



HILLINGDON
LONDON



Licensing Committee

Date: TUESDAY, 14 JANUARY
2014

Time: 10.00 AM

Venue: COMMITTEE ROOM 4 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

Councillors on the Committee:

Dominic Gilham (Chairman)
Mike Bull
David Yarrow (Vice-Chairman)
Josephine Barrett
Judy Kelly
Peter Kemp
Carol Melvin
Brian Stead
Lynne Allen (Labour Lead)
Janet Gardner

**This agenda and associated
reports can be made available
in other languages, in Braille,
large print or on audio tape on
request. Please contact us for
further information.**

Published: Monday, 6 January 2014

Contact: Danielle Watson
Tel: 01895 277 488
Fax: 01895 277 373
Email: dwatson@hillington.gov.uk

This Agenda is available online at:

<http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=257&MId=1619&Ver=4>

Lloyd White
Head of Democratic Services
London Borough of Hillingdon,
3E/05, Civic Centre, High Street, Uxbridge, UB8 1UW
www.hillingdon.gov.uk



INVESTOR IN PEOPLE

Useful information

Bus routes 427, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away. Limited parking is available at the Civic Centre. For details on availability and how to book a parking space, please contact Democratic Services

Please enter from the Council's main reception where you will be directed to the Committee Room. An Induction Loop System is available for use in the various meeting rooms. Please contact us for further information.

Please switch off any mobile telephones and BlackBerries™ before the meeting. Any recording of the meeting is not allowed, either using electronic, mobile or visual devices.

If there is a FIRE in the building the alarm will sound continuously. If there is a BOMB ALERT the alarm sounds intermittently. Please make your way to the nearest FIRE EXIT.



Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To agree the minutes of the meeting held on 27 September 2013 Pages 1 – 4

Part 1 - Members, Press and Public

	Pages
4 Scrap Metal Dealers Update	5 - 32
5 Deregulation of Community Film Exhibitions	33 - 52
6 Application Consultation Procedure	53 - 54

This page is intentionally left blank



Minutes

LICENSING COMMITTEE

27 September 2013

Meeting held at Committee Room 4/4a - Civic Centre, High Street, Uxbridge UB8 1UW

	<p>Committee Members Present: Councillors Dominic Gilham (Chairman) Mike Bull Josephine Barrett Judy Kelly Peter Kemp Brian Stead Lynne Allen (Labour Lead) Janet Gardner</p> <p>LBH Officers Present: Stephanie Waterford, Licensing Service Manager Sharon Garner, Licensing Officer Beejal Soni, Legal Advisor Danielle Watson, Democratic Services Officer</p> <p>Also Present: Leo Charalambides PC Ian Wares Cllr Susan O'Brien</p>
1.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies for absence had been received from Cllr David Yarrow and Cllr Carol Melvin.</p>
2.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest notified.</p>
3.	<p>TO AGREE THE MINUTES OF THE MEETING HELD ON 5 JUNE 2013 (<i>Agenda Item 3</i>)</p> <p>The minutes of the meeting held on 5 June 2013 were agreed as a correct record.</p>
4.	<p>PERSONAL LICENCE CONSULTATION (<i>Agenda Item 4</i>)</p> <p>Sharon Garner, Licensing Officer, introduced the officer's report and informed the Committee of the Home Office Personal Alcohol Licences consultation which began on 12 September 2013 and would end on 7 November 2013. The proposals would abolish personal licences and would affect conditions previously imposed on a licence.</p> <p>Stephanie Waterford, Licensing Service Manager, suggested to Members that the proposals could have benefits. Currently personal licences could last for 10 years. The new proposals would require Disclosure and Barring Service (DBS) checks to be submitted with every variation of Designated Premises Supervisor application, which would ensure that any relevant convictions were flagged up.</p>

PC Ian Wares concurred with Ms Waterford and informed the Committee that the current licensing scheme was impractical to police and that the proposals would give more up to date information about the Personal Licence Holder.

Ms Garner stated that the proposals would enable the Committee to impose conditions on a premises licence following a review of the licence, requiring all staff selling alcohol to undertake training. Members were informed the accredited training regime would be approved by the Secretary of State.

Beejal Soni, Legal Advisor, stated that DBS checks were the primary source of control, however, Ms Soni raised concerns about the number of premises a Designated Premises Supervisor could be responsible for.

Resolved –

- 1. The Committee noted the update.**
- 2. Agreed that the Committee meet to discuss the consultation document with a view to drafting a response within 28 days of this meeting.**

5. ADDRESSING THE PROBLEMS WITH SUPER STRENGTH ALCOHOL & STREET DRINKERS (Agenda Item 5)

Stephanie Waterford, Licensing Service Manager, updated Members on what action had been carried out since the last meeting regarding the 'Reducing the Strength' scheme implemented in Ipswich.

PC Ian Wares informed the Committee that his team had a site visit to Ipswich, which unfortunately he did not get to attend. PC Wares stated that the Suffolk Constabulary had a fully resourced team of Police Officers to undertake proactive work relating to tackling street drinkers. He said that the Police resources in Hillingdon were very stretched and that there were no current plans to dedicate the resources required to implement a similar scheme here.

Members discussed various street drinking hotspots in the Borough. The Grand Union Canal next to the Crown Pub in Townfield Ward was a popular congregation spot for street drinkers as well as St Andrews subway and war memorial in Uxbridge Town Centre. Members were aware that street drinkers would often be moved on by officers and would then reappear later in the day. Members agreed this action did not solve the problem.

The Chairman had spoken to Hillingdon Hospital and was told that the majority of Accident and Emergency patients were alcohol related. Members discussed their personal experiences of coming into contact with street drinkers and stated it was sad to watch people effectively killing themselves. Members agreed more needed to be done to work with external agencies to tackle the problem.

Members discussed responsible retailers and suggested that those who are responsible should be highlighted by having scores on the doors to indicate their good practice. Residents would then be aware who was a responsible retailer and would be able to make a more informed choice where to shop.

Members discussed targeted enforcement and reviews of premises licenses which was believed to be a sensible approach. Monitoring premises and compliance inspections in problem areas would assist, however, Members appreciated that there were not enough resources for additional staff to carry out inspections.

	<p>Ms Waterford informed the Committee that the Licensing Service had made a joint bid with Public Health to tackle alcohol misuse which was currently at phase 2. The bid for funds was made to support methods in addressing the sale of high strength alcohol and also alcohol harm reduction.</p> <p>Members discussed street furniture and how benches often became focal meeting points for street drinkers. The Chairman informed the Committee that a bench located next to a school in his ward was removed at the request of the police which deterred a local street drinker from loitering.</p> <p>PC Wares informed the Committee that enforcement action had taken place in July 2013 at various hotspots in the Borough as part of a police operation to tackle anti-social behaviour.</p> <p>The Chairman was happy to produce a joint letter from the Metropolitan Police and Committee to notify licence holders of their obligations.</p> <p>Resolved –</p> <ol style="list-style-type: none"> 1. The Committee noted the update. 2. Agreed that Ms Waterford and Ms Soni will draft a letter with the Metropolitan Police in consultation with the Chairman.
6.	<p>SCRAP METAL DEALERS ACT 2013 (<i>Agenda Item 6</i>)</p> <p>Beejal Soni, Legal Advisor, informed the Committee that new legislation would be coming into effect on 1 December 2013. Ms Soni explained that lead and metal theft was an issue as it was more valuable than before.</p> <p>Ms Soni informed the Committee that scrap dealing needed to be enforced and the new legislation would give the Licensing Authority more power to tackle bad practice. The Police Act was also being amended to reflect the changes made. Enforcement was previously carried out by the police who undertook site visits and background checks.</p> <p>Ms Soni explained that a policy and fee charge for scrap dealers or collectors was to be presented to Cabinet in November 2013 to determine. The proposal was for the Licensing Sub Committees to deal with hearings concerning scrap metal licenses.</p> <p>Stephanie Waterford, Licensing Service Manager, informed the Committee that so far over 50 application forms had been returned. Ms Waterford also informed the Committee that if a scrap dealer was working in more than 1 borough he or she would have to apply for a licence for each authority.</p> <p>PC Ian Wares informed the Committee that he was aware there were 8 active scrap dealers that do not use cash since the policy was changed last year</p> <p>Resolved – The Committee noted the update</p>
7.	<p>UPDATE ON LADBROKES LICENSING APPEAL (<i>Agenda Item 7</i>)</p> <p>Mr Leo Charalambides, updated the Committee on the Ladbrokes appeal which had recently taken place. Mr Charalambides informed the Committee that unfortunately Hillingdon had lost the case against Ladbrokes as the Magistrates were not satisfied with the evidence provided. Additional submissions could have been given by Social Services or local School Teachers to support the Licensing Authorities case for defence.</p>

Stephanie Waterford, Licensing Service Manager, informed the Committee that Beejal Soni, Legal Advisor, had approached the Education department but unfortunately these bodies did not know how to respond. Members were keen for Headteachers, School Governors, Youth workers and social workers to give evidence that would support these hearings.

Mr Charalambides stated that crime and disorder associated with Coral or William Hill in Uxbridge was not associated with Ladbrokes. Although crime and disorder could be linked to the gambling premises there was no evidence to suggest there were any issues with Ladbrokes in Uxbridge. However, there were issues with street drinkers and betting shops in Hayes where there was a high number of vulnerable people either unemployed or on a low income.

Members discussed the possibility of including a saturation policy within the Councils Statement of Gambling Principles. Ms Soni stated that when the policy was drafted the Gambling Commission guidance suggested that saturation policies would require a specific case for justification and Officers would have to gather robust evidence to support such a policy.

During a site visit to Uxbridge High Street, one of the Council's Planning Officer's identified 40 units that could potentially become betting shops without going to a Planning Committee. This was due to the type of use class that had been given under planning laws, making it easy to transfer from an office/agency type premises into a betting shop.

The Committee discussed the importance of central government reclassifying the Planning uses so that Betting Shops are given their own use class.

Members understood that both Planning Committees and Licensing Committees looked at different things. It was suggested that there should be a memo of understanding between the two, detailing the specific considerations available to each committee.

Mr Charalambides concluded that Hillingdon had strong policies which stood up well in court. .

Resolved –

- 1. The Committee noted the update.**

The meeting, which commenced at 10.00 am, closed at 11.15 am.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Danielle Watson on 01895 277488. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

SCRAP METAL DEALERS UPDATE

Committee	Licensing Committee
Officer Contact	Stephanie Waterford, Residents Services
Papers with report	Appendix 1 – Scrap Metal Dealers Act Guidance Appendix 2 – Scrap Metal Hearing Protocol
Ward(s) affected	All

SUMMARY

To update the Committee on the implementation of the Scrap Metal Dealers Act 2013.

RECOMMENDATION

That the committee note the information and agree and adopt the hearing protocol.

INFORMATION

Supporting Information

Background

The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and its measures came into effect fully on 01 December 2013.

The Act was introduced in response to the growth in metal theft offences, driven by increased commodity costs, which in addition to the direct impact on the victims of theft have also had a damaging and disruptive effect on the country's infrastructure. Within Hillingdon, entire churches and public amenities have been stripped of metal (especially lead), leading to calls for greater regulation/protection of metal.

Under the new legislation, Local Authorities remain the principal regulators but a new licensing regime provides stronger regulation, including the power to refuse to grant licences to unsuitable applicants and a power to revoke licenses if the dealer becomes unsuitable. The cashless trading measures brought into force via the Legal Aid, Sentencing & Punishment of Offenders Act 2012 are incorporated into the new Act, which also closes off loopholes in the earlier legislation by drawing vehicle dismantlers and former itinerant collectors into the cashless trading regime. Other changes include a national register and a requirement for scrap metal dealers to verify the full names and addresses of sellers.

Applications, Fees & Licences

When determining licence applications, the suitability of the applicant will be assessed. They will be required to complete an application form and also provide details of any Criminal History.

Every scrap metal dealer will be required to have a licence under the new Act, and operating without one will be a criminal offence. These licences will last for three years.

Licensing Committee – 14 January 2014

There are two different types of licences:

- a. A Site licence and
- b. A Collector's licence

To date, the Licensing Service has processed and granted 36 applications for Scrap Metal Dealers Collectors Licences and 13 applications for Scrap Metal Site Licences.

Where applicants are deemed to have queries as to their suitability, their case will be referred to a Licensing Sub-Committee for determination. The application has the right to address the Committee and make representations as to why he should be granted a licence by the Authority. The protocol for Scrap Metal Application Hearings is attached as Appendix 2.

BACKGROUND PAPERS

The Scrap Metal Dealers Act 2013

Local Government Association – Get in on the Act – Scrap Metal Dealers Act 2013

Local Government Association – Metal Theft Toolkit

Home Office Guidance on licence fee charges – Scrap Metal Dealers Act 2013

GUIDANCE DOCUMENT /SCRAP METAL DEALERS ACT 2013

1. Background

- 1.1 This document sets out the London Borough of Hillingdon's guidance for discharging its powers and responsibilities as required by the Scrap Metal Dealers Act 2013, including the issue, review and enforcement of scrap metal site and collector's licenses. It also sets out the arrangements that the Council intends to put in place for ensuring compliance with the legislative requirements.
- 1.2 The power to issue, review and enforce the licenses issues under the Scrap Metal Dealers Act 2013 ("the Act") are vested in the Licensing Committee and duly Authorised Officers from the Regulatory Unit under the Schedule of Delegated Powers described Section 14 of this Guidance.
- 1.3 The power to set, review and amend licence fees under the Act rests in the Cabinet of the London Borough of Hillingdon.

2 Promotion of Equality

- 2.1 The Council as the Licensing Authority seeks the elimination of all forms of discrimination in respect of sex, religion, race, disability and sexual orientation in accordance with its established equal opportunities policy (as amended from time to time).
- 2.2 This Guidance has been subject to an Equalities Impact Assessment.

3. Legislation

3.1 The legislation that applies to scrap metal dealers should be read in conjunction with this Guidance. The relevant legislation upon which this Guidance is based is:

- Scrap Metal Dealers Act 2013;

- Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013;
- The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

Additional guidance on the application of the Act (and its secondary legislation, as noted above) can be found in the following documents:

- Scrap metal Dealers Act 2013 Supplementary Guidance;
- Local Government Association 'Get in on the Act' Scrap Metal Dealers Act 2013;
- Local Government Association Enforcement Guide ;
- Local Government Association Fees Guide ;
- Local Government Association Councillor Handbook;
- Local Government Association Tackling Metal Theft Toolkit.

3.2 The Scrap Metal Dealers Act 2013 replaces the previous registration system under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and establishes a new licensing regime. Every scrap metal dealer is required to have a licence and operating without one is a criminal offence from 1 December 2013. The definition of scrap metal dealers now also incorporates motor salvage operators.

3.3 A scrap metal dealer is defined under the Act as “someone whose business consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought; or carries on a business as a motor salvage operator”.

3.4 Whether a person or business is a scrap metal dealer varies according to individual circumstances, but generally, where the sale of scrap metal is incidental to the main type of work or business undertaken then no licence will be required.

3.5 In order for anyone to carry on business as a scrap metal dealer they have to have a licence. The London Borough of Hillingdon issues licenses that are valid for a period of three years.

3.6 There are two types of licenses:

- Site Licence – all sites where a licensee carries on a business as a scrap metal dealer have to be identified, and a site manager has to be named for each site. The licence allows the licensee to transport scrap metal to and from the sites from any Local Authority area;
- Collector's Licence – this allows the licensee to operate as a collector in the area of the issuing licensing authority only. It does not allow the collector to operate in any other Local Authority. A separate licence must be obtained from each Local Authority area the collector wishes to operate in. The licence does not authorise the licensee to operate a site, which will require a site licence from the relevant Local Authority.

3.7 A dealer can only hold one type of licence in any one Local Authority area. They cannot hold both a site and collector's licence from the same Local Authority.

3.8 The new licensing regime commenced on 1 October 2013.

3.9 A collector is defined in the Act as “a person who carries on a business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste metal including old, broken, worn out or defaced articles by means of door to door visits”.

3.10 A 'site' is defined in the Act as “any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept there)”.

3.11 A dealer also includes someone carrying on a business as in motor salvage operator, which is defined as a business that:

- Wholly or partly recovers salvageable parts from motor vehicles for reuse or resale, and then sells the rest of the vehicle for scrap;
- Wholly or mainly involves buying written off vehicles and then repairing and selling them off;
- Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and selling them off.

3.12 Scrap metal includes any old waste or discarded metal or metallic material, and any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life. This does not include second hand goods unless they are made from or contain metal that is broken or worn out. The definition does include platinum and a range of rare metals that are now being used in catalytic convertors. The following are not considered to be as scrap metal:

- a. gold;
- b. silver;
- c. any alloy of which two percent or more by weight is attributable to gold or silver.

3.13 Scrap metal dealers are also required to have planning permission to operate a site and are required to have permits or exemptions from the Environment Agency to operate a scrap metal business under the Environmental Protection Act 1990. Those transporting metal to a scrap metal site for profit are required to be registered as a waste carrier. Waste carriers must ensure that the waste goes to a properly licensed or exempt site, they must complete a Waste Transfer Note which must include a description of the waste and be signed by the carrier and the person to whom the waste is given or sold. These regimes are related but separate to the Scrap Metal dealers Act 2013, and outside the scope of this guidance.

4. **Licence Applications**

4.1 The Licensing Service is responsible for the administration of applications.

4.2 Any application must be in the standard form (available via the Council's Website or on request from the Licensing Service) and include the necessary information. Any application that does not contain the necessary information and the correct fee will not be regarded as properly submitted until such time as all documents and information required are provided by the applicant.

- 4.3 A Basic Disclosure for each applicant (including Site Managers, Directors, Company Secretaries, Shadow directors, all Partners in the case of Partnership etc) from Disclosure Scotland will be required alongside the application form and other relevant documentation that is to be submitted.
- 4.4 In the case of applications received after 1 December 2013 the disclosure must not be more than 3 months old at the time the application is accepted by the Licensing Team.
- 4.5 The Basic Disclosure Certificate can be applied for online or by completing a form, and paying a fee to Disclosure Scotland. Disclosure Scotland will usually be able to provide a certificate with the results of the disclosure application within 14 days.
- 4.6 Detailed information is required to accompany the application including details of bank accounts that are used. Photographic evidence of the applicant's identity will also be required in the form of a passport or driving licence.
- 4.7 On receipt of an application the Council must determine whether the applicant is a suitable person to carry on a business as a scrap metal dealer. In assessing the suitability of the applicant the Council will take into account all information it considers to be relevant, including the following:
- Whether the applicant or site manager has been convicted of a relevant offence, or subject to any relevant enforcement action;
 - Whether the applicant has previously been refused a scrap metal dealers licence or an application to renew a licence has been refused (and reasons for refusal);
 - Whether the applicant has previously been refused a relevant environmental permit or registration;
 - Whether a previously held scrap metal dealer's licence has been revoked.
 - Any failure to register with the Information Commissioners Office for data protection purposes.
- 4.8 The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 at Appendix 1 provides a list of the

relevant offences and relevant enforcement action that the Council may have regard to in determining the suitability of an applicant.

- 4.9 In addition to the information contained on the Basic Disclosure document, consultation will be undertaken with the Environment Agency and possibly other local authorities or the police to check for relevant offences not shown on the disclosure.
- 4.10 Consultation may also be undertaken with the Police, the Council's Regulatory Unit (Anti-Social Behaviour Team) and the Council's Planning Department to help ascertain whether the applicant is considered a suitable person.
- 4.11 On application the applicants will attend an application interview to submit the paperwork so that the applicant's identification can be verified.
- 4.12 Additionally, for site licences a site visit will also be conducted. It is anticipated that following grant of a licence, annual inspections will be undertaken by Officers.
- 4.13 For mobile collectors, it is anticipated the applicant will be given the opportunity to attend the Council for a meeting to assess the application and the applicant's proposed method of record keeping. A licence to be issued that is capable of being displayed on the vehicle for a period of three years. It is therefore not feasible to issue a licence on a piece of paper and a more robust form of licence will be issued. It is anticipated that mobile collector's records will be inspected twice a year.
- 4.14 Lack of planning permission or registration with the Information Commissioner's Office under the Data Protection Act would both be considered relevant factors in relation to the suitability of an applicant.
- 4.15 A scrap metal dealer who holds a site licence must display a copy at each site identified on the licence, a dealer who holds a collector's licence must display a copy of the licence on any vehicle that is being used in the course of the dealer's business so it can be easily read by a person outside the vehicle.

5. **Fees**

- 5.1 Fees for applications are set by the Council's Cabinet. A detailed breakdown of the current fees by application type is detailed in Annex 2. A schedule of the current fees is available on the Council's website or on request from the Licensing Service.
- 5.2 For all types of licences – if a licence is not granted, the Delegated Officer has the discretion to give a refund of any costs not incurred. For example, inspection or issue of licence.

6. **Representations**

- 6.1 Where the Council proposes to refuse an application, renewal, or to revoke or vary or condition a licence, the applicant will be notified and the reasons for the decision must be included in the notification.
- 6.2 The notification from the Council must also give the applicant or licensee the opportunity to make representations or let the Council know they wish to make representations in respect of the decision to refuse (or revoke, vary or impose conditions). The applicant or licensee will be given 14 days to do this.
- 6.3 If the applicant chooses not to make any representations, or fails to indicate their intentions to the Council within the 14 days, the Council can refuse the application or renewal or revoke, or impose a condition, or vary the licence.
- 6.4 If the applicant informs the Council that they wish to make representations a further 14 days will be allowed from the date of the applicant's notification in which to make representations.
- 6.5 If the applicant makes representations either within the initial 14 days' notice period or within the further 14 days, the Council will consider the representations at a hearing of the Licensing Sub-Committee.

- 6.6 Representations may be made in writing by the applicant or alternatively the applicant may wish to make representations orally. If the applicant wishes to make oral representations they should notify the Council of this intention within the 14 day period.
- 6.7 If representations are not made to the Council within the extended 14 day notice period, the Council may refuse an application or renewal, or revoke or vary or impose conditions to the licence.
- 6.8 If the Council refuses an application (or revokes a licence) where no representation have been made by an applicant, the applicant will be given a Notice of Decision, which includes information on the reasons for that decision. The Notice will include information about the appeal process.

7. **Hearings**

- 7.1 Where an application is proposed to be refused (or revoked or made subject to conditions) and representations are received (in accordance with section 6 of this Guidance), the applicant/licensee will be invited to attend a meeting with a Licensing Sub-Committee when opportunity will be given to put forward their representations for due consideration.
- 7.2 If the Sub-Committee refuses the application the applicant will be given a Notice of Decision, which includes information on the reasons for that decision. The Notice will include information about the appeal process. This notice will be sent to the applicant by Licensing Services within five working days of the Sub-Committee hearing.
- 7.3 The Licensing Committee is responsible for the setting of protocols related to the manner in which a Licensing Sub Committee Hearing is conducted.

8. **Licence Conditions**

- 8.1 The ability to impose conditions is limited by the Act. Conditions can only be imposed when issuing a licence, where the applicant or any site manager has

been convicted of a relevant offence or where the Council is revoking a licence, until the revocation comes into effect. One or both of the following conditions may be imposed:

- The dealer can receive scrap metal only between 0900 and 1700 hours;
- Any scrap metal received has to be kept in the form the dealer received it for a set period of time which cannot be more than 72 hours;

9. **Varying the Licence**

9.1 Dealers can apply to vary a licence from a site licence to a collector's licence or vice versa and have to apply to vary the licence where there are any changes in certain details including change of the name of the licensee, any change in the sites and any change in the details of the site managers. Relevant costs detailed in the fee section will apply to these variations.

9.2 Variation cannot be used to transfer the licence from one person to another, anyone wanting to hold a licence to be a scrap metal dealer has to apply for their own licence and cannot take over an existing licence, including where a business has been taken over.

10 **Revocations**

10.1 The Council may revoke a scrap metal licence if:

- a) it is satisfied that the licensee does not carry on business at any of the sites identified in the licence; or
- b) it is satisfied that a site manager named in the licence does not act as a site manager at any of the sites identified in the licence; or
- c) it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.

10.2 A revocation comes into effect when no appeal (See section 11 of this Guidance on Appeals) is possible in relation to the revocation, or when any such appeal is finally determined or withdrawn.

10.3 Where the decision is to revoke a licence, the licensee will be notified. The written decision notice will give reasons for the decision and provide information on appeal and when the revocation is to take effect. Section 6 of this Guidance on representations applies to revocations.

11. **Appeals**

11.1 Appeals against the decision of the Council to refusal, revoke, vary or condition a licence can be made on application to the Magistrates Court. They must be made within 21 days of the applicant being given Notice of the Decision.

12. **National Register**

12.1 Information that has been supplied to the Council under the Scrap Metal Dealers Act 2013 and relates to a scrap metal licence or to an application for a licence, can be supplied by the Council to any of the following persons who request it for the purposes relating to the Scrap Metal Dealers Act 2013

- a) any other local authority;
- b) the Environment Agency;
- c) an officer of a police force.

12.2 The Environment Agency must maintain a register of scrap metal licences issued by authorities in England. The registers are available for inspection by the public.

13. **Enforcement**

13.1 All enforcement action will be consistent with the Residents Services enforcement policy. The aim of enforcement is to ensure a risk based targeted and transparent approach to enforcement.

13.2 The following principles will be applied:

- Proportionate in applying the law and ensuring compliance;
- A second consistency of approach;
- Targeted enforcement action;

- Transparent about how the Local Authority operates and what those regulated may expect;
- Accountable for the local authority's actions.

13.3 A dealer must not receive scrap metal from a person without verifying the person's full name and address and by using an acceptable form of identification.

13.4 A dealer must not pay for scrap metal except by a non-transferable cheque or electronic transfer. This includes paying in kind with goods or services.

13.5 The following information must be recorded by any dealer if any scrap metal is received and records should be retained for a 3 year period:

- The description of the metal including its type (or types if mixed), weight and any marks identifying previous owners or other distinguishing features;
- The date and time of its receipt;
- If the metal is received in or on a vehicle, the registration mark;
- If the metal is received from a person, the full name and address of that person;
- If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer;
- If the dealer received the metal from a person the dealer must keep a copy; of any document which the dealer uses to verify the name and address of that person. If paid by cheque the dealer must keep a copy of the cheque, if paid by electronic transfer the dealer must keep the receipt identifying the transfer if available.

13.6 If the dealer disposes of any metal, the dealer must record the following information:

- The description of the metal including its type (or types if mixed), form and weight;
- The date and time of its disposal;
- If the disposal is to another person, the full name and address of that person;
- If the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.

- 13.7 Where the disposal is in the course of a business under a collector's licence the dealer must record the following information:
- The date and time of the disposal;
 - If the disposal is to another person, the full name and address of that person.
- 13.8 All records should be made available for inspection by an authorised officer at any reasonable time.
- 13.9 A Closure Notice can be issued under the Act if the Council is satisfied that the premises are being used by the scrap metal dealer in the course of their business and that the premises are not licensed for such a purpose.
- 13.10 The premises continue to be used as part of the business or there is reasonable evidence that it will be used in the future after the service of a Closure Notice, the Magistrates Court can make a Closure Order requiring the premises to be closed immediately and remained closed or for the use of the premises to be discontinued immediately.
- 13.11 Under the Act council officers have the right to enter and inspect a licensed site (which includes an unlicensed site for which there are reasonable grounds for believing that the premises is being used by a scrap metal dealer in the course of business), but this right does not extend to residential premises.
- 13.12 In accordance with Council policy a visit by Enforcement Officers will often be conducted by two officers and any visits undertaken will be subject to a prior risk assessment.

14. **Schedule of Delegations**

Matter to be dealt with	Full Council	Cabinet	Licensing Committee	Licensing Sub Committee	Delegated Officer
Change to Scheme of Delegations for Scrap Metal Dealers Act 2013	<input checked="" type="checkbox"/>				
Changes to Scrap metal Dealers Act Guidance or Fees		<input checked="" type="checkbox"/>			
Adoption of or changes to Sub-committee Hearing Protocol			<input checked="" type="checkbox"/>		
Issuing or varying Licences (where no objections or representations are received)					<input checked="" type="checkbox"/>
Revocation of a licence (where this is uncontested)					<input checked="" type="checkbox"/>
Issuing or revoking licences subject to conditions (where this is uncontested)					<input checked="" type="checkbox"/>
Issuing or varying Licences, where is it proposed that the application will be refused and this is contested by the applicant				<input checked="" type="checkbox"/>	
Revocation of a licence where this is contested by the applicant				<input checked="" type="checkbox"/>	

Annex 1 - The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

Primary Legislation

An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989

An offence under section 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal

An offence under section 110 of the Environment Act 1995

An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990

An offence under section 9 of the Food and Environment Protection Act 1985

An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment-related offence

An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012

An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002

Any offence under the Scrap Metal Dealers Act 1996

Any offence under the Scrap Metal Dealers Act 2013

An offence under sections 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment-related offence

Any offence under Part 1 of the Vehicles (Crime) Act 2001

An offence under sections 85, 202, or 206 of the Water Resources Act 1991

Secondary Legislation

An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007

An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010

Any offence under the Hazardous Waste (England and Wales) Regulations 2005

Any offence under the Hazardous Waste (Wales) Regulations 2005

An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002

Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000

Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007

Any offence under the Transfrontier Shipment of Waste Regulations 1994

Any offence under the Transfrontier Shipment of Waste Regulations 2007

Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006

An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

Annex 2 – Scrap Metal Dealers Act 2013: Schedule of Application Fees

Site Fees:

New	£550.00
Renewal	£400.00
Variation to change to collector licence	£150.00
Variation to change minor details	£50.00

Collector Fees:

New	£250.00
Renewal	£225.00
Variation to change to site licence	£300.00
Variation to change minor details	£50.00

Duplicate Licence £25.00



Scrap Metal Dealers Act 2013

Licensing Sub-Committee Hearing Protocol for determining new (& renewal) & variation Scrap Metal Dealer licences

This protocol outlines the procedures that will apply:

Full details of the regulations surrounding sub-committee hearings are available for download on the gov.co.uk website by [clicking here](#).

It is important that you carefully read these procedures before you attend and speak at a Licensing sub-committee hearing

1. On receiving the Notice of Hearing

What is the Notice of Hearing?

The Hillingdon Licensing Service will give appropriate notice of the hearing, which depends upon the type of application to be considered.

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant representations attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

Contact Information:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: democratic@hillingdon.gov.uk

Write to: Clerk to the Committee, Democratic Services, 3E/05, Civic Centre, Uxbridge, UB8 1UW

What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – **normally no later than 2 working days before the hearing*** – whether they:

- Intend to attend or to be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the hearing.

All parties to the hearing are also reminded of their right to have a legal representative at the hearing.

If a party does not notify the above to the Clerk to the Committee before the relevant deadline they may not be entitled to speaking rights at the hearing.

IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE

If I want to withdraw my application - how do I do this?

The applicant may withdraw their application by contacting the Licensing Service by phone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during

hearing, any party wishes to withdraw their representations they may do so orally by informing the Chairman.

What happens if I cannot attend the sub-committee hearing?

If you have made an application and are unable to attend the sub-committee hearing, the sub-committee will only hear and consider any evidence and arguments put forward by or on behalf of the applicant and other parties present.

Can you accommodate any special needs I may have?

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

Can the date of the hearing be changed?

Unfortunately, the Hillingdon Licensing Service cannot usually be flexible in the dates for hearings. Each request for a change of date will be considered on its own merits.

2. Before the Hearing

You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

How do I get to the Civic Centre?

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 207, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

Will the hearing be in public?

For Scrap Metal Dealers, all hearings will be held in private.

Will other parties or objectors be present?

In exceptional circumstances, representatives of other consulted bodies such as the police or the Environment Agency may attend the hearing.

I have some new evidence - may I present it?

The sub-committee **will not** normally allow the production of new written evidence not previously submitted by any party. In the case where the sub-committee does allow new evidence, they must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for applicants to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

Will I be briefed on procedure before the hearing?

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Licensing Officer or Legal Advisor can outline the procedures to be followed at the hearing.

Who are the people on the Licensing sub-committee?

Five elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the new Scrap Metal Dealers Act and regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call parties to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

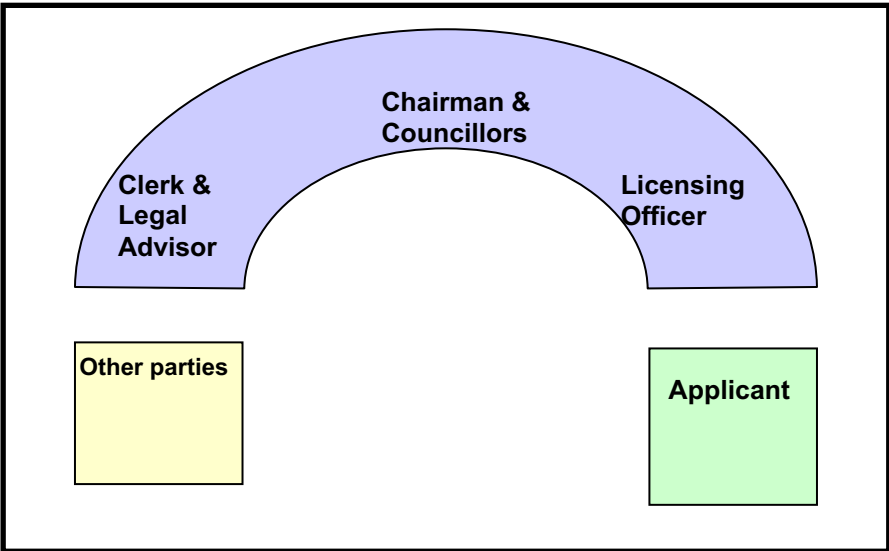
- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Adviser** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual matters and to provide help and assistance to members of the public attending such meetings.

3. During the Hearing

The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

Where shall I sit at the hearing?

Once you have attended the procedural briefing, you will be directed into the relevant Committee Room. The set up of the room for those involved will generally be as shown below:



In general, how will the hearing be conducted?

The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the issue of suitability of an applicant. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter to be clarified by officers present at any time during the proceedings.

What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:

Introduction by the Council's Licensing Officer



The Applicant



Other parties e.g. Police/Environment Agency



OPTIONAL - DISCUSSION LED BY THE SUB-COMMITTEE
A discussion will only occur if the sub-committee feels that there is a need for the parties involved to clarify each other's cases. The Chairman will lead the discussion



Closing remarks from each party



Sub-committee deliberates



Chairman announces the decision

The licensing officer will introduce the report and will outline impartially the matter before the sub-committee, giving any relevant background information.

The applicant presents their case and brings forward any supporters or witnesses

The Chairman calls on any of the other parties present to give factual information about the suitability of the applicant. They may make reference to the comments in the report and provide any necessary updates.

The Licensing Officer and other parties (if any) make brief closing remarks on the application under question. The applicant makes the final closing remarks.

The sub-committee will remain in the room to deliberate and make their decision, with only the Legal Advisor and Clerk to the Committee remaining. All other present will be asked to leave the room.

Parties may return to the room when asked and the Chairman announces the decision. The Chairman reminds the applicant that the decision will be sent to them in writing. There can be no further questions or statements

Can a Councillor sit on a sub-committee if the application is for a site licence in their ward in their ward?

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the five Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

What power does the Chairman have to control the meeting?

The Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

How will the sub-committee make its final decision?

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by a party or witness, which is not relevant to the application or to the suitability of the applicant.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state why refusal or attachment of conditions is necessary taking into account the evidence presented during the hearing.

4. After the Hearing

When will we get formal notice of the decision?

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send applicants a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the application. In addition, a letter will be sent to all those who made relevant written representations in connection with the application. This will confirm the decision made; any conditions attached to an approval or the reasons for refusal. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at:

www.hillingdon.gov.uk

Can we appeal against the decision?

Following the decision, the applicant in respect of a particular application can appeal to the Magistrates Court within 21 days of receiving written notice of the decision.

This page is intentionally left blank

DEREGULATION OF COMMUNITY FILM EXHIBITIONS

Committee	Licensing Committee
Officer Contact	Stephanie Waterford , Residents Services
Papers with report	Appendix 1 – DCMS Consultation Response
Ward(s) affected	All

SUMMARY

To inform the Committee of the forthcoming legislative changes to deregulate community film exhibitions.

RECOMMENDATION

That the committee note the information.

INFORMATION

On 4 July 2013, Department for Culture, Media & Sport (DCM) launched a consultation on deregulatory changes to entertainment licensing for community film exhibition. The consultation concluded on 28th August 2013.

On 19th December 2013, the Government published its response to the consultation. The response document is attached as Appendix 1.

The Government's intention in initiating the consultation was to consider whether unnecessary regulation could be removed from small scale film exhibition events. The intention was to bolster community entertainment activity and participation by freeing up organisers to put on films without having to fill in licensing paperwork and go through a costly process.

The consultation document asked for comments on whether a licensing exemption should apply where an exhibition of film is incidental to an activity that is not in itself regulated entertainment under the 2003 Act. As such, it would be identical to the current exemption for incidental live and recorded music (paragraph 7 of Schedule 1 to the 2003 Act).

The consultation document set out that option 2 would only remove the licensing requirement where the screening of a film is held in accordance with the age classification recommendation of the British Board of Film Classification (BBFC), or where different, the age rating set by the Licensing Authority in whose area the exhibition of the film takes place.

The deregulation is expected to be formalised before Summer 2014.

Background Documents

Nil.

Licensing Sub-Committee – 14 January 2014

Part 1 – Members, Public & Press



Department
for Culture
Media & Sport

Consultation on Community Film Exhibition: Government Response

December 2013

Contents

Chapter 1: Background to the policy	4
Chapter 2: Consultation response.....	6

Chapter 1: Background to the policy

Introduction

- 1.1 On 4 July 2013, DCMS launched a consultation on deregulatory changes to entertainment licensing for community film exhibition. This fulfilled a consultation commitment made in January 2013 when Government policy on deregulating entertainment licensing was announced.
- 1.2 The Government's intention in initiating the consultation was to consider whether unnecessary regulation could be removed from small scale film exhibition events. The intention was to bolster community entertainment activity and participation by freeing up organisers to put on films without having to fill in licensing paperwork and go through a costly process.

Entertainment Licensing

- 1.3 Subject to any conditions, definitions and exemptions that may apply, an exhibition of a film may be licensable under the Licensing Act 2003 ("2003 Act"). The 2003 Act may then require that a form of authorisation is obtained before film can lawfully be exhibited – typically either a premises licence/club premises certificate issued by, or a Temporary Event Notice (TEN) given to, the local licensing authority.
- 1.4 The 2003 Act has four underlying "licensing objectives": the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Licensing authorities must exercise their functions and make their decisions with a view to promoting those objectives.

Previous consultation

- 1.5 In September 2011, the Government issued a policy consultation that sought views on a proposal to remove licensing requirements in England and Wales for regulated entertainment that includes an exhibition of a film. This consultation document can be found here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/72904/consultation_deregulation-scheduleone_2011_vs2.pdf
- 1.6 Amongst other measures, the 2011 consultation proposed to remove "exhibition of a film" from the definition of "regulated entertainment" in Schedule 1 to the 2003 Act for events with audiences of fewer than 5,000 people, provided that an appropriate age classification system was retained.

- 1.7 The Department received around 1350 responses to the 2011 consultation. The responses provided the Government with evidence that there was support for a proportionate reform of the licensing regime that scaled back the central deregulation proposal in the consultation, with lower audience limits than proposed, plus performance cut-off times.

Deregulatory measures

- 1.8. After due consideration of the consultation responses, the Department announced a set of deregulatory measures to Parliament on 7 January 2013, and published a consultation response document that can be found here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/105725/Con_entertainment_dereg_response.pdf
- 1.9 The Department is now engaged in implementing a set of deregulatory measures for regulated entertainment through changes to legislation in three waves.
- 1.10 The first wave, by secondary legislation under the 2003 Act, was the partial deregulation of plays, dance and indoor sporting events by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (“2013 Order”) that came into force on 27 June 2013. The 2013 Order and related explanatory material can be found here: <http://www.legislation.gov.uk/ukxi/2013/1578/contents/made>
- 1.11 A consultation on a second wave of deregulatory measures using a Legislative Reform Order (LRO) was published on 22 October 2013 and closed on 17 December 2013. The proposals include: creating licensing exemptions (including for film) for local authority premises, schools, hospitals, nurseries and circuses; relaxing existing controls for the playing of recorded music in certain premises; raising the audience threshold for performances of live music from 200 to 500 in appropriate premises; and removing the licensing requirement for Olympic wrestling disciplines. The consultation can be found here:
<https://www.gov.uk/government/consultations/legislative-reform-order-changes-to-entertainment-licensing>
- 1.12 The third wave is the additional consultation on community film exhibition that was a commitment made in the response to the 2011 consultation. The consultation can be found here:
<https://www.gov.uk/government/consultations/licensing-act-2003-community-film-exhibition-consultation>
This document is the Government’s response to the above consultation.

Chapter 2: Consultation response

Overview

- 2.1 The consultation on community film exhibition offered two main deregulatory options:
- Option 1:** to keep things as they are now (the “*do nothing*” option); and
- Option 2:** to exempt from entertainment licensing “not-for-profit” film exhibition in community premises between 08:00-23:00, provided that the screening abides by age classification ratings (the “*preferred option*”).
- 2.2 In addition, the consultation asked for views on some variables to the preferred option 2 in respect of:
- (a) eligible premises;
 - (b) “not-for-profit” criterion; and
 - (c) the relevance of film classification ratings.
- 2.3 The consultation also set out other deregulatory options that had been examined and discarded since the previous consultation in 2011.
- 2.4 The consultation closed on 28 August 2013, and drew responses from community premises, film bodies, local government, trade associations, public bodies, businesses and individuals. In all, forty eight respondents sent in their views.

Which option

Question 1: Do you support the ‘do nothing’ proposal (Option 1) or the Government’s proposal (Option 2) to deregulate not-for-profit film exhibition in community premises. Please explain why.

Option 1: 10

Option 2: 33

Other views/did not respond directly to question: 5

- 2.5. Option 2 in the consultation proposed removing the requirement for a licence for film exhibition in community premises as this would reduce the need for time consuming licence administration for film societies, film clubs, and other local social groups that wish to put on 'film nights'. It was the Government's preferred deregulatory proposal for removing the licensing requirement for lower risk community-based film exhibition in suitable circumstances. Option 2 tended to be supported by community organisations, although many had views on how its scope might be broadened. Option 1 tended to supported by film and cinema business organisations.
- 2.6 Some respondents that supported option 2 felt that the deregulation could go further by, for example, extending the definition of a community premises or allowing organisers to make a small profit from the activity (see relevant sections). Respondents that supported option 1, on the other hand, were concerned about a loss of protections afforded by the licensing regime.
- 2.7 Those supporting option 2 argued that the burden of proof should be on justifying why regulation had to be in place, rather than on justifying its removal. Some respondents noted that the removal of licensing for film exhibition had to be viewed in the context of the Government's overall set of deregulatory measures for regulated entertainment and that local film societies and film clubs should benefit from a level regulatory playing field with other art forms, such as community theatre that had been part of the first wave of deregulation. Rural respondents argued that village halls were trying to bring culture to communities and that reducing the cost of exhibiting a film would make it easier to do so.
- 2.8 Some respondents argued that either option was workable, but they had no evidence to suggest that the status quo represented by option 1 was causing a problem. Some respondents commented that the community film exemption would have limited impact as many community premises would still need to be licensed for the supply of alcohol. Other respondents went further suggesting that an evidence-based justification for moving to option 2 was lacking, with no demand for deregulation having been demonstrated. They argued that the regulation of film worked well and that the cost of a TEN (currently £21) had not been shown to be a barrier to community premises putting on films for local audiences, especially when compared with other fixed costs, such as the cost of film copyright fees. Those in favour of option 1 argued that option 2 risked creating an environment where currently strong child protection measures enshrined in the licensing regime could be weakened (see page 15). Those that favoured option 2 thought that it struck a more proportionate approach. There were also concerns that deregulation carried risks in terms of creating new avenues for film piracy and intellectual property theft.

- 2.9 Those respondents that supported option 2 argued that the removal of the licensing requirement would reduce the cost and administrative burden on film societies that operate on shoestring budgets, particularly where the community premises is not already covered by a premises licence. They argued that deregulation would make it easier for communities to host film screenings, particularly when trying out new venues to reach new audiences, and in turn this would increase the number of opportunities that people had to engage or re-engage in film culture. A number of respondents suggested that screening fees charged by film distributors were a greater barrier to showing more films in community premises than the costs and bureaucracy associated with the licensing regime.
- 2.10 A number of respondents said that it was vital that the activities of cinema operators were not undermined by option 2, and some suggested that there was a significant risk that existing businesses would be damaged by the preferred option. It was noted that a number of independent cinema operators worked to very tight margins. Concern was expressed that option 2 might have economic dis-benefits for cinema businesses and intellectual property rights holders that were not properly reflected in the Impact Assessment.

Government response

- 2.11 Subject to any conditions, definitions and exemptions that may apply, an exhibition of film requires a licence under the 2003 Act. The Government intends to amend the 2003 Act to introduce a further, but limited, licensing exemption for film exhibition in community premises that will benefit film societies, film clubs, and other local social groups for whom licensing costs and the associated bureaucracy is a barrier to exhibitions of film within their community. In effect this is option 2.
- 2.12 The Government considers that this narrowly defined red tape challenge measure strikes a fair balance between those people who welcome the deregulation, those people who do not, and those who think deregulation should go further, as explained in later sections. In bringing in this measure, the Government will make clear the distinction between the de-regulation of entertainment licensing and the continuing need to have a licence to show copyrighted material. In communicating this deregulation, the Government will make clear that film content must be appropriately licensed from the copyright holders or distributors to ensure that the creators can secure their economic and moral rights to their work.
- 2.13 Post-consultation, the Impact Assessment has been validated by the Regulatory Policy Committee <https://www.gov.uk/government/organisations/regulatory-policy-committee>

Eligible Premises

Question 2: If you generally support Option 2, do you agree with the Government’s suggested definition of community premises? If not, please explain why.
Yes: 22
No: 12
Other views/did not respond directly to question: 14

- 2.14 A number of respondents commented on the definition of “community premises” under the 2003 Act. They noted that guidance under Section 182 of the Act might allow a licensing Authority to determine whether a community premises came within the definition. Some respondents welcomed the leeway this might give licensing authorities to indicate that other community buildings in rural areas that are used by community groups could fall within the definition and hence the community film exemption could apply. Other respondents felt the consultation was unclear on whether persons could self-declare a venue to be a community premises, or whether they had to have their own interpretation endorsed by the relevant licensing authority. They argued that to satisfy the licensing objectives (and to enforce them), a licensing authority needed to have oversight of community premises and this could not be achieved outside of a licensing regime. Some respondents also felt there was not sufficient clarity on the definition of community premises in view of the ambiguity of “other similar building” within the definition.
- 2.15 A number of respondents considered that setting the audience limit at 500 was too high, as this did not reflect the capacity of community premises, nor the likely audience size for community film screenings. A number of alternative audience capacity figures were suggested.
- 2.16 An exemption for schools was raised by a number of respondents. Film exhibition for the purposes of education, information or instruction is already exempt from licensing under Part 2 of Schedule 1 to the 2003 Act that benefits school and college teaching and museums and galleries. Some respondents, while noting the January 2013 announcement of a licensing exemption for schools, considered that it should be extended so that schools could be exempt where they permit the ‘hiring out’ of their own premises by any party.
- 2.17 The desirability of an exemption for film exhibition in cultural buildings (such as libraries) was raised and it is likely that many such premises fall within the proposed definition of local authority premises in the LRO consultation.

- 2.18 There were suggestions that pubs and clubs should be included in the exemption, as a room in a pub could host the exhibition of a film and a pub was as much a community venue as a village hall. Others commented that pubs and clubs, through possessing a licence to serve alcohol, were invariably licensed for regulated entertainment, including an exhibition of a film. There were also suggestions that cafes, empty shops, barns and ‘pop-up’ venues should benefit from the exemption. It was noted that the exhibition of a film at a place of public religious worship was already exempt by virtue of Part 2 of Schedule 1 to the 2003 Act.
- 2.19 Concerns were expressed about the appropriateness of an exemption for community premises, as it was argued that a ‘management committee’ for such premises tended to put the onus squarely on the hirer to comply with any licensing or other obligations. Some respondents sought clarity on whether the premises owner, premises hirer, or just the exhibitor, would be responsible for ensuring that any film screening abided by the terms of the exemption. It was felt that, without clarity, subsequent enforcement action might be compromised were age inappropriate films shown to children.

Government response

- 2.20 The Government considers that film exhibition on community premises is a lower risk activity with respect to the licensing objectives and that the option 2 exemption will encourage the screening of films in community premises, so creating positive social value, particularly in rural areas where there may be under-provision.
- 2.21 The Government considers that it is appropriate to remove the requirement for a licence for community premises, where a person responsible for the exhibition of a film has obtained prior written consent for that screening to take place from: (1) the management committee of those community premises, or (2) for community premises with no management committee, from a person with responsibility for those community premises. If in doubt on whether a particular venue qualifies as ‘other similar building’ within the legal definition of ‘community premises’, a person responsible for exhibiting a film (and the management committee (or other person) responsible for the premises) may wish to check on interpretation with their licensing authority before a booking is confirmed. Whether, or not, premises are ‘community premises’ will be a question of fact in each case.

- 2.22 The proposed audience limit of 500 reflects the wider outcome of the 2011 consultation. In response to the 2011 consultation, the Government concluded that there was a point of general consensus from that consultation that events should not be deregulated where the audience exceeded 500 people (or 1,000 for indoor sport) as this struck the right balance between quantifying the risk (accepting that an event cannot involve zero risk) and appreciating the burden that a regulatory regime imposes on businesses and community groups who wish to provide lower risk entertainment. By setting the limit at 500 people, there was also a read-across to the 499 audience upper limit for an event authorised by a TEN, which has generally been regarded as an appropriate audience ceiling figure for the light touch process of authorising temporary activities. So by deciding to deregulate for audiences of not more than 500 people, the Department was conscious that it would be removing many temporary activities from the TENs regime. The Government sees no reason why a different audience limit should apply to the activity of exhibiting a film, compared to the performance of a play. The latter has already been deregulated for audiences up to 500 people by the 2013 Order.
- 2.23 The Government accepts that community premises are unlikely to have the building capacity to host film events for anything close to 500 people and this audience limit should not be read as implying that safe building capacity limits should be ignored. However the Government sees no reason why, in terms of the licensing objectives, a different audience limit should apply to an exhibition of a film on community premises compared to plays and dance on any premises.
- 2.24 A broader exemption for schools and other trusted providers was included in the January 2013 deregulation policy announcement. The consultation document on the second wave (see chapter 1) proposes a LRO to exempt from entertainment licensing between 08:00-23:00 with no audience limitations or further conditions:
- an exhibition of film held by, or on behalf of, local authorities on their own premises
 - an exhibition of film held by, or on behalf of hospitals and schools on their own premises
 - an exhibition of film that is part of nursery provision on non-domestic premises
- 2.25 The Government considers that there are already a number of licensing exemptions that relate to film exhibition, or specific premises, and if enacted, the LRO would add further exemptions (in particular circumstances) for film exhibition in local authority, hospital, school and nursery premises. Given the concerns that have been raised by some respondents that deregulation must not undermine the commercial cinema sector that would remain subject to licensing, the Government does not intend to broaden the premises scope beyond the statutory definition of community premises in the 2003 Act.

Not-for-profit criterion

Question 3: If you support option 2, do you agree with the Government's proposals that the exemption should only extend to "not for profit" activities? If not, please explain why.

Yes: 19

No: 11

Other views/did not respond directly to question: 16

Undecided: 2

- 2.26 Option 2 proposed the removal of the requirement for a licence in community premises, but only where a film was exhibited on a 'not-for-profit' basis. So under option 2, the exhibition of a film in community premises would be licensable where any charge for doing so is intended to recoup more than the costs of exhibiting the film.
- 2.27 This issue received a mixed set of responses. A number of respondents, while agreeing with the Government's 'not-for-profit' proposal considered that it would be necessary to fully define the scope of what constituted a 'not-for-profit' exhibition of a film to ensure that the exemption was appropriately targeted at intended recipients (film societies, film clubs, and other local social groups etc.). They sought clarity on what were legitimate costs in putting on a 'not-for-profit' exhibition of a film, such as the purchase of experience enhancing equipment, or building management costs, or whether a social event linked to a screening could qualify as part of exhibiting the film. Some respondents commented on the financial plight of community premises and how small amounts of fund-raising through film exhibition could help keep such premises viable. There was also a view that the 'not-for-profit' criterion should be assessed against a programme of films rather than each individual screening, to enable more popular titles to cross-subsidise those that were less so, expanding audience tastes in the process.
- 2.28 Some respondents favoured a broader exemption that would remove the licensing requirement for exhibitions of films for charitable purposes, similar to the current exemption for garden fetes in Schedule 1 to the 2003 Act, or an exemption for all, or only smaller, non-profit making organisations. It was also suggested that a clearer definition of community premises would help ensure that the exemption was appropriately targeted on small non-commercial organisations without the need for a 'not-for-profit' criterion. Other respondents had concerns about fairness, as certain non-profit-making cinema organisations (because they put any surplus made back into the running and upkeep of their cinema) might remain subject to licensing, whereas screening films for charitable purposes could be exempt under such a broader deregulatory option.

- 2.29 Some respondents commented that they could not see a difference, in terms of a risk to public safety, between a film being shown on a 'not-for-profit' basis as a social experience and a film being shown for fundraising purposes; nor could some understand why organisers wishing to make a profit should not also benefit from a licensing exemption. There was a widespread rejection of the assertion that 'not-for-profit' film events might be intrinsically of lower risk because there would be no revenue generating motive behind admission and hence overcrowding was unlikely. Respondents argued that profit-motive, or the absence of it, was a 'red herring' in terms of assessing the risk to public safety, and some argued that, relatively speaking, overcrowding in relation to means of escape was more of an issue for non-bespoke community premises than cinemas. Those generally in favour of deregulation stressed that a risk of overcrowding was already adequately addressed in law (e.g. through duties set out in health and safety and fire precautions legislation).
- 2.30 There were also concerns about the enforceability of such a criterion as, in the case of an unscrupulous operator, it could prove difficult to determine retrospectively on what basis the event had been organised. There was some consensus that any such exemption must not be open to abuse for purely commercial motives, such as a film screening being used as a draw to encourage customer spend on another activity within the same premises.

Government response

- 2.31 In the light of consultation responses the Government has concluded that the concept of 'not-for-profit' for the activity of exhibiting the film should be retained as a key criterion of option 2 as, in combination with the restriction on eligible premises, it offers an appropriate basis on which to design the licensing exemption in line with the policy objective of removing regulation for small scale film exhibition events. The Government considers that 'not-for-profit' (i.e. the entertainment is not provided with a view to profit) is a technically sound concept being the inverse of 'with a view to profit' in paragraph 1(2) (c) of Schedule 1 to the 2003 Act. The Government will work with interested parties to provide guidance on what constitutes a 'not-for-profit' film screening event.
- 2.32 The Government sees the commercial cinema sector as vital to both audiences and the film industry, and has concluded that a precautionary approach should be adopted to removing the licensing requirement, to ensure that the important cultural and economic aspects of commercial cinema are not impacted by this limited exemption for community film exhibition. For this reason, the Government has concluded that a broader-based film exemption around charitable activities, or for not-for-profit organisations, is not in the wider public interest as it risks creating loopholes and unintended consequences (and hence enforcement costs) that might be exploited by those seeking to set up 'for profit' screenings without need for a premises licence in competition to art-house and smaller cinema sites.

Incidental Film

Question 4: Do you agree that exhibition of film that is incidental to other entertainment activities that are not regulated under the 2003 Act should be exempt?

Yes: 23

No: 5

Other views/did not respond directly to question: 18

Undecided: 2

- 2.33 The consultation document asked for comments on whether a licensing exemption should apply where an exhibition of film is incidental to an activity that is not in itself regulated entertainment under the 2003 Act. As such, it would be identical to the current exemption for incidental live and recorded music (paragraph 7 of Schedule 1 to the 2003 Act).
- 2.34 Most respondents agreed that an incidental showing of a film as part of another activity that is not regulated entertainment should not require a licence. One respondent noted that showing a live television programme was not subject to regulation. Others made reference to activities that might technically require a licence, such as pre-recorded music videos that form part of a karaoke performance. However, a minority of respondents were against an incidental exemption, on the basis that age classification and BBFC certification were paramount and should apply to any exhibition of moving pictures.

Government response

- 2.35 The Government has concluded that an exemption for incidental film should be included in the LRO when the Minister lays proposals to make changes to entertainment licensing before Parliament to implement the second wave of deregulatory changes. If enacted, the guidance for licensing authorities under section 182 of the 2003 Act will include advice on relevant factors that help determine whether or not film is “incidental” to another activity.
- 2.36 The Government has already made clear that deregulation will not extend to adult entertainment, to the extent that the 2003 Act plays a part in the current controls process. The background and policy position on adult entertainment was set out in Chapter 11 of the 2011 consultation, and there was a strong consensus in the consultation responses that existing restrictions on sexual entertainment should be maintained.

Clause in draft Deregulation Bill

Question 5: Do you agree that the Government's draft clause will achieve the deregulation outlined in Option 2?
Yes: 25
No: 1
Other views/ did not respond directly to question: 21
Undecided: 1

- 2.37 A high percentage of respondents agreed that draft clause 34 in the Deregulation Bill would achieve preferred option 2, although a number of respondents wanted to see changes that reflected their suggestions. It was suggested that there could be an issue around whether 'not for profit' in the clause was fully understood.

Government response

- 2.38 A Joint Committee of both Houses of Parliament is conducting pre-legislative scrutiny of the draft Deregulation Bill. The Joint Committee is required to make its report by 16 December 2013, after which the Government will consider whether to amend the draft clause before the Bill is introduced.

Age classification criterion

Question 6: Do you agree that films that do not have an age classification rating should not be exhibited in community venues without a licence?
Yes: 23
No: 5
Other views/did not respond directly to question: 19
Undecided: 1

- 2.39 The consultation document set out that option 2 would only remove the licensing requirement where the screening of a film is held in accordance with the age classification recommendation of the British Board of Film Classification (BBFC), or where different, the age rating set by the Licensing Authority in whose area the exhibition of the film takes place.

- 2.40 Most respondents welcomed the exemption being linked to age classification so that persons running community premises were aware of their obligations to adhere to formal age classifications. It was noted that there was near universal agreement coming out of the 2011 consultation that age classification protections needed to be retained. A number of respondents sought clarification on how adherence to age classifications would be implemented and/or enforced under option 2.

- 2.41 Some respondents noted that the existing exemptions for types of film content in Part 2 of Schedule 1 to the 2003 Act were not subject to age classification. In particular, respondents made reference to the existing exemptions for (a) film exhibitions for the purposes of advertisement information, education etc. and (b) film that forms part of a museum or art gallery exhibit.
- 2.42 A smaller number of respondents, while supporting age classification, were concerned about whether the community film exemption was appropriate given that protection of children from harm was a licensing objective. They argued that option 2 risked children being exposed to material unsuitable for them because it removed local authority oversight and 'visibility' on screenings in community premises. They cautioned against any assumption that film content was always shown by bona-fide organisations and concluded that only the current provisions of the 2003 Act could help ensure that effective controls were in place on the admission of children.
- 2.43 A number of respondents made reference to DVD and Blu-ray disc content that was currently exempt from BBFC classification under the Video Recordings Act 1984. In May 2013, the Government had published a consultation response document that said that Government intended to proceed with changing the exemptions from BBFC classification for music, sports, religious and educational video works and specifically to lower the exemptions threshold so that any products in those categories that are unsuitable for younger children would in future be required to be submitted to the BBFC for age rating. Such products would then need to carry the appropriate BBFC age rating. The Government committed itself, subject to Parliamentary approval, to bringing changes into effect via secondary legislation. Some respondents felt that content that would, post this secondary legislation coming into force, remain exempt from age classification (through being suitable for viewing by wider audiences) should then not require an age rating from the relevant licensing authority to benefit from the community film exemption under the 2003 Act. Films for race nights were cited as an example because they fell under the BBFC sport exemption.
- 2.44 Some respondents were concerned about specific categories of film that typically do not acquire a BBFC classification, such as amateur film, rough cuts of a work in progress, and films too old to have an age classification certificate. They argued that community exhibitors should be able to show such 'unclassified film', without the administrative burden of being age certified by the licensing authority, when such screenings either excluded children, or a public audience, or the licensing authority was satisfied that the film was made with an audience of children specifically in mind. These respondents concluded that responsibility had to ultimately rest with the film exhibitor.
- 2.45 One respondent wanted the deregulation extended so that the licensing requirement would be removed for all films suitable for wider viewing (BBFC 'U' rating) regardless of the premises. They argued that the preferred option alone would not achieve the Government's desired policy aim, because it did not strike the right balance between removing regulatory barriers and having an oversight regime in relation to the protection of children from inappropriate content.

Government response

- 2.46 In the light of the consultation, the Government's has concluded that age classification ratings are essential to the design of the option 2 licensing exemption for lower risk community-orientated film exhibition in community premises. BBFC age classification ratings are understood by the public in general and ensure that clear information about content is available to parents on what children will be watching. A film screening will have to have age classification from the BBFC or the relevant licensing authority, to be eligible for the community film exemption. Age classifications applied to films by authorities in other countries will not be valid.
- 2.47 If those responsible for the exhibition of a film on community premises do not have in place operating arrangements that will ensure that age-restricted films may not be viewed by anyone for whom it is unsuitable, they will not be able to benefit from the community film exemption because the conditions are not met. Such an exhibition of film would require authorisation under the 2003 Act (i.e. a premises licence, club certificate or TEN). In the absence of an authorisation, exhibiting a film (or knowingly allowing a film to be exhibited) in these circumstances is a criminal offence under the 2003 Act.
- 2.48 The Government only wishes to remove the licensing requirement where the entertainment activity is of lower risk. By its very nature the content of 'unclassified film' is uncertain – it could be entirely benign, but it might not be. There is far less certainty that it is lower risk. For this reason, the Government does not intend to extend the present licensing exemptions in Part 2 of Schedule 1 to the 2003 Act to facilitate 'unclassified film' being shown in community premises. Any disc content that is exempt from BBFC classification under the Video Recordings Act 1984 will need to acquire an age classification rating from the relevant licensing authority to benefit from the community film exemption. However some content, such as films for race nights, may be covered by the proposed licensing exemption for 'incidental film'.
- 2.49 Subject to Parliament passing the Deregulation Bill, the Government intends to amend the guidance issued to licensing authorities under Section 182 of the 2003 Act to include further guidance on exhibition of films in community premises.



Department
for Culture
Media & Sport

This page is intentionally left blank

APPLICATION CONSULTATION PROCEDURE

Committee	Licensing Committee
Officer Contact	Stephanie Waterford, Residents Services
Papers with report	None
Ward(s) affected	All

SUMMARY

To discuss the procedure for making members aware of current applications.

RECOMMENDATION

That the committee instruct Officers on the best way to keep Members informed of current applications.

INFORMATION

Currently, Members are kept informed of licence applications via email from the Licensing Service or the Applications Processing Team.

Members are requested to discuss the best way in which Licensing Officers are to communicate current applications and consultations to Members.

This page is intentionally left blank