

# FAREHAM

BOROUGH COUNCIL

## AGENDA

### LICENSING AND REGULATORY AFFAIRS COMMITTEE

**Date:** Tuesday, 29 September 2020

**Time:** 6.00 pm

**Venue:** Virtual Meeting - Microsoft Teams

**Members:**

Councillor M J Ford, JP (Chairman)

Councillor T M Cartwright, MBE (Vice-Chairman)

Councillors I Bastable  
Mrs S M Bayford  
Miss S M Bell  
F Birkett  
Mrs P M Bryant  
S Cunningham  
T Davies  
J S Forrest  
L Keeble  
Mrs K Mandry  
Ms S Pankhurst  
R H Price, JP



*Deputies:* K D Evans  
Mrs C Heneghan  
Mrs K K Trott

**For further information please contact:  
Democratic Services, Civic Offices, Fareham, PO16 7AZ  
Tel: 01329 236100  
democraticservices@fareham.gov.uk**

**1. Apologies for Absence**

**2. Minutes**

To confirm as a correct record the minutes of the meeting of the Licensing and Regulatory Affairs Committee held on 28 January 2020 and any meetings of the Licensing Panel that have taken place since the last meeting of the Committee.

**(1) Minutes of the Licensing and Regulatory Affairs Committee - 28 January 2020** (Pages 5 - 8)

**(2) Minutes of meeting Tuesday, 18 February 2020 of Licensing Panel** (Pages 9 - 12)

**(3) Minutes of meeting Thursday, 27 August 2020 of Licensing Panel** (Pages 13 - 18)

**(4) Minutes of meeting Tuesday, 15 September 2020 of Licensing Panel** (Pages 19 - 22)

**3. Chairman's Announcements**

**4. Declarations of Interest**

To receive any declarations of interest from members in accordance with Standing Orders and the Council's Code of Conduct.

**5. Deputations**

To receive any deputations of which notice has been lodged.

**6. Parliamentary Boundary Review 2018** (Pages 23 - 24)

To receive a verbal update from the Head of Democratic Services in respect of the 2018 Parliamentary Boundary Review.

**7. Statutory Review of Licensing Policy** (Pages 25 - 44)

To consider a report by the Head of Environmental Health which presents the Draft revised Licensing Policy for Members' consideration prior to the commencement of the statutory consultation period.

**8. Covid 19 Service Impact Report** (Pages 45 - 48)

To receive a report by the Head of Environmental Health which provides an update on the impact to the Service as a result of the Covid 19 pandemic.

**9. Licensing and Regulatory Affairs Committee Work Programme** (Pages 49 - 56)

To consider a report by the Head of Environmental Health on the Committee's Work Programme for the remainder of the Municipal year.



P GRIMWOOD  
Chief Executive Officer

Civic Offices  
[www.fareham.gov.uk](http://www.fareham.gov.uk)  
21 September 2020

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# FAREHAM

## BOROUGH COUNCIL

### Minutes of the Licensing and Regulatory Affairs Committee

**(to be confirmed at the next meeting)**

**Date:** Tuesday, 28 January 2020

**Venue:** Collingwood Room - Civic Offices

**PRESENT:**

Councillor M J Ford, JP (Chairman)

Councillor T M Cartwright, MBE (Vice-Chairman)

Councillors: I Bastable, Mrs S M Bayford, Miss S M Bell, F Birkett, T Davies, J S Forrest, Mrs K Mandry, Ms S Pankhurst, R H Price, JP and K D Evans (deputising for Mrs P M Bryant)

**Also  
Present:**



**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Mrs P Bryant, Councillor L Keeble and Councillor Mrs C Heneghan.

**2. MINUTES**

**(1) Minutes of the Licensing and Regulatory Affairs Committee - 15 October 2019**

RESOLVED that the minutes of the Licensing and Regulatory Affairs Committee meeting held on 15 October 2019 be confirmed and signed as a correct record.

**(2) Minutes of meeting Tuesday, 10 December 2019 of Licensing Panel**

RESOLVED that the minutes of the Licensing Panel held on 10 December 2019 be confirmed and signed as a correct record.

**3. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman announced that following the Licensing Panel held on 10 December 2019 in respect Ranchos steakhouse, an appeal has been submitted by the Applicant against the decision made by the Panel to refuse the application for a premises licence. The appeal to the Magistrates Court has been set for 09 April 2020.

**4. DECLARATIONS OF INTEREST**

There were no declarations of interest made at this meeting,

**5. DEPUTATIONS**

There were no deputations made at this meeting.

**6. ACTUAL REVENUE EXPENDITURE 2018/19**

The Committee considered a report by the Deputy Chief Executive Officer which provided details of the actual revenue expenditure for 2018/19 in respect of the services for which this Committee is responsible.

RESOLVED that the Licensing and Regulatory Affairs Committee notes the content of the report.

**7. FEES AND CHARGES 2020/21**

The Committee considered a report by the Deputy Chief Executive Officer which sets out the level of fees and charges for the Committee's services and seeks agreement for them before being recommended to Council for approval.

Following discussion in respect of the Street Trading Consent licences, it was proposed by Councillor R H Price, JP and seconded by Councillor J Forrest that no increase in fees be made at this time to any of the three Street Trading licences. On being put to the vote, the motion was declared LOST with only 2 members voting in favour.

RESOLVED that the Licensing and Regulatory Affairs Committee:-

- (a) agrees the fees and charges for 2020/21; and
- (b) recommends the fees and charges to Council for approval.

#### **8. SPENDING PLANS 2020/21**

The Committee considered a report by the Deputy Chief Executive Officer which sets out the overall level of revenue spending on the Committee's services. The report also seeks agreement for the revised revenue budget for 2019/20 and the base budget for 2020/21 before being recommended to Council for approval.

RESOLVED that, having reviewed the content of the report, the Licensing and Regulatory Affairs Committee:-

- (a) agrees the revised budget for 2019/20;
- (b) agrees the base budgets for 2020/21; and
- (c) recommends the budget to Council for approval

#### **9. PRELIMINARY REVIEW OF WORK PROGRAMME 2019/20 AND DRAFT WORK PROGRAMME 2020/21**

The Committee considered a report by the Head of Environmental Health which contained details of the position of the Committee's existing Work Programme for the current year in order to allow an early assessment of progress. It also gave background information to assist members in drawing up the Committee's Work Programme for 2020/21.

Members were advised that there is a statutory requirement for the Council to review its Licensing Policy every 5 years and that the current policy is due for renewal by early 2021. As part of the Council's Policy Framework, the draft policy will need to undergo a period of public consultation and be recommended by both the Committee and the Executive before being referred to Council for approval. The Committee therefore agreed that a report on the draft Licensing Policy be added to the agenda of the meeting scheduled to take place on 31 March 2020.

Members requested that a verbal update be provided at the meeting scheduled to take place on 16 June 2020 to inform Members of the outcome of the appeal made to the Magistrate's court by Rancho's Steakhouse against the Licensing Panel's decision to refuse the application for a premises licence.

Members also requested that the current position with regard to the 2018 Review of Parliamentary Constituency Boundaries be established so that the Committee could consider whether an update report should be added to the Work Programme for 2020/21.

RESOLVED that the Licensing and Regulatory Affairs Committee agrees that:

- (a) the progress on actions arising from the meeting of the Committee held on 15 October 2019, attached as Appendix A to the report, be noted;
- (b) having considered the Work Programme for 2019/20, attached as Appendix B to the report, an item in respect of the draft Licensing Policy be added to the agenda of the meeting scheduled to take place on 31 March 2020; and
- (c) having given initial consideration to the draft Work Programme for 2020/21, attached as Appendix C to the report:
  - (i) a verbal update be provided at the meeting scheduled to take place on 16 June 2020 to inform Members of the outcome of the appeal made to the Magistrate's court by Rancho's Steakhouse against the Licensing Panel's decision to refuse the application for a premises licence; and
  - (ii) the current position in respect of the 2018 Review of Parliamentary Constituency Boundaries be established so that the Committee can consider whether an update report should be added to the Committee's Work Programme for 2020/21.

(The meeting started at 6.00 pm  
and ended at 6.20 pm).

# FAREHAM

BOROUGH COUNCIL

## Minutes of the Licensing Panel

**(to be confirmed at the next meeting)**

**Date:** Tuesday, 18 February 2020

**Venue:** Vannes Room - Civic Offices

**PRESENT:**

Councillor Michael Ford, JP (Chairman)

**Councillors:** Mrs S M Bayford and Mrs K Mandry



**1. EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED that the public and representatives of the press be excluded from the meeting in accordance with Section 100(a) of the Local Government Act 1972 on the grounds that the following matters to be dealt with involve the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12 of the Act.

**2. APPLICATION(S) FOR HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVING LICENCE(S)**

**Case 1**

The Panel considered a report by the Licensing Officer which contained exempt information in respect of a hackney carriage/private hire vehicle driving licence application. A copy of the report was circulated to Members in advance of the meeting. Details of the Applicant's DBS check were tabled at the meeting for Members' information.

The Chairman of the Panel confirmed that the hearing would be conducted in accordance with the Council's standard procedures for the hearing of hackney carriage/private hire vehicle driving licence applications as outlined at Appendix A to the report.

The Licensing Officer reported regarding the case as information received required that the application be determined by the Panel.

At the invitation of the Chairman, the Applicant addressed the Panel regarding the application and answered questions thereon.

Following the submission of the Applicant's representation, the Applicant and the Licensing Officer withdrew from the meeting whilst the Panel considered its decision.

After the Panel's deliberations, all parties were recalled to the meeting to hear the Chairman announce the decision.

RESOLVED that the application for a Hackney Carriage/Private Hire vehicle driving licence be refused.

**Case 2**

The Panel was advised that the Applicant was not able to attend the hearing and had provided a written statement for consideration instead. Members received a copy of the written representation in the agenda pack that was circulated in advance of the meeting. Following consultation with the Legal Advisor, the Panel determined that as the Applicant had not requested an adjournment, the hearing should continue.

The Licensing Officer reported regarding the case as information received required that the application be determined by the Panel.

The Panel read and considered the written representation provided by the applicant and concluded that in the absence of substantial, mitigating circumstances, there was no reason to go outside of the Council's policy (which incorporates the Institute of Licensing guidelines). The Panel therefore determined that the Applicant is not a fit and proper person at this time.

RESOLVED that the application for Hackney Carriage/Private Hire Vehicle driving licence be refused.

(The meeting started at 9.55 am  
and ended at 11.30 am).



# FAREHAM

BOROUGH COUNCIL

## Minutes of the Licensing Panel

**(to be confirmed at the next meeting)**

**Date:** Thursday, 27 August 2020

**Venue:** Virtual Meeting via Teams

**PRESENT:**

Councillor Michael Ford, JP (Chairman)

**Councillors:** Mrs S M Bayford and Mrs P M Bryant



**1. LICENSING ACT 2003 - APPLICATION FOR VARIATION OF PREMISES LICENCE - CAMS HILL SCHOOL, SHEARWATER AVENUE, FAREHAM PO16 7AZ**

At the invitation of the Chairman, the Panel was joined by the following persons:

Representing the Applicant

Mrs Gwennan Harrison-Jones

Mr Chris Nunn

Interested Parties

Mr Russell Corrigan

Mr Allan Bell

The Panel had before it a report by the Licensing Officer regarding an application for a premises licence in respect of Cams Hill School, Shearwater Avenue, Fareham, PO16 8AH. The report contained the procedure for the hearing and advised Members of the Panel of the relevant representations received from various interested parties. The report was circulated in advance of the meeting to Panel Members, the Applicant and all Interested Parties who had made written representations.

The Panel considered the application in accordance with the procedure as follows:

- (i) The Chairman of the Licensing Panel outlined the procedure to be observed and invited Panel Members, Officers and Interested Parties to introduce themselves.
- (ii) The Chairman asked the Applicant whether any modification was to be made to the application or the operating schedule submitted. The Applicant confirmed that no modifications were to be made.
- (iii) The Licensing Officer presented a summary of the application and the representations received.
- (iv) The Applicant commented on the application and on the representations made by the interested parties concerned.
- (v) Members of the Panel were given the opportunity to ask questions and seek clarification on points raised by the Applicant.
- (vi) The Interested Parties were given the opportunity to make representations.
- (vii) Members were given the opportunity to ask questions and seek points of clarification from Interested Parties.

The Licensing Panel then withdrew from this meeting and joined a private meeting in which to deliberate in private on the application. All parties were

invited to return to the hearing when the Licensing Panel had completed its deliberations.

Having considered the representations made, the decision of the Panel was as follows:

RESOLVED that the premises licence be granted but:

(1) Varied to reduce the premises area to exclude the front lawn and front classroom as agreed by the applicant; and

(2) Subject to the following conditions:

- Refusals / ID Checks / Incident Book

The premises licence holder shall ensure that a refusals book / ID check / incident book or log is maintained by staff at the premises. These records shall be retained for a minimum of 1 year and be made available to the Police and other responsible authorities upon request.

- ID Challenge 25

The premise licence holder shall ensure that a system is in place so that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises, shall produce acceptable means of identification and age confirmation to confirm they are 18 or over. Acceptable identification shall be a passport, photo driving licence, PASS accredited photo ID or Military ID. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to for that person.

- Risk Assessment

The premises licence holder shall ensure that all public and private 'events or functions' are subject to a written Risk Assessment that shall include the date, times and nature of the event, the assessment of risk and the measures put in place to address any identified risks. All Risk Assessments shall be documented and retained for a minimum of 1 year and shall be made available for inspection by Police, and Council Officials upon request.

**DECISION OF THE LICENSING PANEL REGARDING THE  
APPLICATION FOR A NEW PREMISES LICENCE AT CAMS HILL  
SCHOOL SHEATERWATER AVENUE, PO16 8AH**

The Panel has considered very carefully the application for a new premises licence at Cams Hill School, Shearwater Avenue, PO6 8AH.

It has given due regard to the Licensing Act 2013, the Licencing Objectives, statutory guidance and the adopted statement of Licensing Policy. The Crime and Disorder Act 1998, the Equality Act 2010 and Human rights legislation have been borne in mind whilst making the decision.

The Panel has paid due regard to all the representations presented to it both written and give orally at the hearing by the Applicant and the other parties and has given each one appropriate weight in making its decision.

The Applicant (by the Head teacher and School Business Manager) clarified and confirmed that:-

- (1) The Application is for a new premises licence and reference to a variation in the text of the report is a slip.
- (2) The Application includes all of the school premises, buildings shown on the plans at Appendix C and outdoor areas as the licenced premises.
- (3) The hours sought for the supply of alcohol (Box J page 18 of the report) are 12 noon to 11pm each day seven days a week.
- (4) The hours that the premises are open to the public (Box L page 19 of the report) is amended to be the same hours, that is, 12 noon to 11pm each day, seven days a week.

The Applicant further clarified in his presentation to the panel and in answer to questions asked by Panel members and the other parties that:-

- (5) The school Business manager is able to train other members of staff with regards to alcohol sales.
- (6) The school does not anticipate any events where Alcohol sales will take place in the short term due to the Covid 19 situation, and if the situation changes it will ensure all appropriate risk assessments and compliance with the applicable legislation and Government Guidance are carried out for any event.
- (7) The school is a Community school and a people centred school, it does not wish to cause any issues to its neighbours. Its key priority is the education of young people and this is a side activity. Activities are not daily and unlikely to be weekly. Currently there are three events in the year where alcohol sales are anticipated. The school has good conditions with the police and confirms it is happy for these to be included on any licence granted.
- (8) The school confirmed it agreed to vary the area included in the application to exclude the front lawn and classroom at the front of the school and the Application plan could be amended accordingly, in response to a representation made.
- (9) The school in seeking the licence for alcohol sales for the majority of the school site, was looking for flexibility.
- (10) The school described the steps it takes to increase parking spaces for events and reiterated it does not wish to cause any nuisance to the residents.

The Panel very carefully considered all the concerns expressed by the three representations which in summary were of:-

- Potential public nuisance by noise, and loss of privacy from overlooking;
- Of Crime and Disorder including damage to residents' property and risks to their safety arising from alcohol sales,

- Of issues with Public Safety re alcohol and driving;
- Of concerns to Public Safety re inadequate parking and insufficient lighting at the premises, and issues concerning public safety re Covid-19;
- Public Nuisance likely to be caused to neighbours from noise and disruption by the extended hours sought for supply of alcohol, and
- Protection of Children from harm, citing the risk from traffic in the car park, where drivers may be impaired by drinking, and poorly trained staff supplying alcohol, and the risks from Covid 19 and c for change in focus for the school.

The Panel considered the relevance of some of the matters raised and that they were outside the scope of the licencing hearing, and the responses provided by the Applicant's representatives to the concerns that were raised by residents.

It noted that none of the Responsible Authorities consulted, which include Hampshire Constabulary, Trading Standards, Hampshire Public Health, Child Protection Services and Fareham Borough Council Health and Safety had made any representation to the Application.

In consideration of all of the above, the Panel has determined to

**Grant the application**, but

- (1) **varied** to reduce the premises area to exclude the front lawn and front classroom as agreed by the Applicant, and
- (2) **subject to the following conditions** (in addition to the mandatory conditions)

**Refusals / ID checks / incident book**

The premises licence holder shall ensure that a refusals book / ID check / incident book or log is maintained by staff at the premises. These records shall be retained for a minimum of 1 year and be made available to the Police and other responsible authorities upon request.

**ID – challenge 25**

The premises licence holder shall ensure that a system is in place so that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises, shall produce acceptable means of identification and age confirmation to confirm they are 18 or over. Acceptable identification shall be a passport, photo driving licence, PASS accredited photo ID or Military ID. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

### **Risk Assessment**

The premises licence holder shall ensure that all public and private 'events or functions' are subject to a written Risk Assessment that shall include the date, times and nature of the event, the assessment of risk and the measures put in place to address any identified risks. All Risk Assessments shall be documented and retained for a minimum of 1 year and shall be made available for inspection by Police and Council officials upon request.

Reason These three conditions were agreed by the Applicant with the Police, and the Applicant has confirmed agreement at the hearing.

### Reason for decision

Weighing up all the evidence, the Panel concluded that the Licensing Objective can be met by the reduction of the licensed area, and the imposition of the above conditions, and it would not be proportionate to refuse the application.

**The objecting parties, can be reassured that there is a power to instigate a review in the event that the licensable activities at the premises do lead to issues undermining the licensing objectives.**

There is a right of appeal for all parties to the Magistrates' Court. Formal Notification of the decision will set out that right in full.

(The meeting started at 10.30 am  
and ended at 1.13 pm).

# FAREHAM

BOROUGH COUNCIL

## Minutes of the Licensing Panel

**(to be confirmed at the next meeting)**

**Date:** Tuesday, 15 September 2020

**Venue:** Microsoft Teams Virtual Meeting

**PRESENT:**

Councillor Michael Ford, JP (Chairman)

**Councillors:** F Birkett and Mrs K Mandry



**1. LICENSING ACT 2003 - APPLICATION FOR VARIATION OF PREMISES LICENCE - SIR JOSEPH PAXTON PUBLIC HOUSE, 272 HUNTS POND ROAD, PARK GATE, FAREHAM PO14 4PF**

At the invitation of the Chairman, the Panel was joined by the following persons:

Mr Mark Homeyard – Responsible Authority  
Mrs Victoria Gillett – Interested Party  
Mrs Samantha Hellyar – Interested Party  
Mr Duncan McCune – Interested Party  
Mr Terry Smith – Interested Party

The panel had before it a report by the Licensing Officer regarding an application for premises licence in respect of the Sir Joseph Paxton Public House, 272 Hunts Pond Road, Fareham PO14 4PF. The report contained the procedure for the hearing and advised members of the relevant representations made by a Responsible Authority and from other interested parties. The report was circulated in advance of the meeting to Panel Members, the Applicant and the Responsible Authority/Interested Parties that had made representations.

The Applicant was not present at the meeting due to an emergency family matter that needed to be dealt with.

The panel was informed that the Applicant had reached an agreed compromise position with some of the residential objectors, including all those in attendance today and details of that compromise were explained.

The application was heard in accordance with the Council's agreed Procedure for Hearings by the Licensing Panel and was considered as follows:

- (i) The Licensing Officer presented a summary of the application and of the representations received.
- (ii) The Responsible Authority presented its representations and answered questions thereon from Members of the Panel and the Legal Advisor.
- (iii) The Interested Parties presented their representations and answered questions thereon from Members of the Panel and the Legal Advisor.
- (iv) The Responsible Authority made a closing statement and answered questions on final points for clarification
- (v) The Interested Parties made closing statements and answered questions on final points for clarification.

The Licensing Panel then withdrew from the meeting to deliberate on the application in private. On completion of their deliberations, the Panel Members returned to the meeting.

The Chairman read out the decision of the Panel as follows:

**DECISION OF THE LICENSING PANEL REGARDING THE  
APPLICATION FOR A REMISES LICENCE VARIATION AT SIR JOSEPH  
PAXTON PUBLIC HOUSE, 272 HUNTS POND ROAD, PARK GATE,  
FAREHAM PO14 4PF**

The Panel has considered very carefully the application for a variation of premises licence at the Sir Joseph Paxton Public House, 272 Hunts Pond Road, Fareham PO14 4PF.

It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. The Crime and Disorder Act 1998, the Equality Act 2010 and Human rights legislation have been borne in mind whilst making the decision.

The Panel has paid due regard to all the representations presented to it both written and given orally at the hearing by the Applicant and the other parties and has given each one appropriate weight in making its decision.

The Panel heard that the applicant was unable to attend the meeting for personal reasons but was content for the meeting to proceed in his absence. Four residential objectors and Environmental Health attended the meeting and with the permission of the chair addressed the meeting.

The Panel was also informed that the applicant had reached an agreed compromise position with some of the residential objectors, including all those in attendance today and details of that compromise were explained.

In consideration of all the above, the Panel has determined to refuse the variation as set out in the original application but is prepared to grant a variation as agreed in the compromise between the applicant and some of the residential objectors.

The variation places conditions on the licence as follows:

Live music to be played in the garden up to a maximum of four times, per calendar year.

On those occasions all music in the garden is to cease by 1900 hours and the garden to be used on these four occasions only until 2300 hours.

The premises licence holder shall give not less than 4 weeks' notice of each event to the licensing authority detailing the nature of the event. The event will also be publicised sufficiently to bring it to the attention of local residents at least 4 weeks prior to the event taking place.

Condition 53 on the licence will be amended to be consistent with the conditions above.

All other conditions on the licence remain.

**Reasons**

The Panel was mindful of the strong objections to the application in its original form. These were not only from residents but also Environmental Health in its capacity as a responsible authority. The panel felt that the original application would exacerbate an existing issue around public nuisance and as noise abatement notices had been served might also lead to criminal proceedings touching on the crime and disorder licensing objective.

The Panel recognised that the applicant had responded positively to the residential objections and had met with some residents and had agreed a compromise position. Credit was due to both the applicant and the residents for their pragmatic approach.

The Panel did not wish to interfere with the positive moves made by all parties and was satisfied that the proposed compromise would alleviate concerns it had with regard to public nuisance and crime and disorder.

The application is therefore granted with the conditions set out above.

**Recommendations**

The Panel recommended that the applicant make a telephone number available to local residents for them to raise concerns.

The Panel also recommended that the applicant and residents set up a method of communication to enable notification of the events referred to in the conditions above.

There is a right of appeal for all parties to the Magistrates' Court. Formal notification of the decision will set out that right in full.

RESOLVED that the amended application for the variation of the premises licence be granted.

(The meeting started at 10.05 am  
and ended at 12.45 pm).

# FAREHAM

## BOROUGH COUNCIL

### **Verbal Update to The Licensing and Regulatory Affairs Committee**

**Date:** 29 September 2020  
**Report of:** Head of Democratic Services  
**Subject:**

#### **SUMMARY**

Members will receive a verbal update that will outline the current position in respect of the 2018 Parliamentary Boundary Review.

#### **RECOMMENDATION**

It is recommended that the Licensing and Regulatory Affairs Committee notes the content of the update.



# FAREHAM

## BOROUGH COUNCIL

### **Report to Licensing and Regulatory Affairs Committee**

**Date**            **29 September 2020**

**Report of:**     **Head of Environmental Health**

**Subject:**       **Review of Licensing Policy**

#### **SUMMARY**

The Council is required to determine and publish every 5 years a Statement of Licensing Policy in relation to the exercise of its functions under the Licensing Act 2003. The 5-year period to which the current Licensing Policy relates ends in March 2021. The purpose of this report is to bring before the Licensing and Regulatory Affairs Committee the draft reviewed Licensing Policy Consultation Document and to approve it for statutory consultation.

#### **RECOMMENDATION**

It is recommended that:

- a) Members' views and comments be considered in determining the current Licensing Policy Consultation Document, attached as Appendix A to the report;
- b) the consultation exercise on the Licensing Policy commence at this meeting and continue for a period of 12 weeks;
- c) a further report on the Licensing Policy, which details outcomes from the consultation process, be presented to the Licensing and Regulatory Affairs Committee at its meeting in January 2021 for further consideration prior to referral to the Executive for comment; and
- d) the final draft Licensing Policy then be recommended to Council for adoption at the meeting scheduled to take place in February 2021.

## **INTRODUCTION**

1. The Licensing Act 2003 took effect on 25 November 2005 and provided a unified system of regulation for the sale of alcohol, the provision of regulated entertainment and late-night refreshment. Most significantly it transferred to the local authority, as part of these new provisions, liquor licensing, which was previously carried out by the Magistrates' Court. The Council is the licensing authority in its area for the discharge of licensing functions under the Licensing Act 2003.
2. Section 5 of the Licensing Act 2003 requires each licensing authority to publish a statement of policy in respect of its licensing functions at the beginning of each five-year period. This policy must be kept under review and such revisions must be made at such times as it considers appropriate.
3. The present five-year period ends in March 2021 and therefore a Licensing Policy for 2021-2026 must be determined and published. Before doing so, consultation must have taken place with prescribed persons and groups. Before determining its policy for a five-year period, a licensing authority must consult:
  - (a) the chief officer of police for the licensing area;
  - (b) the fire authority for that area;
  - (c) such persons as the authority considers to be representative of holders of premises licences issued by that authority;
  - (d) such persons as the authority considers to be representative of holders of club premises certificates issued by that authority;
  - (e) such persons as the authority considers to be representative of holders of personal licences issued by that authority; and
  - (f) Representatives of businesses and residents in its area.

## **LICENSING POLICY**

4. The Licensing Act requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives: -
  - The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
5. In carrying out its licensing functions, a licensing authority must also have regard to:
  - Its statement of Licensing Policy published under section 5 of the Act; and
  - Any guidance issued by the Secretary of State under section 182 of the Act.
6. The Licensing Act requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote these licensing objectives when making decisions on applications made under the Act.

7. Where any revisions are made to the policy, it is also incumbent upon the licensing authority to publish a statement of the revisions or the revised licensing statement.

### **ORIGINAL POLICY DEVELOPMENT**

8. The Head of Environmental Health has reviewed the current Licensing Policy. A Draft Licensing Policy has been prepared for the Committee to consider and approve for the purpose of statutory consultation. There are minimal changes to the Policy, only incorporating updates to the Licensing Act. The Draft Licensing Policy is attached as Appendix A to this report.
9. Section 5 of the Licensing Act 2003 stipulates that once statutory consultation has been undertaken, the approval of the Draft Licensing Policy for publication is not a function that can be discharged by the Licensing Committee. This decision must be made by Full Council.

### **RISK ASSESSMENT**

10. There are no significant risk considerations in relation to this report; however, the Council is required to have a current Licensing Policy in place in order to assist it to meet its statutory obligations under the Act. The Licensing Policy itself is a key document as it details how the authority intends to operate and reflect the licensing objectives. If it makes any decisions which are not in line with the policy, full reasons must be given for that departure.

### **CONCLUSION**

11. The Licensing Act 2003 made provision for the transfer to local authorities (the licensing authority) of the regulation of the sale and supply of alcohol, the provision of entertainment and the provision of late-night refreshment.
12. The general duties of a licensing authority are that it must carry out its functions under the Act with a view to promoting the licensing objectives and, in carrying out its licensing functions, it must also have regard to its licensing statement published under section 5 of the Act and any guidance issued by the Secretary of State under section 182 of the Act.
13. Before determining its policy, however, a licensing authority must consult widely, in particular with those representatives listed and, under section 5 (3) of the Act, with any other person or group which it feels it is necessary to consult.
14. The Committee is invited to approve the Draft Licensing Policy attached as Appendix A for the prescribed consultation.
15. Following consultation, a further report on the Licensing Policy, which details outcomes from the consultation process, will be presented to the Committee at its meeting in January 2021 for recommendation to Full Council for adoption.

**Background Papers:** None

#### **Enquiries:**

For further information on this report please contact Ian Rickman. (Ext 4773)



APPENDIX A

**FAREHAM**  
BOROUGH COUNCIL

# Licensing Act 2003

Statement of Licensing Policy

April 201621 – March 2021616

## 1. Introduction

- 1.1 The Licensing Act 2003 requires licensing authorities to publish a "statement of licensing policy" every five years, which sets out how they intend to exercise their functions. The policy sets out a general approach to making licensing decisions. Each application will be considered on its own individual merits. The discretion of the licensing authority in relation to applications is only used if relevant representations are made
- 1.2 The Policy relates to all those licensing activities identified as falling within the provisions of the Act (Part 1 Section 1) namely:
- Retail sale of alcohol;
  - Supply of alcohol to club members;
  - The supply of hot food and/or drink from any premises between 11 p.m. and 5 a.m.;
  - Provision of "Regulated Entertainment" – to the public, to club members or with a view to profit. "Regulated Entertainment" is defined as:
    - A performance of a play
    - An exhibition of a film;
    - An indoor sporting event;
    - Boxing or wrestling entertainment;
    - A performance of live music;
    - Any playing of recorded music;
    - A performance of dance;
    - ~~Provision of facilities for making music;~~
    - ~~Provision of facilities for dancing.~~
- 1.3 The Legislative Reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015 provide significant exemptions to some of the activities. These include licensed premises music exemptions.
- 1.4 The licensing authority has a duty under the Act to carry out its functions with a view to promoting the four licensing objectives, which are:
- Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm
- 1.5 The Licensing Authority must also have regard to this Statement of Licensing Policy and any statutory guidance issued by the Secretary of State. That does not mean that it has to follow the policy and guidance slavishly. It can depart from it if, it has properly taken it into account, it has good reason to do so and where it is appropriate to do so to promote one or more of the licensing objectives.

- 1.6 In promoting the licensing objectives the licensing authority has a number of key aims and purposes which should be principal aims for everyone involved in licensing work and are therefore integral to the Policy. They include:
1. Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
  2. Giving the police, licensing officers and responsible authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
  3. Recognising the important role which licensed premises play in our local communities and economy by minimizing the regulatory burden on business, encouraging innovation and supporting responsible premises;
  4. Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
  5. Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

#### **Consultation**

- 1.7 In accordance with section 5 of the Act and prior to the publication of this Policy the licensing authority consulted with:
- Chief Officer of Police for the area (Hampshire Police)
  - Hampshire Fire and Rescue Authority
  - Persons/bodies representative of local holders of premises licences;
  - Persons/bodies representative of local holders of club premises certificates;
  - Persons/bodies representative of local holders of personal licences;
- 1.8 Policy will come into effect on in ~~April 2016~~ April 2021 and remain in force for a period of five years. During this time the policy will be subject to regular review.

#### **2. Profile**

- 2.1 Fareham is located in an area of some 30 square miles along the south coast of Hampshire between Portsmouth and Southampton. It is well connected to the M27 motorway, has good rail links to London and other major centres and easy access to the ferry ports and Southampton international airport.
- 2.2 The population of 112,800 is expected to grow by 5.4%, between ~~2011~~ 2021 and 2031, with a growing number in the population aged 45 or more. Black and minority ethnic groups make up a small proportion of the population in comparison to the rest of the south east region.
- 2.3 Within Fareham's boundaries there are 6 nationally important sites of special scientific interest, 92 sites of importance for nature conservation and 4 nature reserves. The Borough has many historic buildings, 13 conservation areas, nearly 600 listed buildings plus 7 historic parks and gardens of regional or local importance.

- 2.4 Fareham is a thriving business area with low unemployment. Many of Fareham's businesses are of local origin with a high survival rate from start-up. The growth in jobs at Whiteley, Segensworth and the Solent Business Park has reduced the number of residents commuting to work elsewhere. The proportion of Fareham's working age population that are in work is higher than both the regional and national rates and the average annual salary for a full time worker living in Fareham is significantly higher than national average earnings.
- 2.5 Fareham is a safe and healthy place compared to many other parts of the country. The total number of recorded crimes in Fareham has been falling in recent years. Based upon the number of crimes recorded, Fareham's Community Safety Partnership is in the top quartile when compared to other similar authorities.
- 2.6 The health of people living in Fareham is generally good when compared to other areas. Life expectancy is higher than the national average for men and women and over the last 10 years, the rate of death from all causes, and early death rates from cancer and from heart disease and stroke, have all fallen and remain lower than the national average.
- 2.7 Deprivation levels across the Borough are generally very low, but there are pockets of deprivation where unemployment is much higher and educational achievement is much lower when compared to other parts of the Borough.
- 2.8 Development at Welborne, a new community to the north of Fareham, is planned ~~to have its first occupancy at the end of 2021 / start of 2022 to start in 2016~~, comprising around 6,000 homes, commercial buildings and community facilities.

### 3.0 The Impact of Alcohol on Fareham

- 3.1 The priorities for Public Health England in Fareham include alcohol and related disease.
- 3.2 Public Health England state "Alcohol consumption is a contributing factor to hospital admissions and deaths from a diverse range of conditions. Alcohol misuse is estimated to cost the NHS about £3.5 billion per year and society as a whole £21 billion annually.

### 4. Licensing Process

- 4.1 Applicants are strongly encouraged to seek advice at the earliest possible stage from the licensing authority and other responsible authorities before making an application.
- 4.2 Applicants will need to comply with the statutory requirements or risk their application being invalid.
- 4.3 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule/[licensing application](#), having regard to the type of premises (which includes a vessel i.e. ship or boat), the licensable activities to be provided, the operational procedures, the nature of the location and needs of the local community.

- 4.4 It is recommended that applicants obtain planning permission and building regulation approval along with all other necessary permissions and licences for the premises prior to an application being submitted.
- 4.5 When formulating their operating schedule applicants will be expected to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account where appropriate.
- 4.6 When determining applications the licensing authority will have regard to any guidance issued by the Government. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration of those representations will be balanced against the wider benefits to the community.
- 4.7 When determining applications the only conditions which should be imposed on a premises licence or club premises licence are those that are appropriate to promote one or more of the four licensing objectives. In for the promotion of the licensing objectives. In particular, regard will be had to any local crime prevention strategies.

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### **Operating Schedules**

- 4.8 The operating schedule must form part of the completed application form for a premises licence. It should include information, which is necessary to enable a responsible authority or other person to assess whether and what steps have been taken or are proposed in order to promote the licensing objectives.
- 4.9 As and when appropriate the applicant should provide in the operating schedule such further relevant additional information/evidence where there is an apparent departure from the promotion of the licensing objectives.
- 4.10 It is strongly recommended that applicants and/or their legal advisors discuss with Council Licensing Officers and representatives of responsible authorities the draft operating schedule before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise for concern. This may avoid the necessity for a hearing if the application otherwise passes without representation.

### **Representations**

- 4.11 There is a prescribed period during which the licensing authority can receive a written representation to an application. This is usually 28 days from the date the licensing authority receives the application but varies depending on the type of application under consideration.

4.12 “Relevant representations” can include positive, supportive representations as well as objections.

### Decision Making Process

4.13 It will be the licensing authority’s policy to provide an efficient and cost effective service to all parties involved in the licensing process. With the exception of the approval and review of this Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation.

4.14 In accordance with Guidance the licensing authority has delegated licensing functions to sub-committees or in appropriate cases, to officials supporting the licensing authority as follows:

Matter to be dealt with	Sub Committee / Panel	Officers
Application for personal licence	If a police objection	If no objection made
Application for person licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.		All cases in consultation with the Chairman
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases
Determination of a police objection to a temporary event notice		All cases
Determination of application to vary premises licence at a community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on		All cases

Matter to be dealt with	Sub Committee / Panel	Officers
minor variation application		
Determination of minor variation application		All cases

4.15 If no relevant representations are received then the authorisation will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory or are consistent with the operating schedule accompanying the application. The licensing authority will have no conditions attached to the licence.

4.16 Where relevant representations are made and not withdrawn, the licensing authority must hold a hearing before the Licensing Panel ([sub-committee](#)) who will take such of the following steps as it considers appropriate for the promotion of the licensing objectives.

4.17 The steps are:

- grant the licence subject to the operating schedule modified to such extent as the Panel considers appropriate for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
- exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a person in the licence as the premises supervisor;
- reject the application.

#### **Applications for Large Events**

4.18 Events that the Council believe may require a co-ordinated approach to manage may be subject to a Safety Advisory Group (SAG) process. This will be at the discretion of the Council. Applicants will need to demonstrate to the members of the SAG they are supporting the licensing objectives.

4.19 An Event Management Plan needs to be submitted at least 6 months prior to the event to allow for the SAG process to be undertaken before any required licensing process.

#### **Shops Selling Alcohol (Off Licences)**

4.20 In 2013 the British Beer and Pub Association estimated that twice as much alcohol is bought in off-licensed premises as from pubs or other licensed premises. This was after years of seeing a steady increase in the amount of alcohol sold in off licences. Pre-loading with alcohol before a night out is much more frequent. This change in habit has the potential to negatively impact on the licensing objectives with on-licensed premises most at risk of the consequences. There are additional increased potential risks such as easier access to alcohol by children (given that consumption is not monitored / regulated), theft, increased street drinking and an increase in crime and disorder.

- 4.21 To address theft and access by children to alcohol the layout of premises, CCTV, where alcohol will be displayed and what steps will be undertaken to support the licensing objectives will be considered.

### **Temporary Event Notices (TENS)**

- 4.22 The Licensing Act 2003 enables certain organised events for fewer than 500 people to take place following notification to the licensing authority, the Police and Environmental Health.
- 4.23 Guidance on giving Notice can be found in the Home Office Fact Sheet.  
[www.gov.uk/government/publications/temporary-events-notices-factsheet](http://www.gov.uk/government/publications/temporary-events-notices-factsheet).
- 4.24 Although the statutory legal minimum time required for the notification of a temporary event to the licensing authority, Police and Environmental Health is ten working days, or five working days for a late temporary event, it is essential that proper consideration of the proposed event is given. Statutory guidance allows the licensing authority to publicise its preferred timescale for notification.
- 4.25 Late temporary event notices must be received with five clear working days' notice. For the avoidance of doubt, applications submitted electronically, via .GOV.UK must be received by 23:59 on the Sunday for events occurring the following weekend. i.e. If an event is taking place on Saturday 7 March, the application must be received by 23.59 on Sunday 1 March.
- 4.256 The licensing authority will encourage bona fide community events. Giving TENS for existing licensed premises will not be encouraged where the proposal is simply to regularly extend the existing hours of operation.
- 4.267 The licensing authority expects those who have given notice of a temporary event to have identified any particular issues having regard to their type of premises and/or activities, and to have in place written policies for addressing issues such as drunkenness, crime/disorder and drugs on their premises and for ensuring staff are trained on these policies.

## **5. Management of Premises**

### **Designated Premises Supervisor**

- 5.1 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS). The DPS will be named in the premises licence, a summary of which must be displayed on the premises. A DPS must be a personal licence holder. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of community premises).

- 5.2 The Licensing Act 2003 does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times.
- 5.3 The licensing authority will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. ~~The Authority expects that this will be in excess of 50% of a seven-day week.~~
- 5.4 The premises licence holder will be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.
- 5.5 Within all licensed premises, whether or not alcohol is to be sold, the licensing authority will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.

#### **Door Supervisors**

- 5.6 The premises licence holder and DPS should ensure that their premises do not increase the fear of crime as well as actual crime in their locality. To this end they should ensure, so far as is possible, that customers do not cause nuisance or disorder outside the premises and that measures to ensure the safety of customers and prevention of nuisance are in place. Door supervisors have an important role in managing customers, not only on the doors but also in the immediate area of premises.

#### **Dispersal Policies**

- 5.7 The licensing authority accepts that licensed premises can have a diffuse impact. People can cause disturbance when returning to residential areas from later-opening premises elsewhere and people who use off-licences may locate to a remote spot to drink. These problems may not be within the direct control of any particular licensed premises. However, premises licence holders are generally expected to take measures to encourage people to leave their premises quietly and considerately. The Licensing Authority would encourage premises to adopt a dispersal policy where appropriate.

#### **Risk Assessment**

- 5.8 The licensing authority will expect that appropriate and satisfactory general and technical risk assessments, management procedures and documentation have been made available to the relevant responsible authorities and to the licensing authority, that demonstrate that the public will be safe within and in the vicinity of the premises.
- 5.9 As a minimum the following matters must be taken into consideration:

- Whether the premises already have a licence which specifies the maximum number of people that can be present and, whether a risk assessment has been undertaken as to the maximum number of people who can be present in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency.
- Whether there are procedures in place to record and limit the number of people on the premises with opportunities for “pass outs” and readmission.
- Whether patrons can arrive at and depart from the premises safely.
- Whether there may be overcrowding in particular parts of the premises;
- Whether music and dance venues and performance venues will use equipment or special effects that may affect public safety (e.g. moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines).
- Whether there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services.

#### **Promoters**

- 5.10 The premises licence holder, DPS and personal licence holders remain responsible for activities taking place on premises when promotions take place. In addition the licensing authority will expect premises licence holders to have in place written agreements to ensure that when hiring out venues to promoters, the responsibility for the management of the premises is clear. The Promoter and its employees or agents, shall comply in all respects with all conditions, requirements and regulations of the local authority, licensing authority, police authority and fire authority and have regard to good practice for licensed premises.

#### **Takeaway Premises (Late Night Refreshment Houses)**

- 5.11 The Licensing Authority considers that it will normally be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises (“takeaway” premises).
- 5.12 It is recognised that takeaway premises open late at night can be associated with disorder as persons under the influence of alcohol having left, or in some cases being ejected from, late night venues congregate there. Applicants are recommended to have clear written policies for dealing with disorder and nuisance.
- 5.13 Operators of takeaway premises (including mobile units) must have suitable arrangements in place for the containment and disposal of their waste in accordance with the Environmental Protection Act 1990 and subsidiary regulations. Operators of premises where food or drink is provided in disposable containers for consumption elsewhere than on the premises are expected to consider the potential for litter near their premises and take steps to actively reduce the amount of litter generated from their premises. Applicants are also asked to consider the type of packaging container, whether it is always necessary and whether it can be sourced from sustainable materials.
- 5.14 Where the Licensing Authority considers it appropriate, it may impose conditions on a premises licence to require the operator of premises serving customers with hot food or drink to provide litter bins in the vicinity of the premises in order to

prevent the accumulation of litter from its customers. It may require the proprietor to service those litter bins as part of their own waste management arrangements.

#### **External Areas**

- 5.15 The introduction of the requirement for smoke free public places under the Health Act 2006 has led to an increase in the number of people outside licensed premises. The provision of tables and chairs outside premises can enhance the attractiveness of a venue, but regard should be had to the need to ensure that the use of such areas will not cause nuisance to the occupiers of other premises in the vicinity. In particular, those with authorisations are expected to manage persons smoking in the vicinity of premises so they do not impede access to the premises and do not cause disturbance. In addition they are expected to provide secure ash trays or wall mounted cigarette bins for patrons so as to minimise litter.
- 5.16 Licensees should also be aware of the possibility of breakages of drinking glasses and glass bottles in outside areas. Consideration should therefore be given to the use of toughened or "plastic" drinking vessels and other management controls to avoid or lessen the likelihood of broken glass in these areas.
- 5.17 The licensing authority has a number of concerns with respect to the development of external areas to licensed premises, and will consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.

#### **Vehicles**

- 5.18 Under the Act, alcohol may not be sold on or from a moving vehicle and therefore any application for such will be refused. However, applications for Premises Licences will be considered for the sale of alcohol from parked or stationary vehicles relating solely to the place where the vehicle is parked and the sale of alcohol will take place.

### **6. Cumulative Impact/Special Saturation Policy**

- 6.1 The licensing authority will not take the "need" for an establishment into account when considering an application, as this is a matter for the market. The licensing authority however recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder in the vicinity of the premises.
- 6.2 If representations are received from a responsible authority or other persons suggesting that an area has become saturated with licensed premises, such degree of concentration making it a focal point for large groups of people to gather in surrounding areas, possibly away from the premises themselves, the licensing authority will consider on an evidential basis if this impact has an adverse effect on the promotion of the licensing objectives in addition to that created by the individual premises.
- 6.3 In these circumstances, the licensing authority will assess whether the imposition of conditions can address these problems or if the adoption of a special policy of refusing applications for new Premises Licences or Club Premises Certificates is

needed because the area is saturated with licensed premises and that granting of any more would undermine at least one of the licensing objectives.

- 6.4 When considering whether to adopt a special saturation policy the Licensing Authority will consider a range of issues including the following:
- Evidence of identification of concern about crime and disorder or public nuisance;
  - Where it can be demonstrated that nuisance and/or disorder is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area;
  - Following consultation and subject to that consultation, inclusion of a special policy about future Premises Licence or Club Premises Certificate applications from that area; and
  - Publication of the special policy.
- 6.5 If a special policy is adopted it creates a rebuttable presumption that licence and certificate applications or material variations will normally be refused if relevant representations are received. Accordingly applicants will need to address the special policy issues in their operating schedules in seeking to rebut the presumption. Applicants would need to demonstrate that the operation of the premises involved would not add to the cumulative impact already being experienced.
- 6.6 If implemented, the licensing authority would regularly review any special saturation policies to see whether they have had the intended effect and are still required.
- 6.7 The licensing authority will not normally use special saturation policies solely;
- As grounds for removing a licence when representations are received about problems with existing licensed premises, or;
  - To refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.
- 6.8 The licensing authority also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application having regard to the licensing objectives.
- 6.9 The licensing authority, having regard to the evidence currently available, considers that at present there is no particular part of the district where a cumulative impact exists, leading to an adverse impact upon the fulfilment of the licensing objectives. However, the cumulative impact of licensed premises will be kept under review.
- 6.10 Other mechanisms, both within and outside the licensing regime that are available for controlling cumulative effect are:
- Planning controls;

- Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other Local Authority services;
- Application of the powers of the Council to designate parts of the area as places where alcohol may not be consumed publicly;
- Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices;
- The prosecution of any holder of a Personal Licence or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Application of Police powers to close for up to 24 hours, any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder, or excessive noise emanating from the premises; and
- Application of Police powers, other Responsible Authorities, local residents or businesses to seek a formal review of a licence/certificate.

## 7. Children

- 7.1 A child is anyone under the age of 18 years unless otherwise stated.
- 7.2 This statement of licensing policy does not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm.
- 7.3 When considering applications for premises licences, the licensing authority will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children. The relevant matters include premises:
- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
  - with a known association with drug taking or dealing;
  - where there is a strong element of gambling on the premises;
  - where entertainment of an adult or sexual nature is commonly provided;
  - where the supply of alcohol is the exclusive or primary purpose of the service at the premises.
  - in these circumstances, conditions may be attached to any licence to:
    - limit the hours when children may be present;
    - restrict the age of persons on premises;
    - exclude children from all or part of the premises when certain activities may take place;
    - require an adult to accompany a child;
    - set out a requirement for the presence of adult staff according to a set adult/child ratio where children are attending regulated entertainment;
    - exclude people under 18 from the premises when any licensable activities are taking place.
- 7.4 Where no licensing restriction is considered necessary, however, it is at the discretion of the premises licence holder or club to decide whether or not to admit

children; however the licensing authority strongly supports the use of Challenge 25 policies, the recording of all refusals and training on all age restricted activity.

- 7.5 Where premises give film exhibitions, licensees must ensure that children are prevented from viewing age-restricted films classified according to the British Board of Film Classification.
- 7.6 Except as in 5.3 above the authority will not impose conditions restricting the admission of children to any premises believing this should remain a matter of discretion of the licence holder. The licensing authority encourages family friendly policies. It will take strong measures to protect children where any licence holder is convicted of serving alcohol to children, where premises have or acquire a known association with drug taking or dealing, where gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. In such circumstances while it may sometimes be necessary to impose a complete ban on the admission of children this would be rarely imposed, it would be more likely to require conditions as referred to above.
- 7.7 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm including control of access and egress and consideration may be given to include conditions concerning child/adult ratios
- 7.8 The licensing authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered appropriate to do so in order to protect them from harm
- 7.9 In the case of premises which are used for film exhibitions conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in a specific case where there are very good local reasons a certificate given to the film by the licensing authority itself.
- 7.10 Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club.
- 7.11 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 7.12 The Act details a number of offences designed to protect children in licensed premises and the licensing authority will work closely with the police and other appropriate agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

## **8. Enforcement**

- 8.1 It is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the approved operating schedule, the specific requirements of the 2003 Act and any licence conditions imposed. The licensing authority, in partnership with the responsible authorities, will make arrangements to monitor premises.
- 8.2 The licensing authority will work closely with the Police, Trading Standards and the other responsible authorities, liaising on a regular basis to establish enforcement protocols and concordats to ensure an efficient deployment of resources engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high-risk premises.
- 8.3 The Act details a number of offences designed to protect children in licensed premises and the licensing authority will work closely with the police, Trading Standards and other appropriate agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol and tobacco products to children.
- 8.4 The premises licence holder is responsible to ensure the four licensing objectives are upheld:
- Prevention of crime and disorder
  - Public Safety
  - Prevention of public nuisance
  - Protection of children from harm
- 8.5 Where there is evidence to suggest the licensing objectives are being undermined, enforcement action will be taken in accordance with the principles of better regulation and the Regulator's Compliance Code. The aim is to have well run premises operating in our borough. Problems at premises will be identified by the relevant authorities and the licence holder will have responsibility to resolve the problem. Failure to address or respond to problems or isolated serious failures will normally result in a review application.



# FAREHAM

## BOROUGH COUNCIL

### **Report to Licensing and Regulatory Affairs Committee**

**Date**                    **29 September 2020**

**Report of:**           **Head of Environmental Health**

**Subject:**              **COVID-19 SERVICE IMPACT**

#### **SUMMARY**

In March this year as a result of the Covid-19 pandemic the Government put the country into lock down and it remained in that state until recently when things have started opening back up. On the 20 March 2020 the Council took the decision to close to the public and for staff to work from home where possible. For Environmental Health and Licensing most staff were able to work from home, but a small number continued to work from the Civic Offices during lockdown. In terms of the Service provision, most services continued to be provided. The biggest impact, over and above staff having to deal with the situation and the emotional and psychological effects of the situation was the impact on the Council's Licensing income. This has been highlighted and the information fed into the recent Emergency Budget report that was presented to the Executive on 7 September 2020.

#### **RECOMMENDATION**

It is recommended that the Licensing and Regulatory Affairs Committee note the content of the report and, in particular, the financial effect of Covid-19.

## **INTRODUCTION**

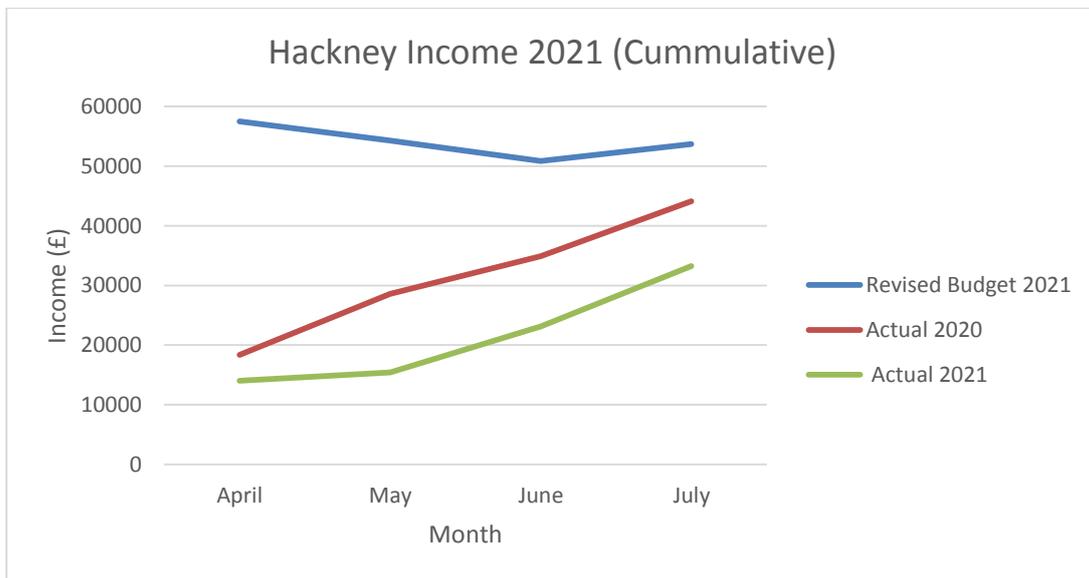
1. In March this year as a result of the Covid-19 pandemic the Government put the country into lock down and it remained in that state until recently when things have started opening back up. On the 20 March 2020 the Council took the decision to close to the public and for staff to work from home where possible.
2. For Environmental Health and Licensing most staff were able to work from home, but a small number continued to work from the Civic Offices during lockdown. In terms of the Service provision, most services continued to be provided. Routine food safety inspections, out of hours stray dogs and pest control (apart from emergencies) were all suspended.

## **LOCKDOWN SERVICES**

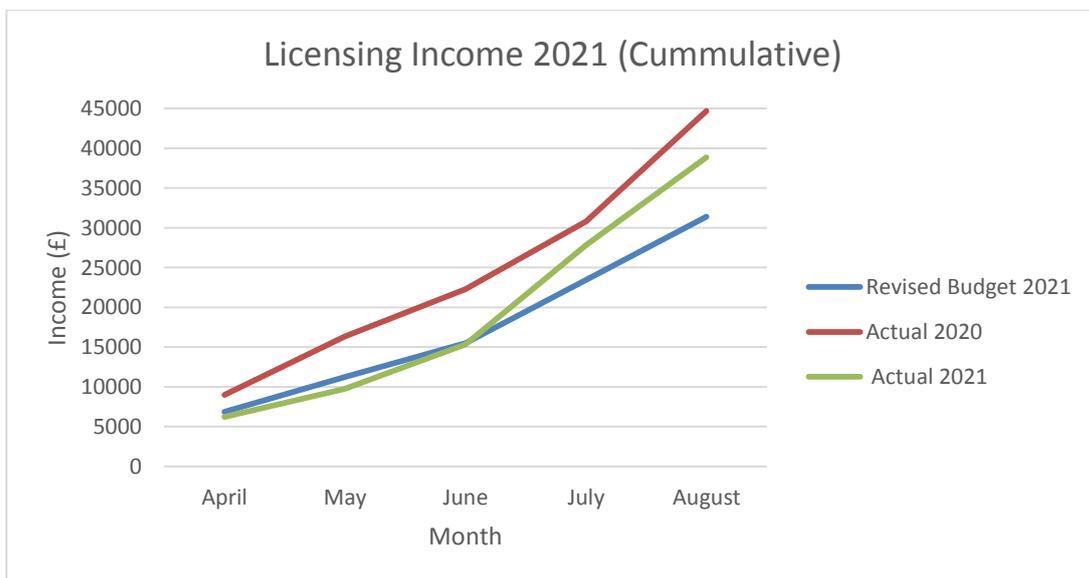
3. Throughout lockdown the Licensing team continued to provide a service from the Civic Offices. Although Licensing wasn't as busy as usual, as licensed premises were closed and events not allowed, the team continued to deal with a lot of Covid related enquiries and also dealing with taxi driver and vehicle renewals in person.
4. When the economic activity came to a standstill in March, 2 members of the team were seconded to the Crematorium to provide resilience to the back office operation there. One has returned to Environmental Health in August and the other is due back in October.
5. A number of taxi drivers requested that their licence be suspended during lock down so as they didn't lose the time period on their licence while they were not working. The licensing team facilitated this. During lockdown we were unable to issue new driver licences as we were unable to hold knowledge tests to complete their application process, this has now resumed (with social distancing).

## **INCOME**

6. The biggest effect of the Covid-19 pandemic on Licensing has been the effect on income.
7. The Hackney Carriage income has become very turbulent as a result of Covid-19. As expected, the income suffered a 46% drop in the opening months of April and May totalling approximately £13,000. Since June the service income has begun to recover with income received in the months of June and July exceeding the levels received in 2019. As at the end of August, Hackney income has experienced a 32% loss in income, based on the previous year, totalling approximately £16,500.



8. Licensing income experienced a significant drop of 30%, totalling approximately £7,000, during the first quarter compared to the figure from the previous year. During July the service significantly recovered and received a level of income 47% higher than the previous year. Overall, as at the end of August the service is currently experiencing a 13% loss in income which totals approximately £5,800.



9. It has been difficult in establishing a revised budget, as Licensing income is linked to economic activity and there is obviously still uncertainty around the effect of the virus going forward.

### RISK ASSESSMENT

10. There is a risk to the Council's income which has been highlighted and the information fed into the recent Emergency Budget report that was presented to the Executive on 7 September 2020.

## **CONCLUSION**

11. Despite unprecedented challenges, Environmental Health and more specifically the Licensing Section has continued to deliver its Services throughout lockdown. Most staff are still working a proportion of their time from home in order to maintain social distancing within the Civic Offices and also to be prepared for further home working should there be any sort of local lock down going forward.

### **Background Papers:**

None

### **Reference Papers:**

None

### **Enquiries:**

For further information on this report please contact Ian Rickman (Ext 4773 )

# FAREHAM

## BOROUGH COUNCIL

### **Report to Licensing and Regulatory Affairs Committee**

**Date**                    **29 September 2020**

**Report of:**            **Head of Environmental Health**

**Subject:**              **REVIEW OF WORK PROGRAMME 2019/20**

#### **SUMMARY**

This report provides details of the Committee's Work Programme since the start of the 2019/20 Municipal year and asks that, following the extension of the municipal year until May 2021, Members review the current Work Programme and agree the programme of work to be undertaken for the remainder of the current municipal year.

#### **RECOMMENDATION**

It is recommended that the Licensing and Regulatory Affairs Committee:-

- (a) notes the progress on actions arising from the meeting of the Committee held on 28 January 2020, attached as Appendix A to the report;
- (b) reviews the Work Programme for 2019/20, attached as Appendix B to the report;
- (c) agrees that, subject to the approval by full Council, the date of the January Committee meeting be changed to the 14<sup>th</sup> January 2021; and
- (d) agrees the Work Programme for the remainder of the current municipal year, as attached as Appendix C of the report.

## **INTRODUCTION**

1. In response to the Covid-19 pandemic, all meetings of the Council, Executive, Committees and Panels were suspended in March 2020 until further notice. As a result, the Licensing and Regulatory Affairs Committee has not met since 28 January 2020.
2. As outlined in the Covid-19 Safety Guidance (Part 6 for Councillors), arrangements are now being made to resume the planned schedule of meetings for 2020/21.
3. As a result of the Covid-19 Pandemic, the Government has legislated that Councillors' Terms of Office be extended for one year. References to "the remainder of the municipal year" therefore mean the extended year past May 2020 and will last until May 2021.

## **WORK PROGRAMME FOR THE 2019/20 MUNICIPAL YEAR**

4. At the Committee meeting on 28 January 2020, the Work Programme for 2019/20 was reviewed.
5. Details of progress on actions arising from matters considered at that meeting are shown in Appendix A to this report.
6. The Work Programme for 2019/20 agreed at the last meeting is attached as Appendix B to this report.

## **WORK PROGRAMME FOR THE REMAINDER OF THE MUNICIPAL YEAR**

7. Members are now invited to consider items for the Work Programme for the remainder of the current municipal year.
8. Particular items which are known to be coming before the Committee during the coming months are attached as Appendix C.
9. Members are asked to note that in order to meet the deadline for the 2021-2026 Licensing Policy to be adopted by full Council by 01 April 2021, it is proposed that the date of the Committee meeting scheduled for 26 January 2021 be changed to the 14 January 2021.

## **RISK ASSESSMENT**

10. There are no significant risk considerations in relation to this report.

## **CONCLUSION**

11. The Licensing and Regulatory Affairs Committee is invited to note the progress on actions arising from the meeting of the Committee held on 28 January 2020, review the Work Programme for the 2019/20 municipal year and agree items of work for the remainder of the current municipal year

## **APPENDICES:**

**APPENDIX A – Progress on Actions since the last meeting.**

**APPENDIX B – Licensing and Regulatory Affairs Committee Work Programme 2019/20**

**APPENDIX C – Draft Licensing and Regulatory Affairs Work Programme for the remainder of the current municipal year.**

**Background Papers:**

None

**Reference Papers:**

None

**Enquiries:**

For further information on this report please contact Ian Rickman. (Ext 4773)

## LICENSING AND REGULATORY AFFAIRS COMMITTEE

## PROGRESS ON ACTIONS FROM LAST MEETING – 28 January 2020

<b>Subject</b>	<b>ACTUAL REVENUE EXPENDITURE 2018/19</b>
<b>Type of Item</b>	Report
<b>Action by Committee</b>	<p>The Committee considered a report by the Deputy Chief Executive Officer which provided details of the actual revenue expenditure for 2018/19 in respect of the services for which this Committee is responsible.</p> <p>RESOLVED that the Licensing and Regulatory Affairs Committee notes the content of the report.</p>
<b>Outcome</b>	Complete
<b>Link Officer</b>	Neil Wood
<b>Subject</b>	<b>FEES AND CHARGES 2020/21</b>
<b>Type of Item</b>	Report
<b>Action by Committee</b>	<p>The Committee considered a report by the Deputy Chief Executive Officer which sets out the level of fees and charges for the Committee's services and seeks agreement for them before being recommended to Council for approval.</p> <p>Following discussion in respect of the Street Trading Consent licences, it was proposed by Councillor R H Price, JP and seconded by Councillor J Forrest that no increase in fees be made at this time to any of the three Street Trading licences. On being put to the vote, the motion was declared LOST with only 2 members voting in favour.</p> <p>RESOLVED that the Licensing and Regulatory Affairs Committee:-</p> <p>(a) agrees the fees and charges for 2020/21; and</p>

	(b) recommends the fees and charges to Council for approval.
<b>Outcome</b>	Complete
<b>Link Officer</b>	Neil Wood
<b>Subject</b>	<b>SPENDING PLANS 2020/21</b>
<b>Type of Item</b>	Report
<b>Action by Committee</b>	<p>The Committee considered a report by the Deputy Chief Executive Officer which sets out the overall level of revenue spending on the Committee's services. The report also seeks agreement for the revised revenue budget for 2019/20 and the base budget for 2020/21 before being recommended to Council for approval.</p> <p>RESOLVED that, having reviewed the content of the report, the Licensing and Regulatory Affairs Committee:-</p> <p>(a) agrees the revised budget for 2019/20;</p> <p>(b) agrees the base budgets for 2020/21; and</p> <p>(c) recommends the budget to Council for approval</p>
<b>Outcome</b>	Complete
<b>Link Officer</b>	Neil Wood
<b>Subject</b>	<b>PRELIMINARY REVIEW OF WORK PROGRAMME 2019/20 AND DRAFT WORK PROGRAMME 2020/21</b>
<b>Type of Item</b>	Report
<b>Action by Committee</b>	The Committee considered a report by the Head of Environmental Health which contained details of the position of the Committee's existing Work Programme for the current year in order to allow an early assessment of progress. It also gave background information to assist members in drawing up the Committee's Work Programme for 2020/21.

	<p>Members were advised that there is a statutory requirement for the Council to review its Licensing Policy every 5 years and that the current policy is due for renewal by early 2021. As part of the Council's Policy Framework, the draft policy will need to undergo a period of public consultation and be recommended by both the Committee and the Executive before being referred to Council for approval. The Committee therefore agreed that a report on the draft Licensing Policy be added to the agenda of the meeting scheduled to take place on 31 March 2020.</p> <p>Members requested that a verbal update be provided at the meeting scheduled to take place on 16 June 2020 to inform Members of the outcome of the appeal made to the Magistrate's court by Rancho's Steakhouse against the Licensing Panel's decision to refuse the application for a premises licence.</p> <p>Members also requested that the current position with regard to the 2018 Review of Parliamentary Constituency Boundaries be established so that the Committee could consider whether an update report should be added to the Work Programme for 2020/21.</p> <p>RESOLVED that the Licensing and Regulatory Affairs Committee agrees that:</p> <ul style="list-style-type: none"> <li>(a) the progress on actions arising from the meeting of the Committee held on 15 October 2019, attached as Appendix A to the report, be noted;</li> <li>(b) having considered the Work Programme for 2019/20, attached as Appendix B to the report, an item in respect of the draft Licensing Policy be added to the agenda of the meeting scheduled to take place on 31 March 2020; and</li> <li>(c) having given initial consideration to the draft Work Programme for 2020/21, attached as Appendix C to the report: <ul style="list-style-type: none"> <li>(i) a verbal update be provided at the meeting scheduled to take place on 16 June 2020 to inform Members of the outcome of the appeal made to the Magistrate's court by Rancho's Steakhouse against the Licensing Panel's decision to refuse the application for a premises licence; and</li> <li>(ii) the current position in respect of the 2018 Review of Parliamentary Constituency Boundaries be established so that the Committee can consider whether an update report should be added to the Committee's Work Programme for 2020/21.</li> </ul> </li> </ul>
<b>Outcome</b>	Complete
<b>Link Officer</b>	Ian Rickman

## LICENSING AND REGULATORY AFFAIRS COMMITTEE – WORK PROGRAMME 2019/20

<u>DATE</u>	<u>SUBJECT</u>	<u>TRAINING SESSION/WORKSHOP</u>
<b>18 JUNE 2019</b>	<p>Presentation on the Responsibilities of the Licensing and Regulatory Affairs Committee</p> <p>National Register of Taxi Licence Revocations and Refusals Report</p> <p>Adoption of Institute of Licensing Guidance on determining the suitability of Applicants and Licensees in the Hackney and Private Hire Trades Report</p> <p>Draft Polling District and Polling Places Review Report</p> <p>Review of Work Programme 2019/20</p>	
<b>30 JULY 2019</b>	MEETING CANCELLED	
<b>15 OCTOBER 2019</b>	<p>Final Polling District and Polling Places Review Report</p> <p>Air Quality Taxi Incentive Scheme Update</p> <p>Review of Work Programme 2018/19</p>	
<b>19 NOVEMBER 2019</b>	MEETING CANCELLED	
<b>28 JANUARY 2020</b>	<p>Actual Revenue Expenditure 2019/20</p> <p>Spending Plans 2020/21</p> <p>Fees and Charges 2020/21</p> <p>Preliminary Review of Work Programme 2019/20 and Draft Work Programme 2020/21</p>	
<b>31 MARCH 2020</b> (Meeting cancelled due to Covid-19 Pandemic)	<p>Police Licensing Officer Update</p> <p>Verbal Update on the Ranchos Steakhouse Licence Appeal</p> <p>Verbal Update on the current position in respect of the 2018 Review of Parliamentary Constituency Boundaries</p> <p>Update on Fareham &amp; Gosport Environmental Health Partnership – Presentation</p> <p>Final Review of Work Programme 2019/20 and Draft Work Programme 2020/21</p>	

## APPENDIX C

### LICENSING AND REGULATORY AFFAIRS COMMITTEE – DRAFT WORK PROGRAMME FOR REMAINDER OF CURRENT MUNICIPAL YEAR

<u>DATE</u>	<u>SUBJECT</u>	<u>TRAINING SESSION/ WORKSHOP</u>
<b>29 SEPTEMBER 2020</b>	Update on 2018 Parliamentary Boundary Review Approval of Draft Revised Licensing Policy for Consultation Review of current Work Programme	
<b>17 NOVEMBER 2020</b>	Review of current Work Programme	
<b>26 JANUARY 2021</b>	Approval of Draft Revised Licensing Policy for recommendation to full Council for adoption. Actual Revenue Expenditure 2020/21 Spending Plans 2021/22 Fees and Charges 2021/22 Preliminary Review of current Work Programme and Draft Work Programme 2021/22	
<b>30 MARCH 2021</b>	Update on Fareham & Gosport Environmental Health Partnership – Presentation Final Review of current Work Programme and Draft Work Programme 2021/22	

#### Unallocated Items

- Setting of Taxi Tariff
- Police Update