2) The 'public aspect' – this is about who the purpose benefits. In order to satisfy the 'public aspect' legal of the legal requirement:
 - it must benefit the public in general, or a sufficient section of the public
 - and not give rise to more than incidental personal benefit

The council will use the flow diagram at appendix B to determine whether the purpose of the applicant's collection satisfies both the 'benefit' and 'public' aspect requirements of the Act.

4. Definition of local charity

S.293 of the Charities Act 2011 defines local charity as:

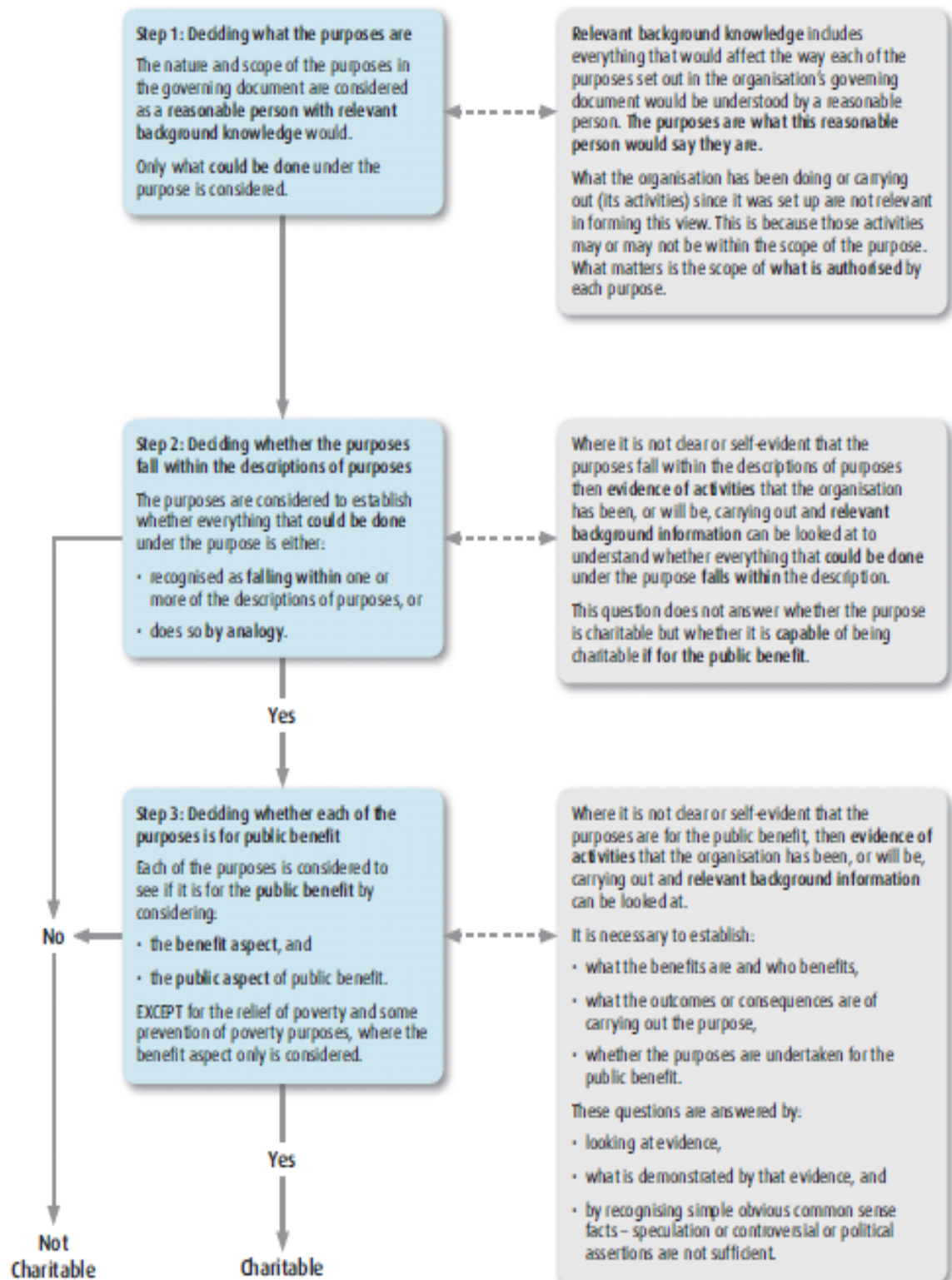
"....being established for purposes which are directed wholly or mainly to the benefit of a particular area (whether stated in the trusts of the charity or implicit in its purposes)".

5. Definition of borough

The area covered by the unitary authority of Slough.

Appendix C

Appendix B: Decision making process flow chart



Appendix C

Appendix C

Collections Areas

Slough Borough Council is split into 7 collection areas, by ward(s), as follows:

- 1) Britwell/Haymill/Cippenham Green
- 2) Cippenham Meadows/Farnham
- 3) Baylis & Stoke/Chalvey
- 4) Wexham Lea/Central
- 5) Langley St Marys/Foxborough
- 6) Upton/Kederminster
- 7) Colnbrook with Poyle

Maps showing each ward and its boundary can be viewed at
<http://www.slough.gov.uk/business/licences-and-permits/house-to-house-collections.aspx>

House to House Collections Act 1939, House to House Collections Regulations 1947 and the Charities Act 1992

Application for permission to hold a House to House public charitable collection

Section A: Applicant details	
Title (Mr/Mrs/Ms etc):	
Full Name:	
Home Address:	
Email Address:	
Contact Telephone Number:	
Date of Birth:	
Place of Birth:	
Section B: Collecting organisation details	
Company Name:	Charity name:
Company Address (head office):	Charity address (head office):
Registered company number:	Registered charity number:
Legal Status (Sole trader/partnership/limited company/charity etc):	
Your position in the business:	
Section C: Details of organisation to benefit from the collection	
Organisation name:	Organisation address:
Registered company number:	Registered charity number:
Legal Status (Sole trader/partnership/limited company/charity etc):	
Organisation contact name:	
Email address:	Telephone number:
Section D: Supporting information	
Have all documents detailed in point 8.2 of the policy been submitted with this application?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes please tick all that apply. Literature about the organisation A copy of the published accounts	<input type="checkbox"/> <input type="checkbox"/>

Authorisation letter	<input type="checkbox"/>
A copy of any agreement or contract	<input type="checkbox"/>
Section E: Definition of Charity. Please tick all that apply.	
Charitable Company	<input type="checkbox"/>
Charitable Incorporated Organisation	<input type="checkbox"/>
Charities Incorporated by Royal Charter	<input type="checkbox"/>
Common Deposit Funds	<input type="checkbox"/>
Common Investment Funds	<input type="checkbox"/>
Community Trusts or Community Foundation	<input type="checkbox"/>
Companies limited by guarantee	<input type="checkbox"/>
Excepted charity	<input type="checkbox"/>
Exempt charity	<input type="checkbox"/>
	<input type="checkbox"/>
Non-company charities	
Trusts	<input type="checkbox"/>
	<input type="checkbox"/>
Unincorporated associations	
Section F: Purpose of collection. Please tick all that apply.	
the prevention or relief of poverty	<input type="checkbox"/>
	<input type="checkbox"/>
the advancement of education	
the advancement of religion	<input type="checkbox"/>
the advancement of health or the saving of lives	<input type="checkbox"/>
the advancement of citizenship or community development	<input type="checkbox"/>
the advancement of the arts, culture, heritage or science	<input type="checkbox"/>
the advancement of amateur sport	<input type="checkbox"/>
the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity	<input type="checkbox"/>
the advancement of environmental protection or improvement	<input type="checkbox"/>
the relief of those in need, by reason of	<input type="checkbox"/>

youth, age, ill-health, disability, financial hardship or other disadvantage the advancement of animal welfare the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Please provide further information supporting each purpose ticked above and how the collection proceeds will be used for the benefit of Slough's community. Continue on a separate sheet if required:	
Please note, no payments shall be made to any collector and no payment shall be made out of the proceeds of a collection either directly or indirectly to any other person connected with the promotion of a collection, unless approved by the Licensing Authority.	
Section E: House-to-House collection	
Preferred dates for the collection:	
How many people do you propose to authorise as collectors (maximum 15 collectors)? <input type="text"/>	Please provide name, address & date of birth for all authorised collectors on a separate sheet
Please provide samples of collector identification i.e. badge, certificate of authority etc	
Section F: Type of collection. Please tick all that apply	
Cash Goods (for re-sale) Goods (for sale) Goods (give away) Goods (use) Other	<input type="checkbox"/> <input type="checkbox"/> please provide a sample of your collection leaflet <input type="checkbox"/> please provide details on a separate sheet <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> please provide details on a separate sheet
Section G: Method of collection. Please tick all that apply	
Sealed box Envelope Collection bag Other	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> please provide a sample of your collection bag <input type="checkbox"/> please provide details on a separate sheet

Section H: Disposal of collection proceeds. Please tick all that apply.		
Out of the collection proceeds do you propose to pay:		
The organiser	<input type="checkbox"/>	
Collectors	<input type="checkbox"/>	
Expenses	<input type="checkbox"/>	
Other	<input type="checkbox"/>	
Please provide details of all the payments you propose to make out of the proceeds of the collection. Continue on a separate sheet if required.	Payment type:	Amount to be paid:
Section I: Other applications. Please tick all that apply.		
Have you, or anybody associated with the collection, previously applied for permission to hold a charitable collection with this or any other local authority?		
No	<input type="checkbox"/>	
Yes – application granted	<input type="checkbox"/>	
Yes – granted and revoked or suspended	<input type="checkbox"/> please provide details on a separate sheet	
Yes – application refused	<input type="checkbox"/> please prove details on a separate sheet	
Section J: Convictions; subject to the Rehabilitation of Offenders Act 1974.		
Have you, or anyone connected with the collection, been convicted of any criminal offence?		
Yes	<input type="checkbox"/> all relevant unspent convictions must be declared below	
No	<input type="checkbox"/>	
Date of conviction:		
Court:		
Offence:		
Penalty:		
Please continue on a separate sheet if required.		
Section K: Bank account details		
Please provide details of the bank account into which the collection proceeds will be paid:		
Bank account name:		
Bank account number:		
Bank sort code:		

Please note the following:

- You may be requested to supply other information:
 - Particulars of any contract you may have with the organisation that is to benefit from the collection.
 - The most recent accounts of the organisation that is to benefit.
 - Literature about the organisation that is to benefit.
- If the collection is taking place on private property you also need the written permission of the landowner and will need to submit this with the application.

Section L: Applicant declaration and signature

- I have read fully and understood the contents of this form and any supporting information and agree to the terms and/or conditions set out within;
- I understand that by submitting this application, I consent to Slough Borough Council passing on the data within this application and its supporting documents to any authority or person that will assist its determination of this application, or as required by law;
- I declare that the information provided is true to the best of my knowledge and belief;
- I understand that if any false information is provided I may be guilty of an offence and liable to prosecution;
- I understand that if the application is authorised I must inform the authority about any changes to circumstances that mean I no longer meet the conditions for the authorisation;

Applicant Signature:

Print Name:

Date:

Completed applications should be sent to: **Licensing
Slough Borough Council
Landmark Place
Slough
SL1 1JL**

If you need further information, please contact the Licensing Department on:

Telephone No: 01753 875664 e-mail: licensing@slough.gov.uk

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SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 17th November 2015

CONTACT OFFICER: Michael Sims - Licensing Manager
(For all Enquiries) (01753) 477387
Ginny de Haan – Head of Consumer Protection and
Business Compliance
(01753 477912)

WARD(S): All

PART I

FOR COMMENT AND DECISION

**SPOKEN ENGLISH ASSESSMENT TEST FOR ALL NEW HACKNEY CARRIAGE
AND PRIVATE HIRE DRIVER APPLICANTS**

1. **Purpose of Report**

For the Committee to note and comment on the proposed requirement / procedure for a Spoken English Assessment Test for all new applicants for Hackney Carriage and Private Hire Driver licences.

2. **Recommendation(s)**

That the Committee approve the proposed Spoken English Assessment Test requirement and procedure for new Hackney Carriage and Private Hire Driver applicants, with immediate effect.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

As the report outlines, the Council does not currently have in place any policy or provision to ensure that new applicants for drivers licences have an adequate or reasonable level of English language.

Some current drivers and private hire operators have previously made comment on the standard and level of spoken English and understanding of the English language by some new drivers.

The proposals of the report will ensure that not only drivers are able to converse with fare paying passengers and the public in general, but will also help in protecting the drivers own safety when dealing with awkward and problematic customers or situations.

3a. **Slough Joint Wellbeing Strategy Priorities –**

The proposal will contribute to the following wellbeing themes.

- Economy and Skills

- Safer Communities

Cross-Cutting themes:

The approval of the proposed requirement and procedure will promote the benefits of living and working in Slough and will contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The report outlines fully the reason for the proposal and will therefore contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley

4. **Other Implications**

(a) Financial

There will be initial costs incurred in purchasing the tests. The cost will be offset by a fee of £40.00 borne by the new applicants to cover the cost of each test together with a nominal fee to cover officer time.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	There is currently a risk to the fare paying passengers as well as to the licensed driver where there is a communication barrier between both. The approval will enhance the status of the licensed drivers in Slough.	A consultation on a mandatory English test has previously been conducted with no formal objections or responses. The alternative proposal as detailed in the report is considered to be a reasonable and proportionate approach.

(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the 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.

(c) Equalities Impact Assessment

An initial EIA has been completed following the original proposals of a mandatory English test and following the consultation with the licensed trade which indicates that there is no negative or adverse impact on any individual or

any equality group.

5. Supporting Information

- 5.1 As the Council does not currently have in place any policy or provision to ensure new applicants for driver licenses have an adequate or reasonable level of spoken English, on 22nd July 2015 a report was put before the Licensing Committee to approve a Mandatory English Language Competency Test for all new Hackney Carriage and Private Hire Drivers and the Committee resolved, that the adoption of a mandatory English Language Competency Test for all new Hackney Carriage and Private Hire Drivers be approved.
- 5.2 Following the Committee resolution a consultation was carried out between 4th August and 4th September 2015 with all current holders of driver and operator Licenses on the original proposals to which there were no comments or responses.
- 5.3 In addition, during and after the consultation period, a number of other Local Authorities were also contacted who have implemented similar tests. In light of discussions with those Local Authorities the report now details an alternative proposal for a Spoken English Assessment Test requirement and procedure, rather than a Mandatory English Competency Test for all new applicants. The reason for this being that opinion is there needs to be a criteria where if necessary new applicants may or will be required to undertake the Spoken English Assessment Test.
- 5.4 Therefore the Committee are asked to approve the Spoken English Assessment Test procedure attached at **Appendix A**.
- 5.5 The proposed procedure for approval will provide officers the opportunity to make an assessment at the time of speaking with a prospective applicant, either in person or on the telephone of them being able to demonstrate an adequate and reasonable level of spoken English. The priorities being that in the applicant's role as a licensed driver, they will be able to converse with fare paying passengers, the public in general, as well as protecting the drivers own safety when dealing with awkward and problematic customers or situations.
- 5.6 The proposed procedure has been prepared as guidance for both officers and new applicants to clearly detail:-
- The criteria for all new applicants, where there may be or will be a requirement for an assessment test to be undertaken, which will be explained in full to the prospective applicant.
 - That where necessary, a second assessment will be made by the Licensing Manager, whose decision will be final.
 - What is involved in taking the test, in that it is a pre-application requirement, the necessity of submitting an application form with no fee and proof of identification of the applicant to be provided.
 - Clear instructions of the procedure for the testing process.
- 5.7 The proposed procedure is considered to be a reasonable and proportionate approach, to ensure that all new applicants are able to demonstrate an adequate and reasonable level of spoken English in carrying out their role as a licensed driver with each application will be considered on its own merits.

6. Comments of Other Committees

On 22nd July 2015 the Licensing Committee resolved that the adoption of a Mandatory English Language Competency Test for all new Hackney Carriage and Private Hire Drivers be approved.

7. Conclusion

The Committee is requested to comment on and approve the new proposal.

8. Appendices Attached

‘A’ - Spoken English Language Test Procedure.

9. Background Papers

Local Government (Miscellaneous Provisions) Act 1976

SPOKEN ENGLISH ASSESSMENT TEST PROCEDURE

(Guidance for Officers and new Applicants)

1. It is a requirement of Slough Borough Council that ALL new applicants for both Hackney Carriage and Private Hire Driver licenses can demonstrate an adequate and reasonable level of spoken English.
2. The purposes of this requirement are to:
 - Ensure that members of the public are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
 - Ensure that applicants are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
 - Ensure impartiality and fairness in determining applications.
 - Accommodate all eligible applications.
3. The criteria for all new applicants for Hackney Carriage and Private Hire Driver licences are:
 - (a) Applicants for whom English is not their first language may be asked to provide evidence of having gained a qualification that was taught and assessed in English.
 - (b) Applicants who have some difficulty understanding spoken advice on the telephone or face to face and who have similar issues expressing themselves in English will be asked to provide a certificate showing the successful completion of a course of study or qualification in any subject or skill that was taught and assessed in English. (Examples are but not limited to, GCSE's, 'O Levels' GCE, NVQ, BTEC, RFQ, City and Guilds or similar, Degree, HND, HNC etc or a qualification equivalent to any previously listed issued by a recognised examining body in an English speaking country other than the UK). The weight given to the subject and grade achieved will be assessed on a case by case basis.
 - (c) Applicants who cannot demonstrate an adequate or reasonable level of spoken English and/or a suitable qualification will be required to undertake an independent assessment of their spoken English.
 - (d) Applicants who are clearly fluent English speakers will require no further assessment and may proceed with their application in full.
4. The initial assessment of all new applicants' level of spoken English, whether on the telephone or in person will be made by a Licensing Officer. Where in

the opinion of the Licensing Officer the applicant does not have an adequate or reasonable level of spoken English the applicant will be informed of the spoken English requirement and procedure.

5. Applicants who have difficulty in clearly expressing themselves and who cannot produce a suitable qualification listed above will be referred to the Licensing Manager who will make a second assessment and if necessary advise the applicant of the requirement to undertake the spoken English assessment test.

6. The Licensing Managers decision is final.

TAKING THE TEST

7. The spoken English assessment test is a pre-application requirement undertaken at the applicants own expense at a cost of £40.00 (payable before the test is taken) and must be successfully completed before proceeding with the full application procedure.
8. The applicant will be required to submit a completed application form (no fee to be paid at that time) together with photographic proof of identification i.e. passport and/or driving licence. A photograph will also be taken of the applicant at the time of submission of the application form and the applicants identity will also be confirmed at the time of taking the test.
9. Tests will be taken in a Slough Borough Council building – Landmark Place.
10. If the applicant has a mobile telephone it must be switched off to avoid any interruptions.
11. Applicants will be told that the tests are recorded by the test provider and any attempt to cheat for example, by using their mobile telephone to attempt to get a fluent English speaker to complete the test will be detected by the system and the applicant will be automatically failed and will not be permitted to undertake another test or proceed with their application.
12. Test dates will depend on demand and room booking availability.

TEST PROCESS

13. On the day of the test, the applicant will be escorted to the designated room by a Licensing Officer. The Licensing Officer will dial the number to the test provider and pass the telephone to the applicant and leave the room.

14. The English assessment test assessment consists of a 15 minute exercise, taken by telephone during which applicants will be tested on various aspects of their speaking and listening ability.
15. The assessment is provided by a specialist education and testing company and consists of:
 1. Repeating back sentences that are read to the applicant over the phone.
 2. Answering simple questions asked over the phone.
 3. Constructing sentences from fragments read to the applicant over the phone (sentences divided into 3 or 4 parts)
 4. Answering open questions asked over the phone (speaking for up to 30 seconds per question).
16. The test is entirely automated, and questions will be asked by a variety of voices.
17. All of the questions will relate to normal life and the applicants day-to-day activities; there are no trick questions.
18. The applicant will also be graded separately on sentence usage, vocabulary, fluency and pronunciation, all of which contribute to the overall score.
19. At the end of the test the Licensing Officer will contact the test provider via the website, access the applicants result, a report will be produced (a copy of which will be provided to the applicant) with a score indicating their overall ability.
20. The test scoring will be set at CEFR B2.
21. For licensing purposes, the Council will require applicants to score at least **56** out of **80**. This indicates a good overall ability in use of the English language, where applicants will be able to speak fluently on a range of everyday topics and be able to give and understand most instructions.
22. When passed, the pass certificate will be downloaded direct from the test providers website the same day and provided to the applicant.
23. Failure to pass the minimum CEFR level B2 (56 out of 80) will require a further test to be taken
24. There is no right of appeal where the applicant has failed to attain the minimum pass level of 56.

25. Unsuccessful applicants should be given an information sheet with the contacts of local colleges and courses where they may undertake further study to improve their spoken English. All training will be done at the applicants own expense.
26. No person may re-sit the test within 28 days of taking a previous test.
27. Returning applicants may demonstrate a reasonable standard of spoken English either through the production of a certificate demonstrating the successful completion of an accredited spoken English qualification at level 1 or above, or successfully completing the spoken English assessment test detailed above.
28. Applicants choosing to re-take the spoken English assessment test will have to pay the required fee.

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 17th November 2015

CONTACT OFFICER: Michael Sims - Licensing Manager
(For all Enquiries) (01753) 477387
 Ginny de Haan – Head of Consumer Protection and
 Business Compliance
 (01753 477912)

WARD(S): All

PART I

FOR INFORMATION

DEREGULATION ACT 2015 – GUIDANCE ON THE LICENSING OF LATE NIGHT REFRESHMENT

1. **Purpose of Report**

To advise members of the amendments to Schedule 2 of the Licensing Act 2003 by Section 71 of the Deregulation Act 2015 and of the recently published Home Office Guidance on the licensing of late night refreshment.

2. **Recommendation**

The Committee is requested to note the report:

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The report outlines that Slough Borough Council as the Licensing Authority for the Licensing Act 2003 determines all applications for relevant Licensable Activities including late night refreshment. The Deregulation Act 2015 amends the 2003 Act, giving Local Authorities powers, to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.

3a. **Slough Joint Wellbeing Strategy Priorities –**

The Home Office has published Guidance on the licensing of late night refreshment which is intended to assist Licensing Authorities and the Police with monitoring and enforcement activities in relation to the provision of late night refreshment. The Guidance may also help businesses who wish to provide hot food and drink to determine whether they will require a licence under the 2003 Act.

As the amendments to the 2003 Act give Licensing Authorities powers to exempt premises, in certain circumstances from the requirement to have a licence for late night refreshment, this will contribute to the following wellbeing themes.

- Economy and Skills
- Safer Communities

Cross-Cutting themes:

Should exemptions be implemented this may promote the benefits of living and working in Slough and may contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The amendments by the Deregulation Act 2015 give Licensing Authorities powers if they wish, to provide exemptions from the need for a Premises Licence in certain circumstances and may contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley

4. **Other Implications**

(a) Financial

There are no financial implications involved in the recommendation.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	None	It is a matter for the Licensing Authority to decide if they wish to put in place exemptions or not. Liaison with the Police will assist in the decision making.

(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the 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.

(c) Equalities Impact Assessment

As this is an Information Report, an EIA has not been completed at this stage. However an EIA will be undertaken should the Licensing Authority decide to make any exemptions at a later date.

5. Supporting Information

- 5.1 Slough Borough Council as the Licensing Authority under the Licensing Act 2003 determines all applications for relevant Licensable Activities including late night refreshment.
- 5.2 Schedule 2 of the Licensing Act 2003 provides a definition of what constitutes late night refreshment. Section 71 of the Deregulation Act 2015 amends Schedule 2, inserting a new paragraph 2A into the 2003 Act, giving Licensing Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 5.3 The Home Office has published Guidance on the licensing of late night refreshment outlining the relaxation for licensing late night refreshment in certain circumstances. The new guidance, attached at **Appendix A**, although not issued as part of the statutory guidance under section 182 of the 2003 Act at this time, will be incorporated into the section 182 guidance when next updated.
- 5.4 The Guidance is intended to assist Licensing Authorities and Police forces with monitoring and enforcement activity in relation to the provision of late night refreshment. It may also help businesses who wish to provide hot food and drink to determine whether they will require a licence under the 2003 Act in order to do so.
- 5.5 In summary, the amendments to Schedule 2 of the 2003 Act, now provide that Licensing Authorities can:
- (i) designate a ***particular description of premises (as set out in the regulations)*** as not requiring permission to sell hot food and drink after 2300hrs
 - (ii) ***designate areas*** where premises do not need a premises Licence to sell hot food or drink after 2300hrs, and
 - (iii) stipulate that ***during the period between 2300hrs and 0500hrs***, premises may trade freely for the provision of hot food and drink without the need for a licence.
- 5.6 The Guidance at paragraph 3.5 lists the categories of premises which a Licensing Authority can decide are exempt from requiring a licence for hot food or drink after 2300hrs. The Guidance also makes it clear that whilst a Licensing Authority can use more than one type of exemption, it cannot use different forms of exemption in conjunction with one another, giving the example that a Licensing Authority is not permitted to change the times premises require permission to sell hot food and drink in one geographic area only. In other words, it would have to change the hours across the entire area for the Licensing Authority.
- 5.7 If a premises becomes exempt from the requirement to hold a Premises Licence for the sale of hot food, but does not surrender it, there is no requirement for the Licence Holder to continue to pay an annual fee, if the Premises Licence only permits late night refreshment. Any conditions on a licence relating solely to the provision of the late night refreshment, likewise, no longer have effect.
- 5.8 The provisions in the Deregulation Act 2015 came into force on 1st October 2015,

and took effect on 5th November 2015 and set out the types of premises that a Licensing Authority may exempt from the licensing for late night refreshment. The regulations are attached at Appendix B.

6. Comments of Other Committees

None

7. Conclusion

The Committee is requested to note the report and that a further report will be put before the Committee following liaison with the Thames Valley Police.

8. Appendices Attached

‘A’ - Home Office – Guidance on the licensing of late night refreshment.

‘B’ - The Licensing Act 2003 (Late Night Refreshment) Regulations 2015

9. Background Papers

Schedule 2 of the Licensing Act 2003

Section 71 of the Deregulation Act 2015

Guidance on the licensing of late night refreshment

1. Introduction

- 1.1 This guidance sets out what activities are to be treated as the provision of late night refreshment and as such are regulated under the Licensing Act 2003 (“the 2003 Act”). It also sets out which activities are exempt from the late night refreshment aspects of the licensing regime. In particular, it includes guidance on the provisions in the Deregulation Act 2015 which amends the 2003 Act to give licensing authorities powers to opt to exempt supplies of late night refreshment from the licensing requirements of the 2003 Act which are made at or from certain designated locations, types of premises or times.
- 1.2 This guidance is not issued as part of the statutory guidance under section 182 of the 2003 Act but will be incorporated into the section 182 guidance when it is next updated. It is intended to assist licensing authorities and police forces with monitoring and enforcement activity in relation to the provision of late night refreshment. It may also help businesses who wish to provide hot food or drink to determine whether they will require a licence under the 2003 Act in order to do so.

2. General

- 2.1 Schedule 2 to the 2003 Act provides a definition of what constitutes the provision of late night refreshment. It involves only the supply of ‘hot food and hot drink’ between the hours of 11pm and 5am. Under Schedule 2, food or drink is considered to be ‘hot’ if, before it is supplied, it has been heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and at the time of supply it is above that temperature; or after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.
- 2.2 Shops, stores and supermarkets selling cold food and cold drink, whether it is immediately consumable or not, from 11.00pm are not licensable as providing late night refreshment. The 2003 Act affects premises such as night cafés and takeaway food outlets where people may gather to purchase hot food or drink at any time from 11.00pm and until 5.00am. In this case, supply takes place when the hot food or hot drink is given to the customer and not when payment is made. For example, supply takes place when a table meal is served in a restaurant or when a takeaway is handed to a customer over the counter.
- 2.3 Some premises provide hot food or hot drink between 11.00pm and 5.00am by means of vending machines. The supply of hot drink by a vending machine is not a licensable activity and is exempt under the 2003 Act provided the public have access to and can operate the machine without any involvement of the staff.
- 2.4 However, this exemption does not apply to hot food. Premises supplying hot food for a charge by vending machine are licensable if the food has been heated on the premises, even though no staff on the premises may have been involved in the transaction.
- 2.5 It is not expected that the provision of late night refreshment as a secondary activity in licensed premises open for other purposes such as public houses, cinemas or nightclubs or casinos should give rise to a need for significant additional conditions.
- 2.6 The supply of hot drink which consists of or contains alcohol is exempt under the 2003 Act as late night refreshment because it is licensed by the provisions relating to the sale or supply of alcohol.
- 2.7 The supply of hot food or hot drink free of charge is not a licensable activity. However, where any charge is made for either admission to the premises or for some other item in order to obtain the hot food or hot drink, this will not be regarded as “free of charge”. Supplies by a registered charity or anyone authorised by a registered charity are also exempt.

- 2.8 Supplies made on moving vehicles (for example boats, trains or coaches) are also exempt. However supplies made from a vehicle which is permanently or temporarily parked, such as from a mobile takeaway van, are not exempt (see section 3.4 below for more detail on provisions for 'Vessels, vehicles and moveable structures').
- 2.9 Supplies of hot food or hot drink from 11.00pm are exempt from the provisions of the 2003 Act if there is no admission to the public to the premises involved and they are supplies to:
- a member of a recognised club supplied by the club;
 - persons staying overnight in a hotel, guest house, lodging house, hostel, a caravan or camping site or any other premises whose main purpose is providing overnight accommodation;
 - an employee of a particular employer (for example in a staff canteen);
 - a person who is engaged in a particular profession or who follows a particular vocation (for example, a tradesman carrying out work at particular premises);
 - a guest of any of the above.

3. Exemptions based on designated locations, premises types and times

- 3.1 The provision of late night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at fast-food takeaways where late-night drinkers congregate. However, these safeguards may not be needed everywhere or for every type of late night refreshment business. For example, some late-night cafés serving hot drinks after 11pm may be located nowhere near pubs and nightclubs or areas associated with alcohol-related crime and disorder.
- 3.2 Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. Decisions to exempt supplies of late night refreshment are best made with local knowledge. The powers therefore allow licensing authorities to choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with anti-social behaviour or disorder associated with the night time economy. As well as freeing up the businesses in question from unnecessary costs, this can also provide greater flexibility for licensing authorities to target their resources more effectively.
- 3.3 The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:
- a) on or from premises which are wholly situated in a designated area;
 - b) on or from premises which are of a designated description; or
 - c) during a designated period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.).
- 3.4 When choosing to designate a particular area as exempt, the relevant licensing authority must define the location, which can be of any size.

Vessels, vehicles and moveable structures

Under section 189 of the 2003 Act, a vehicle which is not permanently situated in the same place and is or is proposed to be used for one or more licensable activities while parked at a particular place, is to be treated as if it were premises situated at that place. Therefore, a mobile provider of late night refreshment, such as a kebab van, could be treated as exempt if it supplied hot food to the public late at night in an area which had been designated as exempt. If the mobile van drove to and began operating in a non-exempt area, a licence to carry on this activity would be required. Should the licensing authority introduce an exemption, and subsequently wish to revoke it if problems arise, it has the power to do so. Areas which are likely to be considered for exemption by licensing authorities (for example, an area outside a town centre) are unlikely to be areas in which mobile kebab vans would frequently operate. As such, mobile vehicles selling late night refreshment are likely to still require licences in the areas in which they are more commonly found.

- 3.5 When choosing to designate particular categories of premises as exempt, a licensing authority can only exempt types of premises set out in the regulations. These are:
- Motorway service areas;
 - petrol stations;
 - local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
 - schools (except domestic premises) unless there is an event taking place at which more than 500 people are present;
 - hospitals (except domestic premises);
 - community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present;
 - licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.
- 3.6 When choosing to exempt the provision of late night refreshment at particular times, the relevant licensing authority must determine the times between 11pm and 5am when the exemption applies. The exemption and any subsequent change to the time will apply to the whole licensing authority area.
- 3.7 A relevant licensing authority may use more than one type of exemption at the same time, for example by changing the times across the licensing authority area during which licensing requirements will apply and also exempting premises by type across the whole licensing authority area. However, it cannot use different forms of exemption in conjunction with one another – for example, it would not be permitted to change the times in one geographic area only.
- 3.8 Where a premises is situated in the areas of two or more licensing authorities, any of those authorities may be the relevant licensing authority and it would be advisable for an authority wishing to apply an exemption to discuss it with the other authority concerned. This might apply, for example, where an area or premises type exemption is being applied and the licensing authority is aware that a particular premises such as a motorway service area sits across the boundary of two or more licensing authority areas.

- 3.9 Licensing authorities do not have to use the exemptions at all and can continue to require all late night refreshment providers to be licensed. However, licensing authorities should consider deregulation where appropriate.
- 3.10 Existing late night refreshment licences for premises that become exempt from regulation will remain extant unless the holder chooses to surrender it to the licensing authority, but there will be no requirement on the licence holder to pay annual renewal fees and any conditions on the licence will cease to apply for as long as the exemption is in place. In cases where an exemption in relation to late night refreshment provision is applied, other licensing is unaffected. For example if a premises is licensed to sell alcohol and is exempt from requiring a late night refreshment licence, their licence in respect of the sale of alcohol is unaffected. Where a premises benefits from an exemption applied by the licensing authority, any existing conditions on a licence relating solely to the provision of late night refreshment will have no effect during the period of the exemption.
- 3.11 When deciding which exemption to use, if any, the relevant licensing authority should always first consider what the risks are in terms of the promotion of the licensing objectives. The decision to make an exemption is a licensing function that licensing authorities should include within their statement of licensing policy. It would then therefore be subject to the statutory consultation process with other responsible authorities and relevant parties set out in section 5 of the 2003 Act. However, it is for the licensing authority to decide on the detail and extent of the consultation beyond the statutory minimum. The licensing authority may decide to only consult on the proposed exemption or, alternatively, it may form part of a wider review of other matters within its statement of licensing policy. It is also for the licensing authority to decide within its statement of licensing policy whether the decision to grant exemptions is delegated to its licensing committee or to an officer.
- 3.12 When applying any of the exemptions the relevant licensing authority must publicise the changes and should decide on the most appropriate way to do this, in addition to updating its statement of licensing policy as soon as is practical. There is no requirement for licensing authorities to tell premises individually, however they should publicise the exemption in a way that ensures that those who are likely to be affected may benefit from it. If any fees are paid prior to an exemption coming into effect, licensing authorities should consider whether a refund or partial refund is appropriate. It is for each individual licensing authority to develop its own refund policy and ensure that it is communicated appropriately to all licence holders that are likely to be affected by an exemption.
- 3.13 Licensing authorities can review the exemptions at any time, to change the times, locations or types. However, unlike many other types of licensing decision, the late night refreshment exemptions are not made on a case by case basis and there is no recourse to bring an individual premises back into the licensing regime if there is a problem with that particular premises. In such cases the licensing authority would have to take a decision about the entire exemption and apply it across the whole area. Alternatively, depending on the scale of the problem, other powers could be used such as closure powers under the Anti-social Behaviour, Crime and Policing Act 2014. Environmental health legislation around noise nuisance may also offer a solution.

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2015 No. 1781

LICENCES AND LICENSING

**The Licensing Act 2003 (Late Night Refreshment)
Regulations 2015**

<i>Made</i>	- - - -	<i>13th October 2015</i>
<i>Laid before Parliament</i>		<i>15th October 2015</i>
<i>Coming into force</i>	- -	<i>5th November 2015</i>

The Secretary of State, in exercise of the powers conferred by section 193(a) of and paragraph 2A(2) of Schedule 2(b) to the Licensing Act 2003(c), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Licensing Act 2003 (Late Night Refreshment) Regulations 2015 and come into force on 5th November 2015.

Interpretation

2. In these Regulations—

“domestic premises” has the meaning given by paragraph 12ZA(7) of Schedule 1 to the 2003 Act(d);

“premises used as a hospital” has the meaning given by paragraph 19(3) of Schedule 1 to the 2003 Act(e);

“local authority” has the meaning given by paragraph 20 of Schedule 1 to the 2003 Act(f);

“school” has the meaning given by paragraph 21 of Schedule 1 to the 2003 Act(g);

“the 2003 Act” means the Licensing Act 2003.

Descriptions of exempted premises

3. The following descriptions of premises are prescribed for the purposes of paragraph 2A(2) of Schedule 2 to the 2003 Act—

-
- (a) See the definition of “regulations”. There are amendments to section 193 which are not relevant to these Regulations.
(b) Paragraph 2A was inserted by section 71(1) and (3) of the Deregulation Act 2015 (c. 20).
(c) 2003 c. 17.
(d) Paragraph 12ZA was inserted by article 3(1) and (3) of S.I. 2014/3253.
(e) Paragraph 19(3) was inserted by article 4 of S.I. 2014/3253.
(f) Paragraph 20 was inserted by article 4 of S.I. 2014/3253.
(g) Paragraph 21 was inserted by article 4 of S.I. 2014/3253.

- (a) premises situated on land for the time being used for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes) (motorway service area);
- (b) premises used for the retailing of petrol or derv;
- (c) premises in which a local authority has a relevant property interest or which are lawfully occupied by that authority, except—
 - (i) any domestic premises within those premises; or
 - (ii) when an event is taking place at which more than 500 people are present;
- (d) the premises of a school except—
 - (i) any domestic premises within the school; or
 - (ii) when an event is taking place at which more than 500 people are present;
- (e) premises used as a hospital, except any domestic premises within the hospital;
- (f) community premises, except when an event is taking place at which more than 500 people are present;
- (g) licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.

4. For the purposes of these Regulations, a local authority has a relevant property interest in premises if that local authority—

- (a) is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, or
- (b) holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.

Home Office
13th October 2015

Mike Penning
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe those descriptions of premises that a licensing authority is permitted to designate under paragraph 2A of Schedule 2 to the Licensing Act 2003 as exempt from the licensing requirements that apply to the provision of late night refreshment, that is to say the supply to the public of hot food or hot drinks between 11pm and 5am.

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