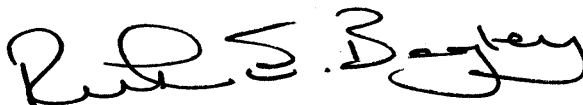


Date of issue: 15th March, 2016

MEETING	LICENSING COMMITTEE (Councillors Davis (Chair), Shah, Abe, Cheema, Coad, Dhillon, Malik, Munawar, Sohal, Usmani and Wright)
DATE AND TIME:	WEDNESDAY, 23RD MARCH, 2016 AT 6.30 PM
VENUE:	SAPPHIRE SUITE 5, THE CENTRE, FARNHAM ROAD, SLOUGH, SL1 4UT
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

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

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.

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LICENSING ISSUES

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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 Tuesday, 17th November, 2015.

Present:- Councillors Davis (Chair), Shah (Vice-Chair) (arrived at 6.35 pm), Abe, Cheema, Coad, Dhillon, Malik, Munawar, Sohal, Usmani and Wright

Apologies for Absence:- None

PART 1

19. Declarations of Interest

None.

20. Guidance on Predetermination/ Predisposition - To Note

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

21. Minutes of the Last Meeting held on 30th September, 2015

Resolved – That the minutes of the meeting held on 30th September, 2015 be approved as a correct record.

22. Street Collections and House to House Collections

Melanie Sagar, Licensing Officer, outlined a report, requesting the Committee to comment on and approve the new draft policies for Street Collections and House to House Collections.

It was highlighted that the Council did not currently have in place specific policy documents in relation to 'Street or House to House Collections and any applications received were managed using the Slough Borough Council (SBC) House to House Model Guidance for Public Charitable Collections, House to House Regulations, and SBC Street Collections Guidance and the SBC Model Street Collection Regulations.

The Licensing Team had therefore conducted a review of processes and procedures to address some concerns over the legitimacy of previous collections made and the recipient of the proceeds of the collections. The Officer advised that new draft policies had been drafted for both types of collections, which would also detail the application process and allow for detailed enquiries to be made and consultation with the Police.

Members were reminded that at the last meeting of the Licensing Committee in September, Members had resolved that the Home Office Model Street Collection Regulations (previously adopted in June 1974) be re-adopted. The Officer discussed the consultation process which would involve discussion with national and local charitable organisations, the Charities

Licensing Committee - 17.11.15

Commission and all previous applicants for charitable collections in Slough. Details would also be placed on the SBC website.

The Officer advised that a number of errors had been identified within the policy documents attached to the agenda papers as follows:

Street Collections

1. Page 15 at Point 6.7 refer erred to **licences**, this should be amended to **permits**.
2. Page 16 at Points 7.1, 7.2 and 8.1 referred to **licence**, this should be amended to **permit**.
3. Top of page 20 referred to 'breach of **licence** conditions', this should be amended to **permit** conditions.
4. The **Flow Chart** on Page 28 was not legible and this would be replaced

House to House Collections

1. The 5th paragraph on page 39 referred to **Cabinet Office** this should be amended to '**Minister of the Cabinet Office**'.
2. The last bullet point on page 43 (above point 9.2) stated **authorised persons** this should be amended to '**unauthorised person**'.
3. The **Flow Chart** on Page 49 was not legible and this would be replaced

Members raised a number of questions during the ensuing debate which included:

- How would applicants be checked and would there be a fee? *There would be no fee for applications as this was not legally permitted. Checks would be made before a licence was approved through e.g. Companies House and the Charity Head Office.*
- How would householders know whether a Collector was genuine? *The Collector would have a badge and if concerned the householder could contact the Licensing Team.*
- In the case of Street Collections, how would the Licensing Team communicate with existing charities and how would the public know if the Collectors were genuine? *Street collections were few and far between- 5 had taken place in the last year and checks were made of the applicant. If there were concerns Thames Valley Police could also be contacted.*
- The policy had defined 4 exclusion areas where street collection permits would not be granted. How were these arrived at? *3 of the locations were in the vicinity of mosques. There had been particular problems in these localities with bogus collectors and following consultation with the mosques, the exclusion areas were agreed. The other locality was the town square in the High Street.*

Licensing Committee - 17.11.15

- Could the Council's website be more robust and could a list of future collections be published? *The policy would ensure that processes were more robust and Officers could examine whether a list of authorised street collectors could be published. Also, an awareness campaign could be launched after the policies were approved.*
- It was concerning that someone could collect in the town centre and disappear before the Licensing Team was aware? *The Licensing Team could not patrol the town centre at weekends due to resource and budgetary issues. However town centre police and PCO's were aware of the collection policies and would identify any bogus collectors.*
- What powers did the police have if someone was apprehended? *The police could prosecute under the Vagrancy Act.*
- Could door to door charity bag collectors be required to have a licence or authorisation? *This was outside the remit of the Licensing Authority and was the responsibility of the Charity Commission.*
- Was it possible to control the number of street collections allowed? *Yes the Licensing Officer could control the numbers and spread them out through the year.*

Resolved-

- (a) That the new draft policies (subject to the correction of typographical errors set out within the minutes) be approved.
- (b) That Officers commence a full consultation exercise.

23. Spoken English Assessment Test for all new Hackney Carriage and Private Hire Driver Applicants

Mick Sims, Licensing Manager, outlined a report in which the Committee was requested to approve the proposed Spoken English Assessment Test requirement and procedure for new Hackney Carriage and Private Hire Driver applicants, with immediate effect.

The Officer advised that the Council did not currently have in place any policy or provision to ensure that new applicants for driver licences had an adequate or reasonable level of spoken English. On 22nd July 2015, the Committee resolved that the principle for the requirement for a Mandatory English Language Competency Test for all new Hackney Carriage and Private Hire Drivers be approved.

In explaining the background to the new policy, the Officer advised that some current drivers and private hire operators had commented on the poor standard, understanding and level of spoken English language by some new drivers. The proposed test would ensure that not only would drivers be able to converse with fare paying passengers and the public in general, but their own safety would also be improved when dealing with awkward and problematic customers or situations.

Licensing Committee - 17.11.15

A consultation on the proposed scheme was carried out between 4th August and 4th September 2015 with all current holders of driver and operator licences and no responses were received. A number of other Local Authorities who had implemented similar tests were also contacted. This had resulted in 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 behind this was that it was felt that there needed to be a criteria to establish whether new applicants would be required to undertake the Spoken English Assessment Test.

It was highlighted that a Licensing Officer would make an initial assessment of the prospective applicant's spoken English, to decide whether they would be able to converse at a reasonable level with fare paying passengers and the public in general. A proposed procedure had been prepared as guidance for both officers and new applicants which clearly detailed a number of requirements, including the right of the Licensing Manager to require a second assessment where necessary and details of the testing procedure.

In conclusion, the Officer advised that the proposed procedure was considered to be reasonable and proportionate in order to ensure that all new applicants were able to demonstrate an adequate and reasonable level of spoken English in carrying out their role as a licensed driver.

Members raised number of questions in the ensuing debate including:

- What if a person made an application and sent someone else to take the test? *A photographic ID would be taken of the Applicant.*
- Had the Licensing Officer looked at the actual test? *Yes- details of the Versant test and feedback were available through the Licensing Forum. The questions related to every day life and situations.*
- Had any Officers tried the test? *It was confirmed that Councillors Davis, Shah and Malik would review the questions and provide feedback.*
- Would there be a drop in applications due to people moving over to 'Uber'? *The Officer explained that it was still necessary to have a licence with the local authority.*

Resolved- That the proposed Spoken English Assessment Test requirement and procedure for new Hackney Carriage and Private Hire Driver applicants, be approved with immediate effect.

24. Deregulation Act 2015- Late Night Refreshment

Mick Sims, Licensing Manager, outlined a report to advise members of amendments made to Schedule 2 of the Licensing Act 2003 regarding Section 71 of the Deregulation Act 2015, which took effect on 5th November, and of the recently published Home Office Guidance on the licensing of late night refreshment.

Licensing Committee - 17.11.15

The Officer highlighted that the Deregulation Act gave Local Authorities the power to exempt premises in certain circumstances, from the requirement to need a licence to provide late night refreshment. The Guidance would also help businesses who wanted to provide hot food and drink to establish whether they would require a licence under the 2003 Act.

The Committee was reminded that the Council, as the Licensing Authority under the Licensing Act 2003, determined all applications for relevant Licensable Activities including late night refreshment. The Officer discussed the definition of late night refreshment and the new regulations which gave Licensing Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment as set out in the report.

It was noted that if a premises became exempt from the requirement to hold a Premises Licence for the sale of hot food, but did not surrender it, there was no requirement for the Licence Holder to continue to pay an annual fee, if the Premises Licence only permitted late night refreshment.

The Committee was requested to note the report and was advised that a further report would be submitted to the Committee following liaison with Thames Valley Police.

Members raised a number of points of clarification including the licensing of late night garages.

Resolved- That the report be noted.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 7.35 pm)

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SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 23rd March 2016

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**

To inform the Committee of the outcome of the public consultation on the draft policies for Street Collections and House to House Collections.

2. **Recommendation**

That the Committee is requested to recommend to Full Council that the draft policies for Street Collections and House to House Collections are adopted as Council policies.

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 to House Collections. The Licensing Team reviewed the current processes and procedures, which resulted in new draft policies being prepared for both types of collections, which have now been subject to a full public consultation. As part of the original review and as a matter of transparency with the new draft policies being prepared on 30th September 2015 the Licensing Committee recommended that the Home Office Model Street Collection Regulation (previously adopted in June 1974) be re-adopted.

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

As the report outlines the new specific policies for Street Collections and House to House Collections have been subject to a full public consultation. The new draft policies have been prepared with the intention that proceeds (other than holders of Home Office Exemption Orders) will wherever possible 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 the Council has in place robust policies, and 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 EIA has been completed which indicates that there is a neutral impact on charitable organisations and equality groups.

5. Supporting Information

- 5.1 The Council does not currently have in place specific policies 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 conducted a review of the processes and procedures for 'Street Collections' and 'House to House Collections' with new draft policies and application form being prepared.
- 5.3 On 17th November 2015 a report was put before the Licensing Committee on the new draft policies which resolved to approve the policies and that Officers commence a full consultation exercise.
- 5.4 A full public consultation on the draft policies was conducted between 4th December 2015 and 14th January 2016, with all national and local charitable organisations, the Charities Commission and all previous applicants for charitable collections in Slough, as well as through the SBC website. A full list of the consultees, the responses and the Council reply and action is contained at Appendix E.
- 5.5 The final draft Street Collection Policy and application form, House to House Collection policy and application form for approval are attached at **Appendices A, B, C and D respectively**.

6. Comments of Other Committees

On 17th November 2015 a report was put before the Licensing Committee on the new draft policies, and resolved:

- (a) That the new draft policies (subject to correction of typographical errors) set out in the minutes be approved.
- (b) That Officers commence a full consultation exercise.

7. Conclusion

That the Committee is requested to recommend to Full Council that the draft policies for Street Collections and House to House Collections are adopted as Council policies.

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
- 'E' - List of consultees, responses and Council reply and action.

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.

STREET COLLECTION POLICY

APPENDIX A

Document Number	01
Version Number	03
Date approved	
Effective	
Contact Officer	Licensing Manager

Change History		
Version No	Date	Change Details
1.00	01/04/2015	Initial Draft
2.00	07/09/2015	Amendment by Legal Services
3.00	17/11/2015	Approved by Licensing Committee
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 (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 the purpose of street collections.

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 2016], 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 charitable 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 (see Appendix B) 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 automatically 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 the licensing authority refusing the application.
- 8.6 Where an applicant refuses to provide the licensing authority with such requested information that the licensing authority reasonably requires, it will reject 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 previous licence conditions
- been observed conducting collections in an aggressive or otherwise inappropriate 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 automatically 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 disclosed 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

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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

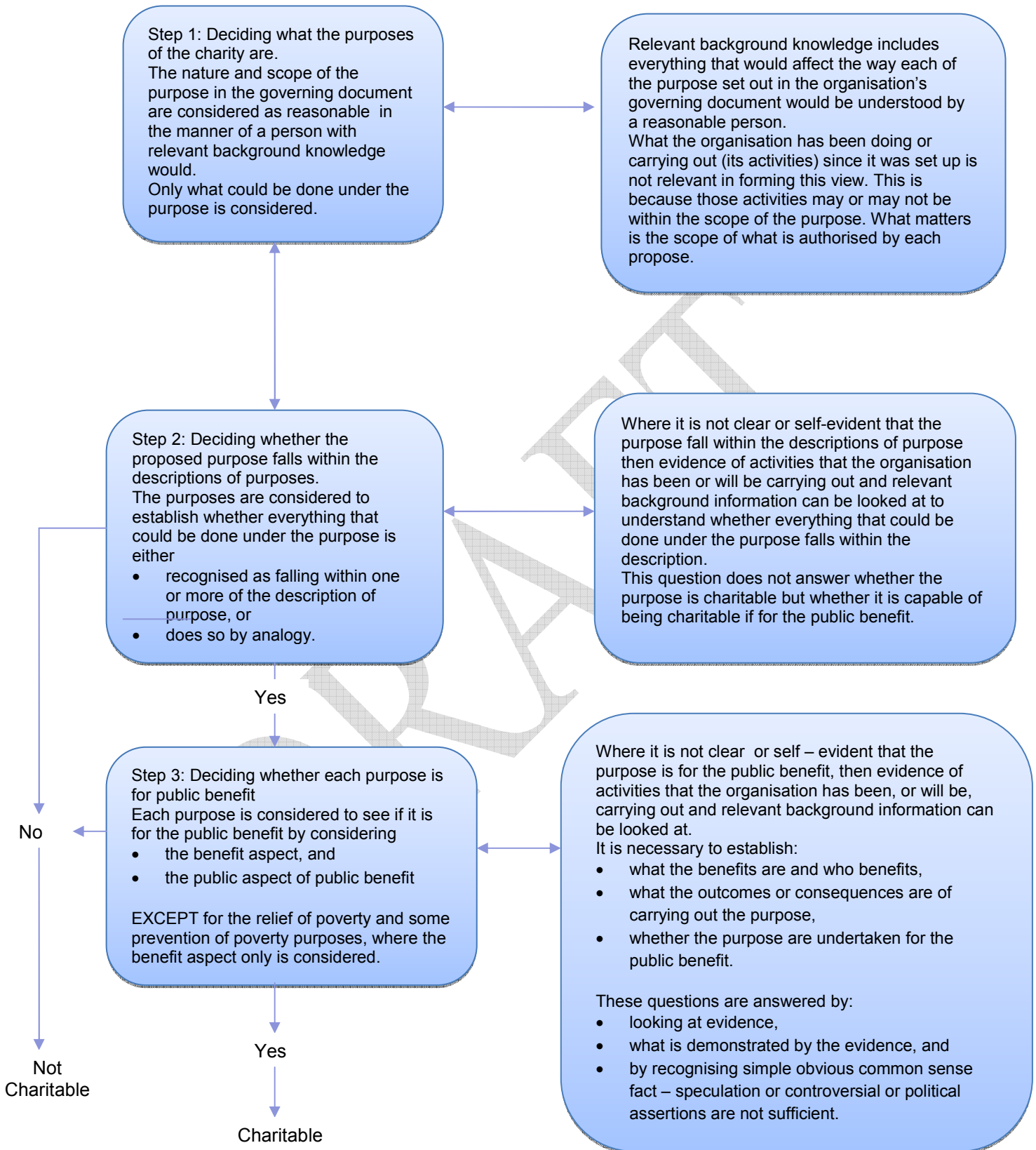
- Diamond Road
- Atkin Avenue
- Princes Street
- Wexham Road – A4 Wellington Street to the railway bridge
- A4 Wellington Street – Wexham Road to A412 Uxbridge Road
- A412 Uxbridge Road – Wellington Street to Victoria Road

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	03
Date approved	
Effective	
Contact Officer	Licensing Manager

Change History		
Version No	Date	Change Details
1.00	01/04/2015	Initial Draft
2.00	07/09/2015	Approved by Legal Services
3.00	17/11/2015	Approved by Licensing Committee
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

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

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 (1939 Act) and the House to House Collections Regulations 1947 (1947 Regulations), 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 1947 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 1939 Act.

The exemption allows such 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 2016], 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.

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).

- 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 the licensing authority refusing the application (see section 14).
- 7.11 Where an applicant refuses to provide the licensing authority with such requested information that the licensing authority reasonably requires, it will reject 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.

- 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.
 - 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 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 disclosed 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

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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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 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 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

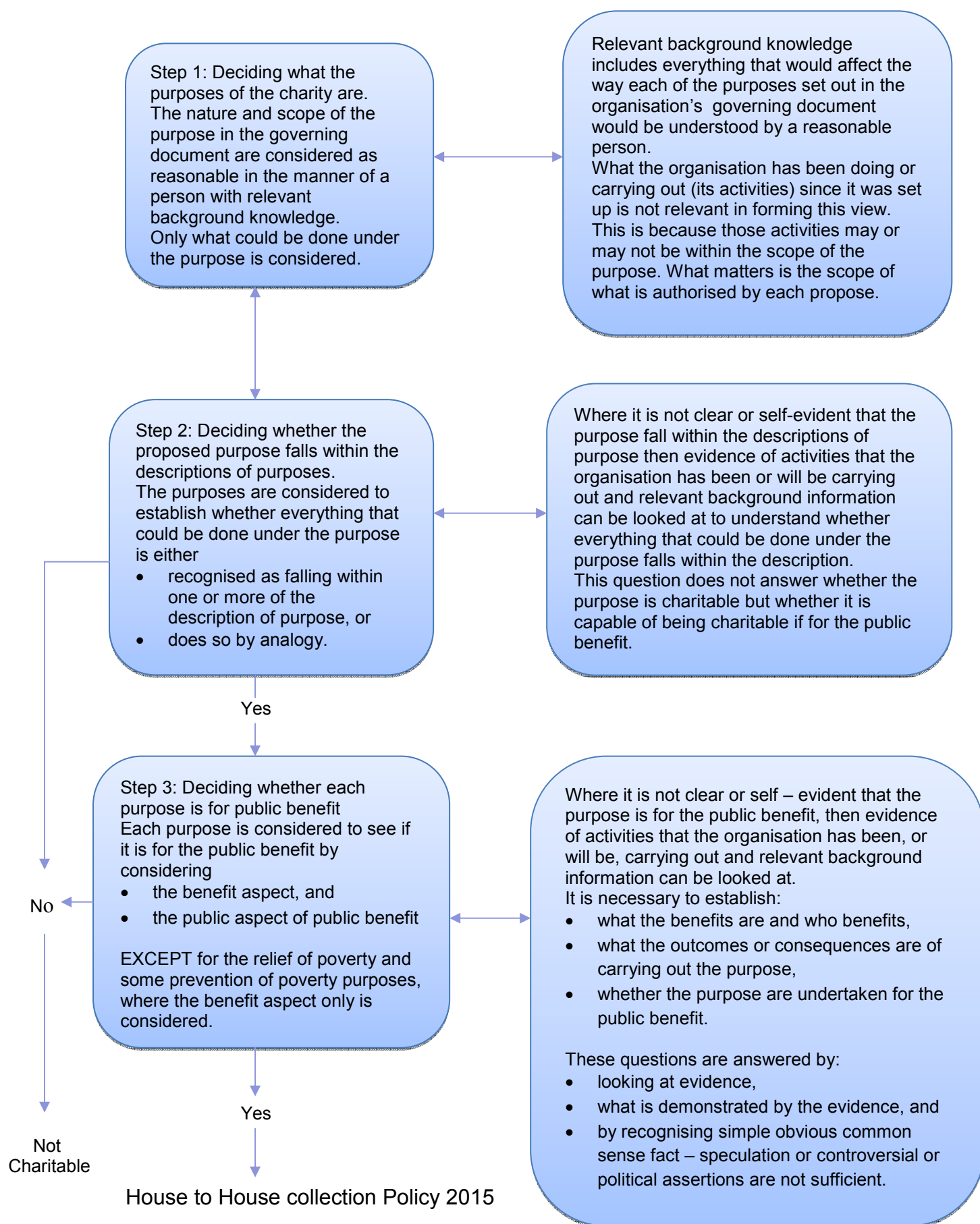
S.293 of the Charities Act 2011 defines local charity as:

"....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 B: Decision making process flow chart



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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APPENDIX E

Collector / Organisation	Responses	SBC Reply and Action
Action Aid		
Action for Children		
Adventist Development and Relief Agency		
African Orphans		
Against Breast Cancer		
Age Concern		
Age UK		
Aidcamps International		
Aiding Children		
Al Madad Trust		
Al-Mustafa Welfare Trust		
Alexander Devine Childrens Cancer Trust		
Alexandra Rose Charities		
Animal Defenders International		
Anjuman-Mohiban-E-Rasool		
Aspiring Communities		
Asthma UK		
Awaiting Eyes Foundation		
Barnardo's		
BBC Children In Need		
Berkshire, Buckinghamshire and Oxford Wildlife Trust		
Berkshire Community Foundation		
Berkshire County Blind Society		
Betel of Britain		
Blind Children UK		
Bliss		
Breakthrough Breast Cancer		
Breast Cancer Campaign		
Breast Cancer Now		
Breast cancer UK		
British Leprosy Relief Association (LEPRA)		
British Heart Foundation		
British Red Cross Society		
Byronswell Ltd		
Cancer Recovery Foundation UK		
Cancer Research		
Cancer research and Genetics UK		
Cancer Research UK		
Charity Commission		
Childreach International		
Children - Our Future		
Children in Need		
Children's Hearts		
Childrens Aid Foundation		
Christian Aid		
Clthes Aid		
Compassion in World Farming		
Cystic Fibrosis Trust		

DEC (Disaster Emergency Committee)		
Diabetes UK		
Diabetes UK East		
Dogs Trust		
Every Child		
Fire Service National Benevolent Fund		
Fitness Focus Magazine		
Fundacja Wielka Orkiestra Swiatecznej Ponocy		
Fund Raising Initiatives		
Future for Children		
Goldfish Textile Recycling Ltd		
Greggs		
Guide Dogs		
Hall Green Community Centre		
Hazrat Sulton Bahu Trust (UK)		
HealingUK		
Heatherwood & Wexham Park Hospital Trust		
Help One Child		
Home Start Slough		
International Society for Krishna Consciousness		
Iqra Primary School		
Islamic Help		
Islamic releif UK		
Kidney Research UK		
Leukaemia & Lymphoma Research		
Leukaemia CARE		
Lion Club of Burnham		
Little Sisters of the Poor		
Little Treasures Childrens Trust		
MacMillian Cancer Support		
Make A Wish Foundation		
Manacare Foundation		
Marie Curie Cancer Care		
Mental Health Foundation		
Mercy Ships UK Limited		
Motor Neurone Disease Association		
Multiple Sclerosis Society		
Muslim Hands		
Mustaqbill (Future) Foundation		
National Anti-Vivisection Society		
National Council of YMCAs		
National Deaf Childrens Society		
National Kidney Federation		
National Society for the Prevention of Cruelty to Children		
Northborough & Britwell Millenium Festival		
One Community Organisation		
Oxfam		
Pakistan Floods Appeal (DEC)		
Pakistan Welfare Association		
Parvaas Project, Slough		

People's Dispensary for Sick Animals		
Philippines Typhoon Appeal		
Phoenix Children's Foundation		
Rockinghorse Childrens Charity		
Ronald MacDonald House Charities		
Rotary Club of Langley and Iwer		
Royal Air Forces Association		
Royal Berkshire Fire and Rescue Service		
Royal National Institute for the Blind		
Royal National Lifeboat Institution		
Royal National Mission to Deep Sea Fishermen		
Royal Society for the Prevention of Cruelty to Animals		
RSPCA		
Sailors Society		
Samaritans of Slough, Windsor, Maidenhead		
Save The Children		
Scope		
Shanti International		
Shelter		
St John Ambulance		
Slough Central Community Association		
Slough District Scouts		
Slough Food Bank		
Slough Homeless our Concern		
Slough Islamic Trust		
Slough Mencap		
SOS Clothes Limited		
Space Counselling Service		
Sports Able		
St Bernards Catholic Grammar School PTA		
St. Dunstons		
Thames Valley and Chiltern Air Ambulance Trust		
The Air Ambulance Service		
The Alzheimers Society		
The Animal Sanctuary UK		
The British Retinitis Pigmentosa Society		
The Burnham and District Round table		
The Fire Fighters Charity		
The Fishermans Mission		
The Great Orchestra of Christmas Charity		
The Children's Society		
The Jessie May Trust		
The Leukaemia Care Society		
The Princes Trust		
The Royal British Legion		
The Salvation Army		
The Smile Train UK		
The Woodland Trust		
Tree of Hope		
UCKG Helpcentre		

UHURU Peaceful Trust		
UK National Kidney Trust		
VSO (Voluntary Serrvices Overseas)		
Well Child		
Windsor and Eton Round table		
WIZOuk		
Woodlands Cancer Care		
World Animal Protection UK		
World Cancer Research Fund		
World Wide Fund for Nature		

Public Consultation - Website	Responses	SBC Reply and Action
<p>1. Transparency</p> <p>The policies have completely omitted to have a specific section on transparency in these policies. The people of Slough should be easily able to see who is collecting money from the public, for whom, and how much is collected and when, for public transparency but also to prevent crime and fraud.</p> <p>The council should publish this information on their website as open data in a CSV file containing the following :-</p> <p>Organisation collecting Charity (if different) Registered Charity number Collection type - street or house Collection date start Collection date finish Collection location Amount Collected Amount received by charity</p> <p>It is totally unacceptable for the policy to make a mention of FOI as if this helps - why should the public have to go through a very lengthy process to find something out the council already records and could publish on the Internet with a click of a button ? What's it hiding ? What's wrong with true transparency ?</p>	<p>This can be looked into as an option for publication on the Slough Borough Council Licensing web pages. Being a procedural change for the Licensing Team it is unnecessary to include it in the policy document.</p>	
<p>2. Collection of Direct debit details in the streets should be explicitly banned. Let's be clear, this is not collecting a bit of loose change, this is preying upon the weak willed in society under duress for thousands of pounds, much of which goes to the collection company rather than the charity. This is exploiting the poor in Slough and should be banned outright.</p>	<p>Charity collection by direct debit is not covered by current legislation and therefore falls outside of the Local Authority remit. In 2011 Slough Borough Council Licensing and the Public Fundraising Association (PFRA) entered into a Site Management Agreement (SMA) which is a co-regulatory voluntary agreement for charity collections on Slough High Street. PFRA are the membership body for charities and agencies carrying out street and doorstep Direct Debit fundraising.</p>	
<p>3. The frequency of collections in the high street should be halved. For those of us that live near the high street to be constantly harassed by street collectors is distressing and unpleasant. Long gone are the days of collectors standing quietly, make no doubt about it there is a new breed of professional chugger on commission designed to make locals that live near the high street lives hell.</p>	<p>The SMA was implemented to reduce the amount of charities collecting on our High Street and offer greater degree of collector regulation with the PFRA provided at no cost to the Council. Since implementation of the SMA in 2011 we have received one complaint against a direct debit collector which was dealt with by the PFRA.</p>	

<p>4. Places of leisure ban. Organised collectors should be banned from entering places of leisure. No one goes out to relax only to be harassed by collectors using subtle forms of social coercion to collect money, again it's preying on the weak. What's wrong with collecting at the door and then leaving people to enjoy their night out without being hassled ?</p>	<p>Collections on private premises are subject to authorisation by the premises owner, not the Local Authority whose regulatory powers are restricted by current legislation to street or house to house collections.</p>	
<p>5. Social enterprises listed as charities should be explicitly banned from collecting. These organisations seem to manage to be limited companies whilst at the same time registered as charities. This is a very shadowy area that to me is being exploited and should therefore be stopped. In Slough we have a volunteering service registered as a charity, but when you check the details about the organisation it says 'no one in our organisation is paid over £60,000 per annum' Are you kidding !!! Why are they paid so much ? Couldn't use a volunteer then ? ;-) To me this looks very wrong.</p>	<p>The concerns you raise in point 5 would need to be addressed by the Charities Commission.</p>	
<p>6. Professional collectors should be banned. If a charity really is a good cause then volunteers will be prepared to collect for it without any personal gain whatsoever. Most collections are now done by people who profit personally from doing it, which is why in recent times the number of collections in Slough high street has spiralled totally out of control. It's not a big deal to people in the council who don't live near Slough high street, don't visit it often, and drive in and out from the motorway to their offices on the edge of town, but it's a very different if you live near the high street and you are harassed all the time !</p>	<p>It is beyond the Local Authority's remit to dictate how any particular charity chooses to conduct their fundraising activities and your concerns in respect of any individual collection agency would need to be addressed by that agency or perhaps, the charity employing them.</p>	<p>It is hoped that the proposed charity collections policies you have commented on will assist the Local Authority to ensure any permits or licenses granted will enable only genuine local charitable causes to reap the greatest benefit from conducting their collections within Slough Borough; although there is a strong argument that any amount donated is better than none however I'm sure we all wish all charities received 100% of donations every time.</p>

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 23rd March 2016

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

IMMIGRATION BILL – NEW LICENSING POWERS

1. **Purpose of Report**

To inform the Licensing Committee of the new licensing powers following the amendments to the Immigration Bill 2015

2. **Recommendation**

The Committee is requested to note the amendments to the Immigration Bill 2015 with regards to new licensing powers and additional responsibilities.

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

The report outlines the amendments to the Immigration Bill 2015 that provides new licensing powers as well as additional responsibilities for licensing officers.

The amendments, when approved will require immigration checks and continuing compliance with immigration laws as part of the existing licensing regimes.

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

The amendments to the Immigration Bill 2015 will ensure that all new applicants for and existing licence holders of Taxi and Private Hire Licences and those stipulated under the Licensing Act 2003 must have the correct legal entitlement to live and work in the UK.

The amendments to the Bill will contribute to the following wellbeing themes

- Economy and Skills
- Safer Communities

Cross-Cutting themes:

Once approved the amendments will 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 will 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 amendments will be part of new or amended legislation placing a legal requirement on an individual who must have legal entitlement to live and work in the UK. If not then a licence will not be granted or may cease at the expiry of the entitlement, or may be revoked.

(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 EIA has not been completed at this stage as the amendments will be written into primary legislation

5. Supporting Information

- 5.1 The Immigration Bill places additional responsibilities on licensing authorities to take action where licence holders are found not to be entitled to work in the United Kingdom.
- 5.2 The taxi and private hire provisions in the Immigration Bill were considered by the House of Commons' Bill Committee on 10th November 2015.
- 5.3 The amendments regarding taxi and private hire drivers were laid on 5th November 2015 and will now be considered during the bill's progress through Parliament, which is expected to be completed in late spring 2016. The Bill is currently before the House of Lords for review.
- 5.4 Chapter 2 of the Bill requires immigration checks and continuing compliance with immigration laws as part of the existing licensing regimes for taxis and private hire vehicles.
- 5.5 It does so by adapting existing provisions for private hire vehicles in London in the Private Hire Vehicles (London) Act 1998 and taxis and private hire vehicles in the rest of England and Wales in the Local Government (Miscellaneous Provisions) Act 1976. Licenses can only be granted to UK residents or those with leave to remain in the UK.

Hackney Carriage and Private Hire

- Licensing authorities would have to ensure applicants have permission to work before being granted a driver or operator licence;
- Driver and operator licences would not be issued for a period any longer than the length of a person's permission to live and work in the UK;
- Immigration offences and penalties would be grounds for a licensing authority to revoke a licence;
- It would be an offence for someone disqualified from continuing to hold a driver or operator licence for immigration reasons not to return their licence to the licensing authority.

Licensing Act 2003

- 5.7. The Bill recently published also sets out the following proposed amendments to the Licensing Act 2003. New sections and sub-sections have been added as follows:-

Premises Licences

- The designation of the Secretary of State as a responsible authority where the premises (not being a vessel) are being, or are proposed to be, used for a licensable activity.

- Disqualification of residents in the United Kingdom (UK) from applying for a premises licence where the resident is not entitled to work in the UK.
- Premises licences to lapse if the holder of the licence ceases to be entitled to work in the United Kingdom at a time when the holder of the licence is resident in the United Kingdom (or becomes so resident without being entitled to work in the United Kingdom).
- The requirement of an applicant to give notice of a transfer request to the Secretary of State.

Personal Licences

- Inserts and introduces a new immigration offence.
- Personal licences cease to have effect if the holder of the licence ceases to be entitled to work in the United Kingdom.
- Placing a new requirement on the licensing authority to notify the Secretary of State where an applicant for a personal licence has complied with the statutory requirements.

6. Comments of Other Committees

None.

7. Conclusion

- (a) That the Committee note the proposed changes included in the Immigration Bill 2015, and,
- (b) That a further report will be put before the Committee once the amendments are settled and have taken effect and that there may be a need for powers to be delegated to officers. This will become clear once the Bill has been passed.

8. Appendices Attached

None.

9. Background Papers

The new clause in the Bill is available at the following link (new clause 14, page 11)

<http://www.publications.parliament.uk/pa/bills/cbill/2015-2016/0074/amend2/pbc0740511a.1-7.pdf>

The full Bill can be found at the following link:

<http://www.publications.parliament...74/15074.pdf>

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 23rd March 2016

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

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

1. **Purpose of Report**

To advise members of the response from Thames Valley Police on the amendments to Schedule 2 of the Licensing Act 2003 by Section 71 of the Deregulation Act 2015, giving Licensing Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide Late Night Refreshment.

2. **Recommendation**

The Committee is requested to note the response from Thames Valley Police and resolve if at this stage any exemptions are to be made to the provisions of Late Night Refreshment.

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 has amended 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 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 at any stage 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

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 any stage.

5. **Supporting Information**

- 5.1 On 17th November 2015 a report was put before the Licensing Committee of the Deregulation Act 2015 amending Schedule 2 of the Licensing Act 2003, giving Licensing Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 5.2 The provisions of the Deregulation Act 2015 came into effect on 1st October 2015 and took effect on 5th November 2015, and in summary as outlined previously, the amendments of 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 23.00hrs,
 - (ii) **designate areas** where premises do not need a premises Licence to sell **hot food or drink** after 23.00hrs, and,
 - (iii) stipulate that **during periods between no earlier than 23.00hrs and no later than 05.00hrs**, premises may trade freely for the provision of hot food and drink without the need for a licence.
- Note: This does not apply to cold food or cold drink. It does include food supplied by members clubs, hotels, caravan sites, staff canteens, persons carrying out particular professions are also exempt.
- 5.3 The Licensing Manager liaised with Thames Valley Police on their view of the new provisions. Thames Valley Police responded that *"In general terms we wouldn't be supportive of exemptions, but it does rather depend upon the specific nature of any proposals. Any exemptions that can be potentially taken advantage of by less honest traders are to be avoided"*.
- 5.4 The Home Office 'Guidance on the licensing of late night refreshment' is attached at **Appendix A** and The Licensing Act 2003 (Late Night Refreshment) Regulations 2015 that sets out the types of premises that a Licensing Authority may exempt from the licensing for late night refreshment at attached at **Appendix B**.
- 5.5 Points to note: supplies of hot drink (but not hot food) from a vending machine which can be operated by the public without assistance from staff is exempt as it is not deemed a licensable activity. Drink which is either heated before it is sold (whether in the premises or elsewhere) or if it is heated on the premises directly after the time of supply. Hot means above ambient air temperature. Hot food is not exempt

6. **Comments of Other Committees**

A Information Report was put before the Licensing Committee on 17th November 2015 who resolved *'That the report be noted'*.

7. Conclusion

The Committee is requested to note the response from Thames Valley Police and to resolve if at this stage any exemptions are to be made to the provisions of Late Night Refreshment. The Committee should have regard to Point 3.9 of the Home Office guidance that states – ‘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 deregulating where appropriate’.

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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SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 23rd March 2016

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Business Compliance
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WARD(S): All

PART I
FOR COMMENT AND DECISION

REVIEW OF STANDARD TERMS AND CONDITION FOR STREET TRADING CONSENTS

1. **Purpose of Report**

To advise members on the review of and consultation on the revised standard terms and conditions for Street Trading Consents.

2. **Recommendation**

That the Committee;

- (a) Make comment on and approve the new revised standard terms and conditions for Street Trading Consents:
- (b) Approve the amended wording for condition 2.1, and
- (c) To recommend that the revised standard terms and conditions are approved by Full Council.

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

The report outlines that the Licensing Authority is empowered to specify conditions for Street Trading Consents. The existing conditions have been reviewed as they are considered to be outdated with some being no longer fit for purpose particularly with regards to food hygiene. The new 'Terms and Conditions' have been prepared to ensure and promote public safety and wellbeing.

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

The proposed new conditions, particularly with regards to food hygiene, will promote public safety and wellbeing as well as ensuring that all traders conduct their business in a proper and safe manner, this will contribute to the following wellbeing themes.

- Health
- Economy and Skills
- Safer Communities

Cross-Cutting themes:

The proposed new 'Terms and Conditions' 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 new 'Terms and Conditions' will 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 Licensing Authority is empowered to specify conditions for street trading and in doing so have revised the existing condition to promote public safety and wellbeing as well as ensuring that traders operate their businesses in a proper and safe manner.

(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 EIA has been completed which indicates the proposed new terms and condition will have a positive impact on the traders, local consumers and all equality groups.

5. Supporting Information

- 5.1 Street Trading is governed by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 which was adopted by the Council in 1986.
- 5.2 The responsibility of the Licensing Authority is to ensure that those individuals to whom permission to trade is granted are conducting their business in a proper and safe manner. In doing so, the Licensing Authority is empowered to specify conditions that must be complied with. These conditions reflect the need to protect the public and for the avoidance of nuisance.
- 5.3 The existing 'Street Trading Consents - General Conditions' for all street trading consents was last reviewed in 2011, and are contained in **Appendix A**.
- 5.2 In 2015 the Licensing Team conducted a full review of all the existing conditions as they were considered to be outdated with some being no longer fit for purpose particularly with regards to food hygiene.
- 5.3 A new set of 'Street Trading Consents – Standard Terms and Conditions' were prepared and an initial consultation was conducted with list of consultees as detailed in **Appendix C**. In light of comments and views from the initial consultation some amendments and additions were made and the new terms and conditions recirculated for approval. The final draft terms and conditions for approval are attached at **Appendix B**.
- 5.4 A formal consultation was conducted with all existing Street Trading Consent holders between 30th November 2015 and 4th January 2016 to which there were no responses. A copy of the consultation letter is attached at **Appendix D**.
- 5.5 Condition 2.1 currently states:

'No trading will be allowed within 250 metres radius of any school or children's nursery'.

It now felt that condition is too arbitrary and it is requested that this particular condition should be amended to read:

'No trading will be allowed within a distance of 50 metres from any school or nursery entrance'.

This will ensure the safety of the public and also that there is no obstruction of the highway or footpath.

- 5.6 Once approved the new 'Standard Terms and Conditions' will be incorporated into the current 'Street Trading Consent Guidance' and provided to all current consent holders and all new applicants.

6. Comments of Other Committees

None

7. Conclusion

The Committee is requested to comment on and approved the new 'Terms and Conditions', approve the amendment to condition 2.1 and recommend that they are adopted by Full Council

8. Appendices Attached

'A' - Street Trading Conditions 2011

'B' - Proposed Standard Street Trading Conditions 2016

'C' - List of initial consultees

'D' - Copy of formal consultation letter.

9. Background Papers

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

APPENDIX A

CURRENT STREET TRADING CONDITIONS

Slough Borough Council

STREET TRADING CONSENTS – GENERAL CONDITIONS

1. PERMITTED HOURS

No street trading shall take place at any location except between the hours of 6.00 p.m. and the permitted terminal hour stated on the consent on any evening.

Or

Between 7.00 a.m. and 5.00 p.m. on any day.

Except with the prior permission of the Council

2. COMPLIANCE WITH REGULATIONS

The Consent Holder shall at all times comply with all current and future Statutes, Statutory Instruments, Traffic Regulation Orders, Byelaws and other regulations currently in force.

In particular, the Consent Holder shall comply with the requirements of the Management of Health and Safety at Work Regulations 1999, the Food Safety and Hygiene (England) Regulations 2013, the Motor Vehicle Construction and Use Regulations 1999. For Advice on these requirements contact – foodsafety@slough.gov.uk or tradingstandards@slough.gov.uk or telephone 01753 875255.

Such compliance shall not only be in respect of his or her, vehicle stall, trolley, stand, but also at or near the location or site used for the trading.

3. NUISANCE

The Consent Holder or his or her business shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building. In particular the Consent Holder and or his or her assistant shall on all occasions when carrying on the business, be strictly sober and conduct him or herself in a proper, civil and decorous manner and the business will not be conducted in such a way as to cause annoyance to the occupier or person in charge of any shop or business premises or dwelling.

4. DISCHARGES

No water or waste materials, grease, debris of any type shall be discharged onto the highway or onto any adjacent property and must not be disposed of by use of public drains. Should any blockages take place and cleaning be required the Consent Holder will be liable for any cost incurred.

5. STORAGE OF STOCK

All stock and other miscellaneous articles shall be stored at all times on the stall, vehicle, stand or trolley and not on the surrounding footway.

6. MAINTENANCE

The Consent Holder's vehicle/stall, stand or trolley shall be kept in a clean, hygienic, safe and well maintained condition. (The Consent Holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current M.O.T. Certificate).

7. **REFUSE CONTAINERS**

At least one refuse container shall be provided by the Consent Holder and placed immediately adjacent to his/her stall vehicle/stall etc and be available at all times of trading for use by his/her customers. A notice shall also be displayed requesting customers to deposit litter in a waste container.

8. **CLEANSING**

The Consent Holder shall ensure that the area in the vicinity of his/her vehicle/stall etc is kept clear at all times of all refuse originating from his/her trade and from customers. The Consent Holder shall in particular, leave the site clear of all such refuse at the completion of trading. Should the area require cleaning the Consent Holder will be liable for the cost incurred.

9. **POSITION OF STALL ETC**

The Consent Holder shall ensure that his/her vehicle/stall etc is positioned only in the allocated area of the Consent Street for which he/she holds a Street Trading Consent and as specified in that Consent such a vehicle/stall etc shall be removed from the site after the close of the Trading day, except where permission has been granted by Slough Borough Council.

10. **DISPLAY OF CONSENT**

The Consent Holder shall display conspicuously on his/ vehicle/stall etc, a copy of the consent and or the badge issued with the consent and the person who is in charge and operating the vehicle/stall, stand or trolley when trading must produce the badge and or consent when requested by an Officer of the Council or a Police Officer.

11. **MOVING STALL ETC**

If a Consent Holder (duty holder / employer) or his/her employee is requested to move his/her vehicle/stall and or cease trading etc by an Officer of the Council or a Police Officer he/she shall immediately comply with that request.

12. **DISABLED PERSONS**

Each Consent Holder shall ensure that disabled persons and wheelchair users can be adequately served. This may involve such customers being served from outside the vehicle/stall etc. The Consent Holder's stall shall be of a size, type and design approved by the Council.

13. **STALLS ETC**

The type, colour and dimensions of any vehicle or trailer or cart or similar to be used under the Consent will be subject to approval by Slough Borough Council. No change of any approved such vehicle or similar is permitted without prior consent, in writing from Slough Borough Council. Photographs of the vehicle, staff, stand, trolley etc must be provided to Slough Borough Council.

14. **PARKING ON FOOTWAY**

The Consent Holder shall not park or position his/her vehicle, stall, stand, trolley etc on any part of a footway (except with the prior permission of Slough Borough Council).

15. **INSURANCE**

All Consent Holders as employer / proprietor shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall, stand, trolley, and any additional equipment under his/her control such as generators, gas containers, etc. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the Council before the Street Trading Consent is issued and on renewal of the Consent. A copy shall also be displayed at all times when trading for inspection by an officer of the council or police officer.

16. **FIRE PRECAUTIONS**

Adequate precautions shall be taken by the Consent Holder to prevent the risk of an outbreak of fire at his/her stall or vehicle etc. Where a power source or heating appliance is present, e.g. a generator or bottled gas container, then a suitable fire extinguisher shall be provided. In addition, a fire blanket shall be provided in vehicles selling hot food.

17. **STORAGE OF EQUIPMENT**

The Consent Holder is responsible for the storage of all equipment associated with his/her trading and is not permitted to leave any vehicle, stall, ancillary equipment etc. on the site of trading at any time when trading is not taking place. (Also **condition 9** – position of stall etc).

18. **SETTING UP AND CLOSING DOWN**

The Consent Holder shall not enter the site of trading other than during the times specified except for the periods of 30 minutes before trading starts and after trading finishes for the purposes of setting up and dismantling the trading operation.

19. **SURRENDER OR REVOCATION OF CONSENT**

Where a street trading consent is surrendered or revoked the Council **may** remit the whole or part of any fee paid. The council shall be entitled to retain at minimum £100 of any fee paid.

In accordance with the above legislation, there is NO right of appeal in respect of the refusal, revocation or variation of a street trading consent. The Council has a discretion in these matters which is subject only to the principles exercised by the courts in judicial review proceedings

20. **TRANSFER OF CONSENT**

At the discretion of the Council, one assignment only of a consent may be allowed to an immediate next of kin, subject to satisfactory evidence of proof of identity. Where such a transfer of a consent is allowed, a new food registration form **MUST** be completed **AND** details of the employer reconfirmed. The sub-letting / renting out or sale of the consent is **not permitted**.

21. **BREACH OF HYGIENE AND SAFETY REGULATIONS**

The Council may remove the Consent at any time. Breach of any one or more of the Conditions OR breaches of Food Safety and or Health and Safety Regulations relating to the consent holders trade may make the consent holder liable to enforcement action in line with the Council's enforcement which may result in the street trading consent being revoked and or prosecution.

22. **FOOD HYGIENE TRAINING**

The Consent Holder and all food handlers working on the stall or vehicle must possess the current Food Hygiene Certificate (or equivalent). The Consent Holder and food handlers must attend the relevant course and obtain their certificate prior to the grant or renewal of a street trading consent.

23. **ELECTRICITY SUPPLY**

Consent Holders wishing to install an electricity supply point on the highway or other Council land shall do so only after obtaining the necessary licence from the Council. Contact 01753 875626 for further details.

24. **MOBILE GENERATORS**

Mobile generators will be used only with the permission of the Council and will be specified and sited in such a way as not to cause noise nuisance or other annoyance to the occupier of any other premises or any user of the highway.

25. **ELECTRICAL EQUIPMENT**

All electrical equipment used in connection with the trading consent shall be constructed to a recognised standard, ideally to British Standard, and comply with all of the requirements of the latest edition of the IEE Regulations. In any case, electrical cables trailing across the highway or any part of the footway are **not permitted**.

26. **APPLICATIONS**

All applications for a Street Trading Consent (where applicable) shall be accompanied by a certificate signed by a CORGI registered gas installer to the effect that all gas appliances installed in or on the vehicle or trailer, and all cylinders, pipes and other fittings used for supplying gas to that appliance have been examined and found to be fitted in a safe and satisfactory manner and are suitable for their intended use.

27. **CHAIRS AND TABLES**

The Consent Holder may not, at any time, place tables, chairs, benches or similar articles on the footway, highway or any other land for the use of customers or staff of the trading consent for the consumption of food or drink sold by the Consent Holder.

28. **SIGNS ON PAVEMENT/HIGHWAY**

The Consent Holder shall not place any signs or any object upon the pavement or any other part of the highway or other public place, except within the allocated area of the Consent Street for which the Consent Holder holds a Street Trading Consent (except with the permission of Slough Borough Council). A definitive plan of the allocated area of the consent shall be submitted to the Council before issue of the consent.

29. **BOTTLED GAS**

The use of LPG or bottled gas for cooking or heating purposes in a mobile catering unit can be extremely dangerous unless certain basic safety codes of practice are followed. Under the terms of the Health and Safety at Work etc. Act 1974, the Consent Holder has a responsibility to ensure that all gas appliances and storage arrangements and installations are as safe as is reasonably possible, to protect the health, safety and welfare of staff, customers and any other individual. For copies of guidance notes or for specific advice in this respect, you should contact the L P Gas Association.

30. **DAMAGE TO PAVEMENT/HIGHWAY**

The Consent Holder will be responsible for any damage caused to the pavement, highway, including marks on the surface area where his/her vehicle, stall, etc has been positioned and will be liable for any cost incurred for such repairs.

31. **PLANT AND EQUIPMENT**

All plant and equipment used in connection with this trading consent shall be constructed to comply with a recognised standard, and ideally the relevant British Standard.

32. **SALE OF GOODS OR ARTICLES**

The Consent Holder and/or his/her assistants shall not sell or offer for sale any goods or articles other than those described within the Principle Terms of the Consent. In addition, only the consent holder may carry on a business or trade at the consent location and will be restricted to the sale of goods. **Receipt or exchange of any other goods is totally prohibited.**

33. **PRICE LISTS**

The Consent Holder shall, whilst trading, display an accurate and comprehensive price list of all items for sale from the stall or vehicle.

34. **EMPLOYMENT**

The consent holder shall be the sole employer of any persons employed or working at the vehicle / stall / stand etc. Such employees must be a 'nominated person or assistant' listed on the application form. The council must be notified of any changes of 'nominated persons or assistants'.

35. **SPECIAL CONDITIONS**

The Council may at any time vary or add to the General Conditions with further Special Conditions on the Consent Certificate.

36. **CRIMINAL RECORDS CHECKS**

All consent holders, nominated persons or assistants must produce annually a **Basic Criminal Records Bureau check**.

37. **PREMISES LICENCE**

Where the business of a street trading consent involves the Provision of Late Night Refreshment i.e. the sale or supply of hot food or drink to members of the public between the hours of 23-00 hours and 05-00 hours, a **PREMISES LICENCE** will also be required in accordance with the **Licensing Act 2003**.

38. **MOBILE TRADERS**

All mobile trading (including ice cream vendors) to be restricted to a maximum of **20 minutes time period** in any one particular location.

GENERAL CONDITIONS DECLARATION

I *(insert name)*.....of *(insert address)*.....

.....

having applied for the grant or renewal of a Street Trading Consent issued by Slough Borough Council (Licensing Authority) acknowledge receipt of a copy of the current General Conditions for Street Trading Consents and agree to abide by all the attached conditions.

Signed:.....

Print Name:.....

Date:.....

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APPENDIX B

PROPOSED STREET TRADING CONDITIONS

Street Trading Consents Standard Terms and Conditions Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 Para 7 (4)

Standard Conditions attaching to Street Trading Consents

1. General

- 1.1 Slough Borough Council issues annual, six monthly, quarterly, monthly and daily consents.
- 1.2 Under paragraph 7 (6) of the above legislation the council may at any time vary the conditions of a street trading consent. Paragraph 7 (10) of the Act states that a street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- 1.3 Should a consent be granted the consent holder will be required to comply with the following terms and conditions which are attached to the consent and if breached the consent may be revoked.

2. Day & Times

- 2.1 Street trading shall not be carried out on any street, place or site on any days or at any time other than those specified in the consent and trading shall take place only from the specified unit. **No trading will be allowed within a 250 metre radius of any school or children's nursery**
- 2.2 All mobile traders (including ice cream vendors) to be restricted to a maximum of **20 minutes trading time** in any one particular location.

3. Use of Site

- 3.1 The Consent Holder and any assistants employed by them shall not at any time cause or permit any goods, articles, structures or produce to be stored or displayed at the sides of the unit/stall, around the unit/stall, or in the gangway between any two units/stalls.

4. Commodities

- 4.1 No class or classes of articles, commodities or things may be sold or exposed or offered for sale other than those specified in the consent.

- 4.2 The Consent Holder must notify The Council in writing of any changes to items being sold or offered for sale. This must be approved by the Licensing Manager at least 2 weeks prior to the items being offered for sale.
- 4.3 All commodities must comply with current Consumer Protection legislation. Further information is available at www.slough.gov.uk/business/trading-standards/business-advice.aspx or telephone 01753 875255.
- 4.4 The minimum standard to which all goods should comply is that they are safe, genuine, and as described. All goods must be accurately priced and any surcharges, of any kind, should be as bold, concise and compelling as the headline price itself. Description of services must be accurate and transparent. The use of harassment, coercion or undue influence in the sale of any goods or services will result in the immediate revocation of the consent.

5. Trader's Vehicles

- 5.1 A Consent Holder shall not leave any vehicle in the street in which trading takes place, apart from in approved parking spaces, except for the purpose of loading and unloading goods. This condition shall not apply when waiting restrictions are in force.
- 5.2 The Consent Holder shall not enter the site of trading other than during the times specified except for the periods of 30 minutes before trading starts and after trading finishes for the purposes of setting up and dismantling the trading operation.
- 5.3 Where any new parking restrictions are implemented at the location where any street trading takes place, this may affect the renewal of the Street Trading Consent.

6. Offensive Material

- 6.1 The Consent Holder and any assistants employed by them shall not offer for sale or display any articles or goods or anything whatsoever which is indecent or is likely to be offensive or in any way promotes or relates to the use of drugs. The Consent Holder must immediately withdraw from sale any such article or goods if required to do so by an authorised officer of the Council.

7. Type & Size of Unit / Stall

- 7.1 The unit/stall used must be of a size specified in the consent and of a design approved by Slough Borough Council. It will be of a temporary

nature and easily removed. Its use must not cause damage to the street or endanger persons using the street.

- 7.2 The Consent Holder shall notify the Licensing Department in writing of any changes to the size or design of the unit/stall, and must be approved by the Licensing Manager before the unit can be used for trading.
- 7.3 The Consent Holder shall not park the unit or place the stall on any part of a footway without prior written consent from the Council.
- 7.4 All tow bars will be removed or collapsed so as not to represent a hazard.
- 7.5 Generators with an output of 3.3KW and above are not permitted except with the express permission of Slough Borough Council.
- 7.6 A legible notice which will be provided by the Council shall be prominently displayed by a street trader in or on the unit/stall to clearly show the Consent Holder's name and such other details as may be prescribed by the Council.

8. Consent Holder

- 8.1 The Consent Holder shall ensure that they have a valid certificate for a minimum **£5 Million** public liability insurance cover.
- 8.2 No person other than the consent holder or a nominated assistant shall be permitted to work on the street trading unit/stall.
- 8.3 The Consent Holder shall not dispose of, transfer or sublet, or attempt to dispose of, transfer or sublet his or her consent to another person without the permission of the Council. In the event of the death of a consent holder the consent may be operated by the next of kin or bequeathed person if a formal application is submitted and approved by the Council within 6 months of the death.
- 8.4 The Consent Holder shall provide full details of all nominated assistants as detailed in the Nominated Assistant Application form.
- 8.5 No nominated assistant shall commence work on a street trading unit/stall until such time as that person has been approved in writing by the Council.
- 8.6 The Consent Holder and any nominated assistants employed by them must wear at all times whilst street trading the identification badge provided by the Council.

- 8.7 The Consent Holder must arrange access to toilet facilities for the Consent Holder and any nominated assistants during trading hours. This must include a written arrangement with other businesses if there are no public toilets nearby.
- 8.8 In an emergency or when requested by a police constable or authorised officer of the Council, the unit/stall shall be temporarily removed for such period as necessary.

9. Conduct

- 9.1 The Consent Holder and any nominated assistants employed by them shall be on all occasions when carrying on the business of street trading strictly sober and conduct him or herself in a proper, civil and decorous manner.
- 9.2 Consent Holders and any nominated assistants employed by them shall ensure the business is not conducted in such a way to cause nuisance, annoyance or danger to persons using the street or otherwise and that the public are treated fairly and with courtesy.
- 9.3 Consent Holders and any nominated assistants employed by them shall not directly or indirectly hawk, tout or solicit custom for or advertise by way of flyer, public address system or otherwise without written approval from the Council.
- 9.4 Consent Holders and any nominated assistants employed by them must not cause or allow to be caused any damage to the street surface, street furniture, lighting and landscaping within the permitted area. Consent Holders will be responsible for the cost for repairing any such damage and repairs are only to be carried out by the Council's term maintenance contractors. (For advice and information please contact Highways by email Highways@slough.gov.uk or telephone 01753 475111.)
- 9.5 Consent Holders and any nominated assistants employed by them must not cause or allow to be caused any obstruction to any routes that provide access to emergency service vehicles and/or personnel, fire hydrants, manholes or other street furniture etc. resulting from your business. All routes must be kept clear and visible at all times.

10. Trailer / Unit / Stall

- 10.1 Any unit/stall which emits fumes shall comply with the requirements of Slough Borough Council and not present a statutory nuisance to persons using the street or occupying premises in the street.

- 10.2 The unit/stall used for street trading shall be kept in a clean, and, and if applicable, roadworthy condition.
- 10.3 All fire exits must be kept clear and visible at all times.
- 10.4 Any property, building or structure near to and around any site on which trading is carried out shall not be defaced or interfered with.
- 10.5 From time to time, the Statutory Undertakers may wish to undertake works in the execution of their duties, upon or within the vicinity of the trading site, at which time an alternative location **may be** considered by the Licensing Team in the interim period.
- 10.6 The consent holder shall be responsible for complying with any Acts of Parliament, Regulations or bye-laws which affect the occupation and use of the site.
- 10.7 No unreasonable noise shall be made which may cause annoyance to persons using the street or occupying premises in the street in which trading is carried out. If it is intended to use electrical and/or gas equipment you must produce evidence of annual safety inspections of the equipment in use. These inspections should be carried out by a competent person (a Gas Safe Registered operator for gas and LPG equipment and a qualified person for electrical equipment (e.g. – an NICEIC registered contractor)).
- 10.8 The Consent Holder and any nominated assistants employed by them shall be in attendance during the period when street trading is taking place, except when he/she is actively engaged elsewhere on street trading business concerning that consent, or there is other reasonable excuse such as sickness. Notification of absence for any continuous period of more than two days i.e. sickness or holidays, must be made to the Licensing Team as soon as is practicable.
- 10.9 Units/stalls should not be left unattended at any time, except in emergency situations.

11. Equality

- 11.1 The Consent Holder shall ensure that disabled persons, persons with restricted mobility and wheelchair users can be adequately served. This may involve but not limited to such customers being served from outside the unit/stall.

12. Food Hygiene

- 12.1 Where the consent is for the sale of food from a stationary unit/stall. The unit/stall must be suitable for the purpose. Management of the unit/stall must comply with all requirements of the relevant food safety laws in particular The Food Safety Act 1990, EC regulation 852/2004 and the Food Safety and Hygiene (England) Regulations 2013.
- 12.2 All food traders shall give details of the local authority with whom they have registered their food business, having regard to the EC regulation 852/2004. (Further information is available at www.slough.gov.uk/business/environmental-health/food-hygiene-and-safety.aspx or telephone 01753 875255.)
- 12.3 If food is prepared, served or sold, the consent holder must have in place a Food Safety Management System (FSMS) that is kept under constant review. A copy of the FSMS must be produced where necessary to any authorised office of the Council.
- 12.4 If there are any significant changes to the menu or equipment used then the FSMS must be reviewed and resubmitted to the council for agreement when renewing the licence.
- 12.5 All persons handling unwrapped high risk food must have a food safety training certificate. The certificate must be accredited by the Qualifications and Curriculum Development Agency (QCDA) to the Level 2 Award. This certificate must also be produced for examination when requested by any authorised officer of the Council, Police Officer or Police Community Support Officer. This training must be renewed at intervals every three years.
- 12.6 The level 2 award food safety training certificate must be displayed conspicuously, adjacent to the Consent, in such a position that it can be easily read by customers.
- 12.7 Any trader failing to achieve a 3 star rating or above following a food hygiene inspection by Slough Borough Council Food and Safety Team shall make the necessary changes to their business and apply for a rating rescore within **3 months**.
- 12.8 Continued failure to achieve a 3 star rating or above will result in the automatic revocation of the Consent and/or refusal to grant further Consents to the individual(s) concerned by the Licensing Manager.

- 12.9 Anybody suffering from food poisoning, diarrhoea or more than one bout of vomiting must not work in any food handling area until they have been completely well for at least 48 hours.
- 12.10 Any open cuts, spots or boils must be covered with a clean, waterproof dressing to avoid contaminating food.
- 12.11 All applications for the grant or renewal of a Consent, where waste is likely to be generated from the product being offered for sale for example, burgers, kebabs, sandwiches and ice creams, shall be accompanied by a copy of a current waste transfer note, which must have been made with a licensed waste operator.

13. Age Restrictions

- 13.1 During the hours that alcohol sales are permitted, a holder of a Personal Licence within the meaning of section 3 Licensing Act 2003 must be present at the point of sale.
- 13.2 The premises shall at all times operate a Challenge 25 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Notices advertising the Challenge 25 policy shall be displayed in prominent positions on the premises;
- 13.3 In conjunction with the 'Challenge 25, proof of age scheme', the consent holder must have a written refusals register, detailing each occasion where a challenge occurs. The log should include the date and time of the challenge and a brief description of the person challenged. The person refusing the sale shall also sign against the record of the refusal. This register is to be made available to any authorised officer of the Council, Police Officers and Police Community Support Officers on request.
- 13.4 For all other age restricted products, all persons who appear under the age of 18 shall be required to provide proof of their age, before a sale is commenced. This proof of age shall include a passport, a photo card driving licence or PASS hologram Card. No other proof of age shall be accepted.
- 13.5 Where proof of age is requested for the purposes of condition 13.4, a record in the same format as outlined at condition 13.3 above must be made.
- 13.6 There shall be no sale of alcoholic drinks in glass containers.
- 13.7 Alcohol shall only be sold in its original and sealed pre-packed container.

13.8 There shall be no facilities or containers for customers to decant alcohol into other containers.

13.9 The consent holder shall not engage in inappropriate discounting of alcohol or irresponsible alcohol promotions for example, sale of alcohol below cost price, discounted sales in the last twenty four hours of trading, large price reductions during the life of the street trading consent.

14. Liquefied Gas

14.1 Consent Holders shall ensure that they comply with the requirements of the Council's guidance document on the safe use, handling, storage and transportation of Liquefied Petroleum Gas used in mobile catering units or similar units.

14.2 Consent holders shall ensure that they comply with the legal requirements and guidance on the safe use, handling, storage and transportation of liquefied petroleum gas (LPG). Further information can be found at www.ncass.org.uk/mobile-catering-home/content/get-legal/law-pages/gas-safety

15. Generators

15.1 Consent holders must not use mobile generators without written permission from the Council. Where permission is granted the generators must be positioned so that they do not present a danger to the public, do not present a fire or similar hazard to the unit, goods displayed thereon or adjoining premises and do not give rise to a nuisance by reasons of noise, vibration, smoke or smell.

15.2 Combustible materials must not be stored in the vicinity of a generator and there must be suitable first aid and fire fighting appliance(s) available. Fuel must not be stored in the vicinity of a generator.

15.3 Generators must not be filled up during trading hours. The Consent Holder must ensure the generator is filled up before trading commences.

15.4 The Consent Holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.

15.5 Adequate precautions shall be taken by the Consent Holder to prevent the risk of an outbreak of fire at the unit/stall. Where a power source or heating appliance is present, for example a generator or bottled gas container, a suitable fire extinguisher shall be provided, kept by the unit exit and easily

accessible in an emergency situation. In addition, a fire blanket shall be provided in units selling hot food.

15.6 The Consent Holder shall provide the Council with a fire risk assessment detailing the precautions to be taken in the event of a fire.

15.7 Where an electrical generator or a connection is made to a permanent electricity supply the Consent holder you must ensure that the electrical installation is safe. A safety certificate from a competent person or body, such as an NICEIC or ECA approved electrician, must be provided annually.

15.8 At no time should electric cables be draped across roadway, public footpaths or any other area to which the public have access. If electrical cables are placed on the highway they must be concealed and not cause a trip hazard.

16. Refuse & Waste

16.1 The Consent Holder and any nominated assistants employed by them shall keep the site clean and tidy and free from litter at all times and provide adequate facilities for the hygienic storage of refuse in the form of dedicated containers that cannot be used for any other purposes. The trader must ensure that the containers do not become overfilled and at the end of each trading day and/or as often as may be necessary during the trading day, properly dispose of all refuse including cooking oils etc. in an authorised manner. All refuse containers must be clearly marked.

16.2 The Consent Holder and any nominated assistants employed by them must not allow any silage water from washing of food equipment or hand washing to discharge into the ground the consent holder, must satisfy the Council that it has been disposed of appropriately.

16.3 No water, oils or waste material shall be discharged on to the highway or any adjacent property or into the drains.

16.4 Where it is identified that waste has been illegally discharged, the consent holder will be liable for the cost of removal or clearance of the waste, and the Street Trading Consent may be revoked with immediate effect by the Licensing Manager.

16.5 The Consent Holder and any nominated assistants employed by them shall comply with all requirements of the Environmental Protection Act 1990 with respect to Duty of Care.

16.6 The Consent Holder and any nominated assistants employed by them shall collect and similarly dispose of all wrappings and litter within a 5 meter

radius of the site (and beyond where it is the result of the trader's activities from the site) at the end of each trading day and as often as may be necessary during each trading day to keep and leave the street in a clean and tidy condition.

16.7 The Consent Holder and any nominated assistants employed by them shall take all reasonable steps to prevent the deposit of anything whatsoever on the highway which would cause damage to the highway. This shall include localised street washing in the event of spillage of vegetables, cooking oil, oil from vehicles, ice cream or similar materials. Drip trays should also be placed under any part of the trading unit or equipment used as part of the trading unit to prevent spillage and/or staining on the highway.

16.8 The Consent Holder and any nominated assistants employed by them shall comply with any reasonable directions given by the Council from time to time regarding the handling, storage and removal of the refuse.

17. Revocation and Refusal of Consent

17.1 In the event of any breach or non-compliance with the provisions of the Local government (Miscellaneous Provisions) Act 1982 or the Terms and conditions of a Consent by the Consent Holder (including any persons associated with the Consent Holder) the Council may immediately revoke the Consent without notice and/or refuse to grant further Consents to the individuals concerned.

18. Offences

18.1 Any person who contravenes a condition imposed under the Consent shall be guilty of an offence (Paragraph 7(9) Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.

19. Convictions

19.1 The Consent Holder and any nominated assistants employed by them must notify the Council in writing within 7 days of being convicted or cautioned of a criminal offence, following the grant of the consent or being approved as nominated assistant. This information is subject to the Rehabilitation of Offenders Act 1974.

20. Ice Cream Traders

20.1 The chimes of an ice cream van shall not be used before 12 noon or after 7pm and shall conform to the Code of Practice of Noise from Ice Cream Chimes 1982. Further information can be found at

www.gov.uk/government/publications/code-of-practice-on-noise-from-ice-cream-van-chimes

20.2 The main points of the Code of Practice are:

Do not sound chimes

1. for longer than 4 seconds at a time;
2. more often than once every 3 minutes;
3. when the vehicle is stationary;
4. except on approach to a selling point;
5. when in sight of another vehicle which is trading;
6. when within 250 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised days of worship);
7. more than once every 2 hours in the same length of street;
8. louder than 80 dB(A) at 7.5 metres;
9. as loudly in quiet areas or narrow streets as elsewhere

20.3 Any person consented to sell ice cream may not sell or offer for sale any goods other than ice cream, frozen confectionery, confectionery, crisps and soft drinks.

21. Special Conditions

21.1 When dealing with an application the Council can attach any specific conditions that are considered necessary for the consent because of the type of trading.

Extra conditions will be attached where the Council considers it necessary to:

- Maintain public safety.
- Prevent nuisance and anti-social behaviour.
- Preserve the amenity of the specific locality.

Warning

Paragraph 10 (3) to the Local Government (Miscellaneous Provisions) Act 1982, provides that “**Any person who, in connection with an application for a street trading consent makes a false statement which he knows to be false, in any material respect, or which he does not believe to be true, shall be guilty of an offence**”.

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List of initial Consultees on Review of Street Trading Conditions 2015

- Thames Valley Police
- Royal Berkshire Fire and Rescue Service
- SBC Planning
- SBC Highways
- SBC Transport
- SBC Parking and Development
- SBC Trading Standards
- SBC Food and Safety
- SBC Neighbourhood Enforcement
- Environmental Services and Quality.

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30th November 2015

Department: Customer & Community Services
Contact Name: Mick Sims
Contact No: 01753 477387
Fax: n/a
Email: Michael.sims@slough.gov.uk
Our Ref:
Your Ref:

Dear

REF: Consultation on Review of Street Trading Conditions

I am writing to you regarding a recent review of the Council's current street trading conditions.

The conditions for street trading have not been reviewed for some years.

The Licensing Team have recently carried out a full review of the current conditions and in doing so have consulted with Thames Valley Police, Royal Berkshire Fire and Rescue Service and Slough Borough Council departments including Planning, Highways, Transport, Parking and Development, Trading Standards, Food and Safety, neighbourhood Enforcement and Environmental and Quality Services.

In light of the responses back from the initial consultation a new set of proposed conditions have been prepared which are attached together with a copy of the current conditions.

The purpose of this letter is to formally consult with you as a current street trading consent holder, for your views and comments on the new proposed conditions before they are put before the Licensing Committee in February for approval.

I would welcome any views or comments you may have and would ask that these are put in writing by email to Michael.sims@slough.gov.uk or for my attention to The Licensing Team, Landmark Place, High Street, Slough, SL1 1JL no later than **Monday 4th January 2016**.

Yours sincerely,

Mick Sims
Licensing Manager
Consumer Protection and Business Compliance Services

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MEMBERS' ATTENDANCE RECORD 2015/16
LICENSING COMMITTEE

COUNCILLOR	22/07/15	30/09/15	17/11/2015	19/01/2016	16/02/2016	23/03/2016
Abe	P	Ap	P	C	C	
Cheema	P	P	P	A	A	
Coad	P	P	P	N	N	
Davis	P	P	P	C	C	
Dhillon	P	Ap	P	E	E	
Malik	P	P	P	L	L	
Munawar	P	Ab	P	L	L	
Shah	P*	P	P*	E	E	
Sohal	P	P	P	D	D	
Usmani	P	P	P			
Wright	P	P	P			

P = Present for whole meeting
 Ap = Apologies given

P* = Present for part of meeting
 Ab = Absent, no apologies given

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